

Agenda Item IMD10

INDIVIDUAL EXECUTIVE MEMBER DECISION

REFERENCE IMD: 2021/10

TITLE	Write off of Non-Collectable Business Rates Debt
DECISION TO BE MADE BY	Deputy Leader of the Council - John Kaiser
DATE, MEETING ROOM and TIME	16 March 2021 Virtually at 4pm
WARD	None specific
DIRECTOR / KEY OFFICER	Deputy Chief Executive - Graham Ebers

PURPOSE OF REPORT (Inc Strategic Outcomes)

The write off of non-collectable debt ensures that the council ledgers are accurate and up to date.

The debt to be written off is in respect of two Business Rate accounts.

RECOMMENDATION

That the Executive Member for Finance and Housing agree to write-off as unrecoverable two outstanding Business Rate debts totaling £72,003.40 as detailed within this report.

SUMMARY OF REPORT

The outstanding Business Rates owed by two companies as listed in this report are recommended to be written off because the debts are uncollectable.

In the first case, Lck7 Ltd has been dissolved. The second case relates to Sheeplands Farm Shop Limited which has gone into liquidation.

1) LCK7 LTD

Lck7 Ltd occupied the property at Lloyds Bar, 2 The Plaza, Denmark Street, Wokingham between 01/07/2018 and 14/10/2019. The company failed to pay Business Rates so legal action was taken against it to enforce the debt. The company was subsequently dissolved by compulsory strike-off.

OUTSTANDING DEBT

01/07/2018 to 31/03/2019 £20,864.91

01/04/2019 to 14/10/2019 £15,331.61

Total £36,196.52

Background

The council was advised by email on 30/10/2018 that Lck7 Ltd had taken the lease on the property at Lloyds Bar, 2 The Plaza, Denmark Street, Wokingham effective from 01/07/2018. The premises is a Public House that has a Rateable Value of £132,000.

A Business Rates bill for the period from 01/07/2018 to 31/03/2019 was sent to the company on 06/12/2018. Instalments were provided for the bill to be paid over three months starting on 01/01/2019. No payments were received so a Statutory Instalment Reminder Notice was issued on 28/01/2019, followed by a Magistrates Court Summons on 15/02/2019.

A Liability Order was granted by Reading Magistrates on 15/03/2019, providing the council with powers to take recovery action. A notice of pending enforcement proceedings was then sent immediately after the court order was given.

An Enforcement Agent was instructed on 02/04/2019. Three enforcement visits were made to the premises, on each occasion contact was made with staff working at the site who agreed to hand paperwork about the debt to their manager. No response was ever made by any representative of the company and no payments were received.

A notice warning of Winding Up proceedings was issued by the Enforcement Agent on 13/08/2019.

The case was returned back to the council on 17/10/2019 stating that all efforts to collect the debt had been unsuccessful and that the company had insufficient assets to enforce against.

On 06/11/2019 the account was reviewed again. Data on the Companies House website confirmed the company was dissolved by compulsory strike-off on 15/10/2019, this fact resulted in the termination of the company's lease on the property. The rates liability for the company was adjusted so that it ran up to that date.

From the financial information known about the company, as at 09/05/2018, it held assets that comprised of 200 shares, with each share valued at £0.01.

Business Case (including Analysis of Issues)

When Lck7 Ltd was operating it had negligible assets. Action was correctly taken to enforce payment of the Business Rates, but this proved unsuccessful. The company no longer exists and there is no way for the council to further enforce the debt owed. I therefore recommend that the amount owed is written off.

Of the total debt of £36,196.52 Business Rates to be written off, the Council will face 49% of the cost of the write-off (£17,736.29). The remaining 51% of the debt falls to Government (50%) and Berkshire Fire & Rescue (1%). Due to bad debt provision, there will be no financial impact on council budgets as a result of the debt being written off.

2) SHEEPLANDS FARM SHOP LIMITED (IN LIQUIDATION)

Sheeplands Farm Shop Limited operated the business at Hare Hatch Sheeplands Nursery, London Road, Ruscombe between 29/03/2018 and 29/09/2019. After legal proceedings commenced, part of the debt owed was paid. Enforcement continued until the company went into liquidation.

OUTSTANDING DEBT

01/04/2018 to 31/03/2019 £23,520.00

01/04/2019 to 29/09/2019 £12,286.88

Total £35,806.88

BACKGROUND

A site inspection carried out on 03/05/2018 by a Visiting Officer on behalf of the Revenues Team established that Sheeplands Farm Shop Limited started running the business at Hare Hatch Sheeplands Nursery, London Road, Ruscombe on 29/03/2018. The company took over from Hare Hatch Services Limited which went into liquidation.

On 08/06/2018 the company was billed for the rates due for the periods from 29/03/2018 to 31/03/2018 and 01/04/2018 to 31/03/2019. Reminder Notices were issued on 30/07/2018 and 29/08/2018.

A hold was placed on the issue of summonses whilst a decision was awaited from the Valuation Office Agency about a possible reduction to the rates payable.

Representatives of the company had advised that the use of a large part of the site had changed from being a trading area to being used as a plant nursery and asked for the valuation assessment of the premises to be reviewed and for the Rateable Value to be reduced. The council passed relevant information to the Valuation Office Agency who concluded that no alterations were required to be made to the assessment. The Rateable Value is £49,750.

New bills were sent on 18/10/2018. Payment was ultimately received for the rates due for the period from 29/03/2018 to 31/03/2018.

A Reminder Notice was issued on 05/03/2019, followed by a Magistrates Court Summons on 12/04/2019. A temporary arrangement was agreed for the company to pay £500.00 a month over three months whilst it pursued an appeal against the Valuation Office's decision to not alter the Rateable Value of the premises. The arrangement was set to be supported by the award of a Liability Order on 17/05/2019. One payment was received.

A broken arrangement letter was sent on 01/07/2019 asking for payments to be made as agreed. A notice of pending enforcement action was then issued on 23/07/2019.

On 02/08/2019, a hold was placed on recovery proceedings after contact was received confirming that the director responsible for the company's finances was severely unwell in hospital. At the same time clarification was received to say that the company's appeal against the decision about the Rateable Value had been refused on the basis that the first step in the process of challenging the decision by asking the Valuation Office Agency to review their decision (known as "check and challenge") had not been followed. Representatives of the company advised they would now start the challenge process.

As no further contact or payment was received from the company, the council's Enforcement Agent was instructed on 18/09/2019.

A Liability Order was granted against the company on 20/09/2019 in respect of the rates due for the period from 01/04/2019 to 31/03/2020.

On 03/10/2019 notification was received on behalf of Alexander Kinninmonth and Richard Brewer, both of RSM Restructuring Advisory LLP, to say they were appointed as Joint Liquidators of Sheplands Farm Shop Limited effective from 30/09/2019.

It was necessary for the recovery action to be stopped because the company had entered into voluntary liquidation. The rates liability has been apportioned to the date of liquidation.

A Recovery Officer of the council has registered the outstanding debt with the liquidators.

A statement of the company's finances dated 25/09/2019, held on Companies House records (listing estimated financial information), shows that it had assets totaling £15,000 and liabilities to creditors of £219,917.23. This would leave a shortfall of assets against liabilities totaling £204,917.23.

Business case (including Analysis of Issues)

Sheplands Farm Shop Limited were correctly billed for Business Rates due on Hare Hatch Sheplands Nursery, London Road, Ruscombe. Payment was received for part of the total owed.

As a result of the company entering into liquidation enforcement action had to stop and the council cannot pursue further legal proceedings against the company.

The debt owed has been registered with the liquidators. The liquidators will be obliged to distribute any dividend that may eventually be available to creditors. However, based on the financial information known at this time and considering the potential cost of the

administration work being carried out by the liquidators, it appears that at best a negligible dividend may ultimately be made.

If any dividend is received in future, then an adjustment will be made to the records to reflect this.

Of the total debt of £35,806.88 Business Rates to be written off, the Council will face 49% of the cost of the write-off (£17,545.37). The remaining 51% of the debt falls to Government (50%) and Berkshire Fire & Rescue (1%). Due to bad debt provision, there will be no financial impact on council budgets as a result of the debt being written off.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe funding pressures, particularly in the face of the COVID-19 crisis. It is therefore imperative that Council resources are focused on the vulnerable and on its highest priorities.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	£72,003.40	Yes	Revenue
Next Financial Year (Year 2)	-	-	-
Following Financial Year (Year 3)	-	-	-

Other financial information relevant to the Recommendation/Decision

In 2018/2019 there was one IEMD relating to four separate business rate accounts totaling £133,617.12 (Council’s liability) - all four businesses had gone into receivership.

There were no IEMD’s relating to write offs in 2019/2020.

There was one previous IEMD relating to write offs in 2020/2021.

The service will always try and work with our Businesses to avoid any unnecessary action particularly where write offs are required. This is in line with the Council’s Financial Regulations and our Recovery processes.

This is always the last resort but when a company unfortunately goes into receivership and there is no other means for the Council to recover the debt - apart from registering the dept with the insolvency company as it has done in this case.

All indications are that as we continue thought-out next year more business may be impacted by the pandemic and it is expected that we will continue to see businesses having to close or go into receivership with their liability having to be written off.

The write off will be funded through the bad debts provision and therefore no direct impact on the Council's Revenue Account.

The Financial Regulations section 12.1.19.17 requires write offs over £25,000 to be agreed through IEMD.

The Council's Deputy Chief Executive and Assistant Director Finance have already been consulted.

Cross-Council Implications
None identified

Public Sector Equality Duty
Not required due to nature of the write off.

SUMMARY OF CONSULTATION RESPONSES	
Director – Resources and Assets	No comment
Monitoring Officer	No comment
Leader of the Council	No comment

Reasons for considering the report in Part 2
N/A

List of Background Papers
Companies House records showing the asset position and the companies being dissolved.

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