

CABINET
9 JULY 2019

PROPOSED WRITE-OFF OF IRRECOVERABLE DEBTS 2018-19

Responsible Cabinet Member - Councillor Charles Johnson
Efficiency and Resources Portfolio

Responsible Director – Paul Wildsmith, Managing Director and
Ian Williams, Director of Economic Growth and Neighbourhood Services

SUMMARY REPORT

Purpose of the Report

1. To seek approval from Cabinet for the write-off of former Housing tenant rent arrears, Housing Benefit overpayments, Non-Domestic Rates, Council Tax and Sundry Debtor invoices with individual values greater than £500 that are considered to be irrecoverable.

Summary

2. Approval is being sought to write-off £77,315 of former Housing tenant rent arrears in respect of 47 individual cases where arrears exceed £500, for the financial year 2018-19. All reasonable recovery action has been taken and no further economically viable steps can be taken to recover the sums due. This sum represents 0.30% of the annual rent debit of £25.6 million.
3. Approval is also being sought to write-off £262,305 of Housing Benefit overpayments in respect of 95 individual cases exceeding £500 for the financial year 2018-19, where it has become apparent that no further steps can be taken to recover the sums due. This sum represents 0.78% of the total Housing Benefit expenditure for 2018-19 of £33.7 million.
4. Approval is also being sought to write-off £1,017,702 of Non-Domestic Rates and Council Tax in respect of individual cases exceeding £500 for the financial year 2018-19, where it has become apparent that no further steps can be taken to recover the sums due. This sum represents 1.10% of the total debit raised for 2018-19 of £92.63 million.
5. Approval is also being sought to write-off 73 individual sundry debts totalling £155,749, this being less than 0.5% of the debt collectable, in which during 2018-19 it has become apparent that no further practical or economical steps can be taken to recover the sums due.

Recommendation

6. It is recommended that a total amount of £77,315 of former Housing tenant arrears, £262,305 of Housing Benefit overpayments, £1,017,702 of Non-Domestic Rates and Council Tax, and £155,749 of Sundry Debtor invoices be written-off, subject to steps for recovery being taken, wherever possible, if and when contact is made.

Reasons

7. The recommendation is supported by the following reasons:-
- (a) It is considered all practical steps have been made to recover the debts.
 - (b) To enable the Council's accounts to be maintained in accordance with the Financial Procedure Rules.

Paul Wildsmith
Managing Director

Ian Williams
Director of Economic Growth and
Neighbourhood Services

Background Papers

No background papers were used in the preparation of this report

Anthony Sandys: Extension 6926
Peter Carrick: Extension 5401

S17 Crime and Disorder	This report has no implications for crime and disorder
Health and Well Being	There are no issues which this report needs to address
Carbon Impact	There are no issues which this report needs to address
Diversity	There are no issues which this report needs to address
Wards Affected	The proposal effects all wards
Groups Affected	The proposal effects all groups within the community
Budget and Policy Framework	The report does not represent a change to the Council's budget or policy framework
Key Decision	The proposal does not represent a key decision
Urgent Decision	This is not an urgent item
One Darlington: Perfectly Placed	This report does not seek to deliver aspects of the sustainable community strategy
Efficiency	This report does not contain proposals but refers to on-going initiatives to increase income and reduce costs
Impact on Looked After Children and Care Leavers	This report has no impact on Looked After Children or Care Leavers

MAIN REPORT

Information and Analysis

Former Housing Tenant Arrears

8. A summary of former tenant arrears recommended for write-off is given in Table 1.

Table 1: Proposed Former Housing Tenant arrears to be written off 2018-19

Category	No	Value £
Deceased	7	£12,770
Residential care	1	£890
No forwarding Address	22	£40,005
Statute Barred ¹	3	£3,678
Cases referred for Debt Recovery action and/or legal action but not financially viable to proceed, for example, cases where the debtor has no assets or is in receipt of state benefits.	14	£19,972
Total	47	£77,315

9. Applicants who apply for housing with former tenancy debts will be considered objectively. The Choice Based Lettings policy states that applicants with housing related debts exceeding £1,500 will be ineligible for housing, unless there are any current mitigating circumstances. Applicants with housing related debts under £1,500 will be overlooked initially but can be re-housed in accordance with the criteria detailed in table 2 below.

Table 2: Re-housing Criteria for Applicants with Debts

Circumstances	Decision	Action taken by Applicant
Under £500 Arrears/ Not evicted	Overlook for offers	Clear debt in full or maintain repayment schedule for 13 consecutive weeks or more
Over £500 Arrears/Not evicted	Overlook for offers	Clear debt in full or maintain repayment schedule for 26 consecutive weeks or more
Evicted	Make ineligible	Clear debt in full or fresh application can be made after 12 month ineligibility period, providing repayment schedule maintained for 26 consecutive weeks or more
Former Tenants Rechargeable Repairs under £500	Overlook for offer	Repayment schedule must be maintained for 13 consecutive weeks or more
Former Tenants Rechargeable Repairs over £500	Overlook for offers	Repayment schedule must be maintained for 26 consecutive weeks or more

¹ Statute barred – Debts outstanding over six years, where it is had not been possible to obtain an acknowledgement to the debt, are statute barred from recovery by sections 5 or 24(1) Limitation Act 1980.

10. Housing Services will take all reasonable steps to recover former tenant arrears and will only write-off debt where it is appropriate. As at 31 March 2019, a total of £108,650 has been received in income from former tenants towards arrears for the financial year 2018-19.
11. Housing Services has a dedicated Housing Income Management team, to ensure that appropriate resources are available to maximise all income streams. Housing Income Officers are dedicated to the collection of former and current tenant arrears.
12. Housing Services carry out pre-termination visits and set in place arrangements to clear any outstanding arrears or debt with outgoing tenants. Officers actively work in partnership with key partners and external agencies offering financial advice and assistance to all customers.
13. Recovery action includes address searches across several databases, letters, emails and phone calls. When required, cases are referred to the Council's contracted collection agents.
14. Housing Income Officers have also provided appropriate training scripting and support to front line staff to assist them in:
 - (a) Triaging calls
 - (b) Providing good quality, relevant advice and support
 - (c) Providing appropriate signposting services
15. Electronic payment terminals are available in the Customer Services Centre and payments can be made online or via the telephone allowing customers to make cash or card payments. This facility is available for both current and former tenant arrears.
16. The sum of £20,962 has also been written-off under delegated powers, for a total of 130 cases, where arrears were below £500.

Housing Benefit Overpayments

17. Table 3 below is a schedule of Housing Benefit overpayments recommended for write-off:

Table 3: Proposed Housing Benefit overpayments to be written-off (individual cases exceeding £500) 2018-19

Category	Number	Value £
Hardship	6	£27,402
Official error	11	£30,109
Deceased	6	£16,878
No forwarding address	11	£19,256
Bankruptcy	27	£71,213
Other reason*	34	£97,447
Total	95	£262,305

***Other reason** will be aged debts where all reasonable steps to recover the amounts have been taken, but it is no longer financially viable to proceed further.

18. For information, the Housing Benefit overpayments written-off that were under £500 are 294 debts totalling £31,477.
19. Housing Benefit is paid to many thousands of claimants and landlords each year through the Housing Benefit scheme. Whilst every effort is made to minimise overpayments, due to the very nature of the scheme some overpayments will occur.
20. Overpayments can be caused by:
 - (a) A failure of the claimant or landlord to report a change of circumstance, which may affect the level of entitlement to benefit, or
 - (b) Incorrect information being supplied, or
 - (c) Errors made by the Local Authority, or
 - (d) Errors made by the Department for Works and Pensions (DWP) and by Her Majesty's Revenues and Customs (HMRC).
21. Depending upon how the overpayment occurs will determine whether or not it can be recovered or must be written-off as irrecoverable.
22. In respect of recoverable overpayments, these may be recovered by:
 - (a) Raising an invoice, or
 - (b) Deductions from ongoing benefit entitlement, or
 - (c) Recovery from the landlord's scheduled payment, or
 - (d) Deductions from certain social security benefits payable to the claimant in certain circumstances, or
 - (e) Deductions from earnings for people in work.
23. In respect of invoiced debts, during the course of recovery procedures, it may be found that an individual cannot be located, has been made bankrupt, or an appeal has been successful. Where appropriate, the Revenues and Benefits section will make every attempt to trace individuals by enquiries through other departments of the Council, and if necessary via tracing agencies and the Council's contracted collection agents. Only when all avenues of recovery have been exhausted, will the overpayment be considered for write-off.
24. The most effective way to recover overpayments is to make deductions from ongoing payments of Housing Benefit. However, with the migration of Housing Benefit claims to Universal Credit, this will make the recovery of overpayments more challenging in the future.

25. Table 4 provides details of the total amounts of Housing Benefit written-off when compared to the total of Housing Benefit paid and overpayments generated.

Table 4: Housing Benefit paid compared to overpayments in 2018-19

Total benefit paid (£,000)	Total over-payments created (£,000)	Total over-payments written-off (£,000)	Write-offs as a % of total benefits paid	Write-offs as a % of over-payments created
£33,673	£1,261	£294	0.87%	23.31%

26. The total amount of Housing Benefit overpayments recovered in 2018-19 was £1,129,882.

Non-Domestic Rates and Council Tax

27. In 2018-19 the Council collected 96.0% of Council Tax due in that year. In-year collection of Non-Domestic Rates was 97.7% during 2018-19. Overall collection for both is anticipated at 99.0%. The collection of both Council Tax and Non-Domestic Rates continues to be a challenge for the Council during these financially difficult times.
28. Under the local Council Tax Support (CTS) scheme, all working aged recipients of CTS have to pay a minimum of 20% of their Council Tax. In 2018-19 the total Council Tax liability for people in receipt of CTS was £2.57 million of which £2.01 million was collected during 2018-19 (or 78.2%).
29. The majority of Council Tax and Non-Domestic Rates accounts are paid following receipt of the bill without any recovery action having to be taken. Reminders and recovery action significantly increases the amount of Council Tax and Non-Domestic Rates collected. Before a debt is considered irrecoverable and recommended for write-off, the following recovery procedures are applied:
- (a) During the course of billing and recovery procedures it may become apparent that an individual has absconded or been declared bankrupt, or in the case of a company that it has ceased trading and winding-up procedures commenced. In these circumstances, the Revenues and Benefits section will try to find absconders or submit claims to receivers/liquidators. Enquiries are made through other departments and, if appropriate, at the properties concerned. Supplementary procedures involve contacts with solicitors, estate agents, landlords, the DWP, other Councils and tracing agents.
 - (b) Furthermore, if in the course of the distress process the Council's contracted enforcement agents find a debtor has absconded, they will make their own enquiries to trace the person concerned.
30. As at March 2019, the total outstanding Council Tax (excluding costs) stood at £4.727 million. A team of dedicated Recovery Officers specifically undertake the recovery of these debts, and recent actions by the team have included bankruptcy proceedings and the forced sale of properties. In 2018-19, £1.464 million of Council Tax arrears from previous years was collected by Recovery Officers.

However, some of the older outstanding debts have been identified for write-off.

31. As at March 2019, the total outstanding Non-Domestic Rates (excluding costs) stood at £1.126 million.
32. Table 5 is a schedule of debts recommended for write-off:

Table 5: Proposed Non-Domestic Rates and Council Tax to be written-off (individual debts exceeding £500) 2018-19

Fund	Classification	No.	Value £
Non-Domestic Rates	Bankruptcy/receivership	65	£416,549
	Debt over 6 years old	3	£2,631
	No forwarding address	7	£35,429
	Other reason	59	£191,360
	Total	134	£645,969
Council Tax	Bankruptcy	95	£142,261
	Debt over 6 years old	5	£5,333
	Deceased	10	£12,304
	No forwarding address	25	£24,913
	Other reason	195	£173,925
	Council Tax Support	19	£12,997
	Total	349	£371,733
Totals	Non-Domestic Rates	134	£645,969
	Council Tax	349	£371,733
	Total	483	£1,017,702

33. The classifications for the write-off of Non-Domestic Rates and Council Tax debts are as follows:

- (a) **Bankruptcy/receivership** – these are debts where the debtor has been made bankrupt, insolvent or the business is in receivership, and there are no assets left to recover the debt.
- (b) **Deceased** – these are debts where the debtor is deceased and there are no assets left in the estate.
- (c) **No forwarding address** – these are debts where all reasonable steps have been taken to trace the debtor, but their current whereabouts are not known. If contact is made in the future, the debt will become recoverable again.
- (d) **Other reason** – these are debts where all reasonable steps to recover the amounts have been taken, but it is no longer financially viable to proceed further.
- (e) **Debt over 6 years old** – these are debts where all reasonable steps to recover the amounts have been taken, but it is no longer financially viable to proceed further and the debt is over 6 years old.
- (f) **Council Tax Support** – these are debts which are actively being collected through deductions from the debtor's DWP benefits.

However, the amount of cumulative debt outstanding since 2013, together with their ongoing Council Tax liability, is more than the maximum amount that we can recover via these deductions (currently £3.70 each week). Therefore, write-off is recommended for any excess amount.

The only alternative to writing-off this excess amount would be to refer the debts to the Council's contracted enforcement agents. However, this will incur additional costs for the debtors and is likely to result in hardship.

34. Members should be aware that, from the same period and in accordance with Financial Procedure Rule 9(e), the following debts have been authorised for write-off in respect of sums of less than £500, where all practical steps have been taken:

Table 6: Non-Domestic Rates and Council Tax written-off (individual debts less than £500) 2018-19

Non-Domestic Rates	£12,339
Council Tax	£311,668
Total	£324,007

Table 7: Summary of Non-Domestic Rates and Council Tax written-off and credits written back 2018-19

Fund	Classification	Value £
Non-Domestic Rates	Debts over £500 written-off	£645,969
	Debts under £500 written-off	£12,339
	Credits written back	-£64,700
	Net	£593,608
Council Tax	Debts over £500 written-off	£371,733
	Debts under £500 written-off	£311,668
	Credits written back	-£112,785
	Net	£570,616
	Net Total	£1,164,224

Sundry Debtor Invoices

35. Following submission of a Sundry Debtor account to a customer, a period of 28 days is normally allowed for payment after which a reminder is sent. A notice advising that legal proceedings may be taken is sent after a further 14 days following which the account is sent to the Assistant Director, Law and Governance in appropriate cases for action through the court.
36. During the course of recovery procedures, it may be found that an individual has absconded or been made bankrupt, or in the case of a company has ceased trading and winding up procedures commenced. In these circumstances, the Council will try to find absconders or submit claims to receivers/liquidators. Enquiries are made through other departments of the Council and if appropriate,

searches initiated by Enforcement Agents. Only when all recovery routes have been exhausted is it considered that invoices should be written off.

37. The following is a schedule of debts over £500 recommended for write-off:

Table 8: Proposed Sundry Debtor Invoices to be written-off (individual debts exceeding £500) 2018-19

Category of Write-Off	2018-19	
	No. of Invoices	Value £
Unable to Trace	11	£10,941
Deceased – No estate	32	£28,426
Uneconomical to Pursue	10	£17,472
Recovery Proceedings Exhausted	20	£98,910
Total	73	£155,749

38. The main areas of write-off relates to debts for repair or maintenance of Housing properties (28 individual debts amounting to £34,641) where the debt is either uneconomical to pursue or tenants have absconded and recovery proceedings have been exhausted and in Adult Social Care (37 debts amounting to £57,925) where the debtor is either deceased or the recovery proceedings have been exhausted.
39. Of the £155,749 of debts identified above, £146,482 relates to 71 (97%) invoices that are more than one year old with 47 (64%) of those amounting to £125,383 being over two years old.
40. A provision for bad debts is made in the accounts on a monthly basis and reflected in budgets. Debts over one year old are provided for on a 100% basis, so the write-off outlined above will have no adverse effect on the MTFP. Debts of less than one year old may also be provided for and the decision of how much to provide is taken in consultation with the manager responsible for the service.
41. Members should be aware that in accordance with Financial Procedure Rules, the Assistant Director Resources has authorised write-offs amounting to £45,383 during 2018-19 in respect of 423 individual debts of less than £500 where all practical steps have been taken to recover the debt.

42. An analysis by group of all debts to be written off is shown in the following table:

Table 9: Sundry Debtor Invoice write-off analysis 2018-19

Department	No. of Invoices	Total £
Adults	195	£73,039
Children & Schools	16	£11,364
Economic Growth & Neighbourhood Services	43	£54,778
Resources	4	£1,128
Housing	238	£60,822
Total	496	£201,131

43. The total amounts to be written off compared to the total invoices raised for 2018-19 are shown in the table below:

Table 10: Sundry Debtor Invoices raised compared to invoices written off 2018-19

	£m	£m
Debt Brought Forward	5.068	
New debt raised during the year	25.409	
Total debt collectable during 2018-19		30.477
<u>Less</u> Cash collected during year	26.119	
<u>Less</u> total debt to be written off	0.195	26.314
Debt carried forward		4.163
Total Debt written off as a percentage of debt collectable in 2018-19		0.66%
Total Debt written off as a percentage of debt collectable in 2017-18		0.22%

44. Darlington Borough Council continually works on debt collection to minimise loss of income by speeding up collection times and reducing the need for invoicing debt by maximising “up front” payment for services wherever possible. Councils are, however, obliged to provide some services that cannot be withheld prior to payment.
45. It should be noted that during 2018-19, 10 individual debts amounting to £6,364 which had been written off in previous years were resurrected when debtors were found and these debts have subsequently been paid.

Financial Implications

46. Financial regulations require authorities to make an annual assessment of the extent to which any money owed to the Council is likely to prove irrecoverable and make adequate provision in their accounts. The financial implications of writing off the proposed former tenants arrears debt of £77,315 has therefore, already been taken into account in the Housing Revenue Account.

47. In respect of Housing Benefit overpayments, the DWP has recognised that in a system as complex as the Housing Benefit scheme, errors will occur. The DWP provide incentives for local authorities to minimise the number of these errors. As a result, local authorities receive subsidy depending on the type of overpayment.
48. Local authority error overpayments are subsidised at 100% providing we remain below the error threshold of 0.48% of total expenditure. For 2018-19 the error level was 0.21%; therefore these overpayments will be fully subsidised by the DWP. All other eligible overpayments due to tenant or landlord error are funded at 40% subsidy, most of which are then successfully recovered. There will be no financial impact on the Council's current revenue budget as provisions have been made in the previous year.
49. From April 2013, following the introduction of the Non-Domestic Rates Retention scheme, the Council has become liable for its proportion (49%) of the bad and doubtful debts with the remainder being shared between Central Government (50%) and the Durham and Darlington Fire Authority (1%). This has been allowed for in the Council's accounts. Provision for bad and doubtful Council Tax debt has already been made in the Council's accounts so that the write-offs as recommended have no additional financial impact on the Council.
50. For comparison purposes, the amounts of debit raised during 2018-19 (excluding costs) for Non-Domestic Rates and Council Tax were £35.216 million and £57.419 million respectively. The total amounts recommended to be written-off represent 1.83% of Non-Domestic Rates and 0.65% of Council Tax.
51. The amounts collected by the Revenues and Benefits and Housing Income Management teams in 2018-19 are as follows:

Table 11: Summary of amounts collected in 2018-19

	Amount collected
Council rent	£25.3 million
Council Tax	£56.9 million
Non-Domestic Rates	£33.4 million
Housing Benefit overpayments	£1.3 million
Total	£116.9 million

52. Despite the ongoing economic conditions, high collection levels remain. Local Tax and rent collection is critically important to provide the Council with an increasingly large part of the resources that it needs to provide essential services to residents and businesses and must, therefore remain a very high priority.