

CABINET

Date of Meeting	Tuesday, 22 nd January 2019
Report Subject	Business Rates – Write Offs
Cabinet Member	Cabinet Member for Corporate Management and Assets
Report Author	Chief Officer (Governance)
Type of Report	Operational

EXECUTIVE SUMMARY

For individual bad debts in excess of £25,000, Financial Procedure Rules (section 5.2) requires Cabinet to approve recommendations to write off debts.

Four Business Rate debts are considered to be irrecoverable for Limited Liability Companies that are no longer trading and have been either placed into administration or have been liquidated. Consequently, there are no assets and successful recovery of the Business Rate debts is no longer possible and a write off is necessary, totalling £217,396. The organisations are :

- Intego Packaging (Deeside) Limited £29,762
- ELM Assets (2) Limited £108,563
- The Food Retailer Operation Limited £27,108
- Boost 4 Business Limited £51,963

RECOMMENDATIONS

1	That Cabinet approve the write off for the business rate debts as set out in the report.
---	--

REPORT DETAILS

1.00	EXPLAINING THE BACKGROUND TO THE REQUEST FOR WRITE OFF
	Background to Intego Packaging (Deeside) Ltd
1.01	Intego Packaging was a limited liability company whose registered office address was in Lancashire. The company was responsible for payment of Business Rates on Unit 43, Deeside Industrial Estate from January 2014 until July 2017.
1.02	Between 2013/14 and 2015/16, the company paid their Business Rate liability in full following enforcement action through the use of bailiffs/enforcement agents. The Council successfully recovered £66,000.
1.03	In 2016/17, the company then agreed to pay Business Rates by direct debit but after three initial payments totalling £5,400, they failed to make any further payments and the direct debit was cancelled.
1.04	The Council successfully obtained a further Liability Orders in December 2016 at Mold Magistrates Court for the residual balance for 2016/17. Enforcement Agents/Bailiffs were subsequently engaged to enforce the Liability Orders. The agents secured a payment agreement with the company directors and a total of £3,000 was successfully recovered.
1.05	The company then defaulted with their payment agreement and the Council was notified in July 2017 that the company had gone into a Creditors Voluntary Liquidation.
1.06	The liquidators, Dow Schofield Watt, have advised that the sale of the assets and stock have released a small dividend for secured creditors but there are insufficient assets to pay unsecured creditors. With company debts in excess of £833,000 and with the Business Rate debt being classed as an unsecured debt, there is no prospect of the Council receiving any payment in respect of the £29,762 outstanding debt owed to the Council.
	Background to ELM Assets (2) Limited
1.07	Elm Assets held the lease on an empty industrial building at Sandycroft Industrial Estate, between May 2013 and June 2015. The property was never put to use by Elm Assets and the company was therefore liable to pay empty Business Rates during this period.
1.08	The company also failed to make any payment and the Council successfully obtained liability orders at Mold Magistrates Court in January 2015 and August 2015.
1.09	Enforcement Agents/Bailiffs were subsequently engaged to enforce the Liability orders, however recovery proved to be difficult as the premises were unoccupied. The enforcement agents were also unable to make any contact with the company directors and external enforcement agents also made

	attempts to enforcement payment at the registered office address in Salford but all action was unsuccessful.
1.10	In an effort to secure payment of Business Rates, the Council referred the matter to an external Solicitors with a view to winding up the company. However, solicitors concluded that following their investigations into the company, it would be highly unlikely that the Council will be able to recover the outstanding empty Business Rates of £108,563 as all property assets have registered charges secured against those assets.
1.11	This company is now recorded on the Companies' House Official Register as a 'dormant company' with no directors, since all directors have resigned.
	Background to The Food Retailer Operation Ltd
1.12	The Food Retailer Operation Ltd were responsible for Business Rates on three former co-operative supermarkets in Mold, Buckley and Connah's Quay from July 2016. The company made part payment totalling £47,000 towards their Business Rates liabilities on the three retail units but the company subsequently defaulted with their payment obligations.
1.13	The Council received notification from the company in April 2017 that it had gone into Administration in February 2017. BDO LLP were appointed as Administrators and the Council lodged a claim in respect of the unpaid Business Rates.
1.14	BDO have reported their initial investigations of the company. Partial payments have been made to employees and other secured creditors but with unsecured creditor debts at £89.9m there is no prospect of the Council recovering the £27,108 of unpaid Business Rates.
	Background to Boost 4 Business Limited
1.15	Boost 4 Business Limited were liable for empty Business Rates on several empty office units at Cambrian House, St David's Park, Lakeside Business Park, Ewloe for the period between May 2015 and May 2016.
1.16	No payments were made towards the Business Rates. Enquires were made to establish contact with the company, including at their registered office address in Doncaster.
1.17	The Council obtained several liability orders at Mold Magistrates Court on October 2015 and June 2016. Enforcement Agents/Bailiffs were also instructed to enforce the Liability Orders. Agents made attempts to make contact with the company at both the unit and at their registered address in Doncaster. However, all attempts to secure payment through enforcement were unsuccessful.
1.18	The Council referred the case to external solicitors and as part of their investigations into potential rate avoidance concerns they wrote to the landlord to clarify if Boost 4 Business Ltd was a legitimate company in occupation of the units. The landlords provided a copy of a lease as evidence.

1.19	There is little prospect of the outstanding Business Rates being recovered even if the Council made a petition for a winding up order against the Company. The office register at Companies House now shows the company being dissolved in September 2018.
------	--

2.00	RESOURCE IMPLICATIONS
-------------	------------------------------

2.01	There are no direct financial implications for the Council or local taxpayers by writing off these debts as Business Rates are borne by the National Collection Pool for Wales. As the Collection Pool is supported by Welsh Government, non-payment of rates does though have a wider impact on the Welsh taxpayer.
------	--

2.02	Writing off these debts, amounting to a loss to the National Collection Pool of £217,396 is being recommended as a last resort and only on the basis that there is no prospect of successfully recovering these debts.
------	--

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
-------------	---

3.01	All write offs must be approved by the Corporate Finance Manager, but in the case of write offs over £25,000, Cabinet must be consulted before a decision is taken.
------	---

4.00	RISK MANAGEMENT
-------------	------------------------

4.01	For those businesses who fail to pay, recovery action is always taken to secure payment. Measures include the use of enforcement agents/bailiffs to take control of goods, and on occasion, steps are taken to 'wind-up' companies.
------	---

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) <p>Contact Officer: David Barnes, Revenues Manager Telephone: 01352 703652 E-mail: david.barnes@flintshire.gov.uk</p>
------	---

7.00	GLOSSARY OF TERMS
7.01	<p>Business Rates: are a property based local tax on businesses calculated on the rateable value of the property. Although 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 Pool. They are then redistributed to local businesses as part of the local government revenue settlement grant each year.</p> <p>Companies House: is the UK's registrar of companies and is an executive agency of Her Majesty's Government.</p> <p>Debt Enforcement Agents/Bailiffs: are sometimes used as a way of enforcing Liability Orders for non-payment of Business Rates by either collecting payment in full or taking control of goods to offset against the debt.</p> <p>Company 'winding-up': is a legal process submitted by the party or parties to liquidate a company. This may be done by a third party such as a creditor who is owed money by the company.</p> <p>Liquidation: is an event that occurs when a company is insolvent, meaning it cannot pay its obligations as and when they become due. The purpose of liquidation is for an appointed liquidator to look into the affairs of a company, release all the assets and then pay a return to creditors so they get some or all of their money back.</p>