

INDIVIDUAL CABINET MEMBER DECISION

Report Subject	Business Rates – Write Offs
Cabinet Member	Cabinet Member for Corporate Management and Assets
Report Author	Chief Officer (Governance)
Type of Report	Operational

INDIVIDUAL CABINET MEMBER DECISIONS

During the emergency situation, we have adapted our processes so that urgent decisions can be made. We have introduced ‘Individual Cabinet Member’ decision making so that such decisions are taken transparently and with due accountability.

EXECUTIVE SUMMARY

Individual bad debts in excess of £25,000 usually require Cabinet to approve recommendations to write off debts in line with the Financial Procedure Rules of the Council.

A Business Rate debt of £80,128 for Monsoon Accessorize Ltd, for their premises at Unit 14A Broughton Shopping Park, Broughton is irrecoverable as the company is entering into a Company Voluntary Arrangement (CVA) with creditors in July 2019.

CVAs are intended to be used by companies as a means of restructuring the business to avoid entering into liquidation and ceasing to trade. A CVA is a legally binding agreement with creditors to allow a proportion of the company debts to be paid back over time. To pass the CVA, 75% of the creditors, by monetary value, must support the proposal.

RECOMMENDATIONS

1	Approve the write off of £80,128 for the Business Rate debt relating to Monsoon Accessorize Ltd.
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REPORT DETAILS

1.00	EXPLAINING THE BUSINESS RATE WRITE OFF REQUEST FOR MONSOON ACCESSORIZE LTD
1.01	Monsoon Accessorize Ltd is a national High Street and Retail Park fashion and accessories retailer who trade across the UK from over 258 stores, including a retail store located at 14A Broughton Shopping Park. The company have traded at Broughton Retail Park since 3 rd November 2005.
1.02	The company have always paid their Business Rates liability on time since taking up occupancy of their retail unit at Broughton. Since 2005, Monsoon have paid in excess of £1.18m in Business Rates to the Council up to the year ending 2018/19.
1.03	Monsoon have faced very difficult trading conditions and in the last two years the retailer has closed nearly 40 stores due to the challenges facing the British high street.
1.04	As part of its restructuring plans, Monsoon had concluded that its rent and occupancy costs were unaffordable and the company proposed a Company Voluntary Arrangement (CVA), principally to negotiate new rent levels with landlords across the UK.
1.05	CVAs are intended to be used by companies as a means of restructuring the business to avoid entering into liquidation and ceasing to trade, but they have become more common with national high street retailers in recent times as CVAs can mitigate high street commercial rents and Business Rates liabilities.
1.06	In June 2019, as a creditor for Business Rates, the Council received notification from Deloitte LLP of Monsoon's CVA proposals. Despite the Council objecting to the CVA, at a meeting of the company's creditors on the 3 rd July 2019, Monsoon's CVA was passed by its creditors by a significant majority.
1.07	A CVA is a legally binding agreement with creditors to allow a proportion of the company debts to be paid back over time. To pass the CVA, 75% of the creditors, by monetary value, must support the proposal.
1.08	Following the approval of the CVA, the outstanding Business Rates liability owing to the Council, amounting to £117,824, was automatically entered into the CVA and the Council was not able in law to separately take debt enforcement action or apply for a Liability Order in the Magistrates Court.
1.09	In line with the terms of the CVA, the Council was legally bound to accept a partial repayment of Business Rates for 2019/20 compromising of a repayment plan equating to 15% of the company's outstanding rate liability up to 3 rd July 2019 and 30% of the rate liability from 4 th July 2019 to 31 st March 2020.

1.10	In monetary terms, of the £117,824 Business Rate liability for 2019/20, the Council has secured repayment of £37,696, leaving a residual non-recoverable debt of £80,128 that must now be approved for write off. There is no prospect of recovering the debt of £80,128.
1.11	Although the CVA is in operation for 2019/20, the CVA does not preclude the company from maintaining their ongoing Business Rate liabilities from 2020/21 and the Council will ensure the company meet their payment obligations from April 2020.

2.00	RESOURCE IMPLICATIONS
2.01	There are no direct revenue implications for the Council or local Council Tax payers, as the cost of writing off Business Rate debts are borne by the National Collection Pool for Wales. But as the Collection Pool is supported by Welsh Government, non-payment of Business Rates does though have a wider impact of the Welsh taxpayer.

3.00	IMPACT ASSESSMENT AND RISK MANAGEMENT
3.01	Legal action is always taken quickly to secure payment from those businesses who fail to pay their Business Rates. Measures include securing a Liability Order at the local Magistrates Court and then enforcing payment. Sometimes, the use of enforcement agents/bailiffs to take control of goods, and on occasion, sell those goods, is deemed necessary to secure payment. On occasion, the Council also considers taking liquidation and bankruptcy proceedings.
3.02	Writing off the debt contained in this report, amounting to a total loss of income to the National Collection Pool for Wales of £80,128 is being recommended as a last resort and only on the basis there is no prospect of successfully recovering the debt.
3.03	There are no direct revenue implications for the Council or local Council Tax payers, as the cost of writing off this debt is borne by the National Collection Pool. But as the Collection Pool is supported by Welsh Government, non-payment of Business Rates does though have a wider impact of the Welsh taxpayer.

4.00	CONSULTATIONS REQUIRED/CARRIED OUT
4.01	All write offs must be approved by the Corporate Finance Manager, but in the case of individual write offs in excess of £25,000, Cabinet must be consulted as part of the decision making process to write off those debts.

5.00	APPENDICES
5.01	None.

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<ul style="list-style-type: none"> Local Government Finance Act 1988 Financial Procedure Rules (section 5.2) http://infonet.flintshire.gov.uk/en/Document-Repository/People-and-Resources/Finance/Procedures/FPRs-March-2018.pdf Monsoon CVA – July 2019 Companies House – CVA1 –Voluntary Arrangement Taking Effect https://beta.companieshouse.gov.uk/company/01098034

7.00	CONTACT OFFICER DETAILS
7.01	Contact Officer: David Barnes, Revenues Manager Telephone: 01352 703652 E-mail: david.barnes@flintshire.gov.uk

8.00	GLOSSARY OF TERMS
8.01	<p>Business Rates: are a property based local tax on businesses calculated on the rateable value of the property. Although the Business Rate system and the rate of tax is set by Welsh Government, rates are administered and collected locally by each local authority and paid into a national collection pool for Wales</p> <p>National Collection Pool for Wales: all Business Rates are collected and paid into the Welsh Government’s Non-Domestic Rates Collection Pool. Council’s in Wales receive a redistributed share based on a formula set by Welsh Government called the Local Government Funding Formula. The formula makes a theoretical comparative judgement on what each council needs according to its population size, its wealth and poverty, and its rurality.</p> <p>Company Voluntary Arrangement: The Company Voluntary Arrangement procedure is available to any company registered in England or Wales. It enables the company to reduce its debt levels, improving cash flow by coming to an arrangement with creditors. A CVA is available when a company is facing liquidation but it provides a last attempt to try and avoid this.</p> <p>Liquidation: is the legal process that occurs when a company becomes insolvent, meaning it cannot meet its payments obligations as and when they become due. The purpose of liquidation is for an appointed liquidator to look into the financial affairs of a company, realise all the assets and then pay a return to creditors so they receive some or all of their money</p>

	back. However, not all liquidations result in creditors getting money back in the form of a dividend.
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BUSINESS RATES – WRITE OFFS

To be completed by Cabinet Member

1.) Please select one of the following options:

- a. **I do not have an interest under the Councillors' Code of Conduct in this report**
- b. I have a personal interest in this report because [insert details of interest]
- c. I have a personal and prejudicial interest in this report and it will need to be decided by the Leader of Council/Deputy Leader.

2.) My decision is to adopt the recommendation set out in this report as follows:

That the write off of £80,128 for the Business Rate debt relating to Monsoon Accessorize Ltd be approved.

Reason for Decision:

As in the report.

Approved by: Councillor Billy Mullin, Cabinet Member for Corporate Management and Assets



Date decision taken: Tuesday 21st April, 2020