

## CABINET

21 DECEMBER 2010

### REPORT OF THE CABINET MEMBER FOR FINANCE, REVENUES & BENEFITS

<b>Title:</b> Council Debt Write-Offs 2010/11 - 1 April to 30 September 2010 (Quarters 1 and 2)		<b>For Information</b>
<b>Summary:</b> <p>Revenues and Benefits is made up of a number of service areas covering the billing, collection and recovery of the vast majority of debts that fall due to be paid to the Council for chargeable services and statutory levies such as Council Tax, Housing Rents and Business Rates.</p> <p>The value and type of debts written off as uncollectible within these two sections are reported to the Cabinet on a quarterly basis in line with the Council's financial regulations. This report provides a summary of debts written off for the periods 1 April to 30 June 2010 (Q1) and 1 July 2010 to 30 September 2010 (Q2), as detailed in tables 5 and 6 of Appendix A. In total £110,389.53 has been written off in Q1 and £45,382.67 in Q2.</p> <b>Wards Affected:</b> None		
<b>Recommendation(s)</b> <p>The Cabinet is asked to note the debt write-offs for quarter 1 and 2 of 2010/11 as detailed in the report and that a number of these debts will be publicised in accordance with the policy agreed by Minute 69 (6 November 2007).</p>		
<b>Reason(s)</b> <p>As a matter of good financial practice and to accord with the Council's Financial Rules.</p>		
<b>Comments of the Chief Financial Officer</b> <p>The Corporate Director of Finance and Resources has confirmed that relevant financial issues are set out in section 8 of the report.</p>		
<b>Comments of the Legal Partner</b> <p>The Legal Partner has confirmed that relevant legal issues are set out in section 9 of the report.</p>		
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## **1. Background**

- 1.1 The Income & Collection section and the Rents and Benefits Sections are responsible for the collection of the vast majority of debts falling due to the Council by way of statutory levies and chargeable services. Whilst measures are taken to collect all debts and levies due, it is invariably the case that some debts will remain unpaid, even after concerted efforts have been made to collect them.
- 1.2 In order that the Council can take proper account of debts that will actually be paid and also take account of debts that are unlikely to be paid, the writing off of uncollectible debts are carried out on a regular basis. This way the Council is able to take account of just those debts that it knows will be paid, whilst making some provision within its accounts for debts that are unlikely to be paid.

## **2. Policy for write off of irrecoverable debts & unclaimed credits**

- 2.1 The processes and procedures in place for managing and recording debts written off are governed by the Council's write off policy. The purpose of the policy is to establish a framework to regulate the write off of irrecoverable debts and long standing unallocated and unclaimed credits.
- 2.2 Adherence to this policy will ensure that there is always consistency and probity adopted in the procedures of debt and credit write offs and that best practice is followed in:
- Debt collection and recovery
  - Accountancy code of practice
  - Audit controls

## **3. Authorisation to write off debts**

- 3.1 Authority to write off debts and credits is delegated to the Chief Financial Officer by the Council's Constitution. Further delegation is made via the constitution and is specified below:
- Up to £2,000                      Group Managers
  - £2,000.001 to £10,000      Head of Barking & Dagenham Direct
  - Over £10,000                  Corporate Director of Customer Services or the  
   Corporate Director of Finance and Resources

- 3.2 These authorisation levels are strictly adhered to for all write offs.

## **4. Current Position**

- 4.1 The net value of debts written off for the first quarter (Q1) of 2010/11 (i.e. April 2010 – June 2011) was £110,389.53 as shown in table 5 of appendix A.
- 4.2 The net value of debts written off for the first quarter (Q2) of 2010/11 (i.e. July 2010 – September 2011) was £45,382.67 as shown in table 6 of appendix A.
- 4.3 The total debt write off for 2010/11 now stands at £155,772.20.

## **5. Points to note from debt write off tables (Appendix A)**

- 5.1 Council Tax and Business Rates are both statutory debts and for the most part, regular monthly write offs take place.
- 5.2 General Income debts relate to debts raised for chargeable services that the Council either provides as a statutory duty or as a service where no other providers are available to provide a similar service.
- 5.3 Home Care and Residential Care debts are also dealt with within the General Income section and are shown separately.
- 5.4 Housing Benefit overpayment debts written off relate to relevant adjustments in this area.
- 5.5 Former tenant arrears relate to previous occupation of rented Council housing.

## **6. Publication of individual details of debts written off**

- 6.1 A number of Authorities publicise the details (names, addresses etc.), of residents who have had debts written off. In the vast majority of cases, these debts have been written off where the debtor has absconded.
- 6.2 The Cabinet agreed in November 2007 (Minute 69, 6 November 2007) that a list showing the details of debtors, who have had debts written off, would be attached to this report. A list has been attached at Appendix B. The list has been limited to the top ten debts only
- 6.3 As was previously outlined within the 6<sup>th</sup> November 2007 Cabinet report, It was recommended that the following types of debt write offs are excluded from this publicised list:
  - a) Debts that have been written off following a corporate complaint being upheld
  - b) Debts that have been written off due to the debtor falling within one of the many vulnerable groups (e.g. elderly, disabled, infirm etc.)
  - c) Where the original debt was raised in error
  - d) Where debts have been written off, but no legal action has been taken to prove that the debt was legally and properly due
  - e) Where the debt has been written off following bankruptcy or insolvency action (the majority of these cases will be individually publicised)
- 6.4 The exclusion of the category of debts listed above will eliminate the possibility of any unnecessary and potentially costly legal challenges from debtors, who take issue with their details being publicised. It is intended that where the details or whereabouts of debtors become known following publication, those debtors will be pursued as far as is possible, to secure full payment of the debt.
- 6.5 The list provided at appendix B does not include any debts or debtors that fall within categories a-e above, so the list as it stands can be publicised after the removal of date of birth and national insurance number details.

## **7. Ongoing debt recovery and tracing work**

- 7.1 It should be noted that debt recovery and tracing work is an ongoing activity within the Income & Collection and Rents & Benefits section. Some form of tracing work continues on debts even after the debt has been written off. We have a number of management tools to find debtors, including national systems such as Experian. In many cases, tracing and follow-up work can continue for up to a year after the debt has been written off (e.g. in the case of higher debts) and debtors have been known to resurface up to five years after a debt has been written off.
- 7.2 Where debtors are located either by ourselves or other departments, for example often Tenancy audit find debtors, the section who owns the debt is advised and the recovery process can be resumed. The debt is often written back on so that legal action can commence or be restarted from where it was left.
- 7.3 Every effort is being made to support customers and minimise debt. A multi-disciplinary rent panel has been established to look at each individual case and take appropriate action. A business process re-engineering exercise has been carried out on temporary accommodation and income recovery procedures, to ensure the appropriate use of resources and efficient streamlined procedures are in place in preparation of the implementation of Capita I.T. system. This system will provide robust data for better charging, quicker response time, and improvement in customer experience.

## **8. Financial Issues**

- 8.1 All debts written off, will have been provided for within the Council's Bad Debt Provision and as such there should be no specific financial implications. However, there is the possibility that unforeseen and unplanned additional write offs occur, which lead to the value of debts written off in any year, exceeding the agreed bad debt provision.
- 8.2 Where this is likely to happen, this quarterly report will act as an early warning system and will enable additional control measure to be agreed and taken, to either bring the situation back under control, or to make appropriate adjustments to the bad debt provision.

## **9. Legal Issues**

- 9.1 It was decided at the meeting of 6 November 2007 of the Cabinet to publish the names of debtors whose debts have been written off subject to certain exceptions set out in the report. The publicising of the names of debtors constitutes processing of their personal data under Data Protection Act 1998 (DPA). In order to process i.e. publish this information lawfully the legislation sets out a number of requirements the most pertinent being that processing must be fair, lawful that any one of the permissible grounds listed in schedule 2 DPA be found.
- 9.2 The relevant ground in schedule 2 DPA to the publication of debtor names is that 'the processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject'. This means that the

Council may lawfully publish the data on the basis that it is thereby pursuing some legitimate interest.

9.3 One possible interest through publication may be the identification of named debtors who the Council could then pursue to recover the debt. The Council must also be satisfied that no prejudice to the rights and freedoms of the data subjects (named debtors) would be occasioned by the publication. The Legal Partner has not seen any basis for suggesting such prejudice would be occasioned. If any individual had concern as to publication of their details they could raise objection with the Council who could then revisit the issue in the light of the legal considerations here outlined.

9.4 It is not suggested that the debtors named have committed any offence in which case the data would be 'sensitive' personal data requiring an further additional ground form schedule 3 to be also identified. This aspect can thus be discounted. It has been highlighted in previous reports that the sums being written-off in the report were quite substantial. This report is no different. Members will be concerned as to what efforts are being made to recover debts before they are written-off.

9.5 The Legal Partner for Corporate Law has advised that a summary of efforts to recover bad debt are addressed in these reports. The report author has indicated he is unable to do so for this report but can in relation to future reports. This will hopefully give Members confidence that debt is only being written off after the fullest efforts to recover have been made.

## **10. Other Implications**

### **10.1 Risk Management**

No specific implications save that of this report acting as an early warning system to any problems in the area of write off's.

## **11. Background Papers Used in the Preparation of the Report:**

None

## **12. List of appendices:**

- Appendix A – Debt Write Off Tables
- Appendix B – Top 10 Debts Written Off