

## RECORD OF EXECUTIVE DECISION TAKEN BY AN EXECUTIVE MEMBER

This form **MUST** be used to record any decision taken by the Elected Mayor or an individual Executive Member (Portfolio Holder).

The form must be completed and passed to the Service Manager (Democratic & Member Services) no later than NOON on the second working day after the day on which the decision is taken. No action may be taken to implement the decision(s) recorded on this form until 7 days have passed and the Service Manager (Democratic & Member Services) has confirmed the decision has not been called in.

**1. Description of decision**

To approve the write off of £298,819.34 in respect of unpaid debts considered to be irrecoverable as set out in Appendix A to the enclosed report.

**2. Date of decision**

16 March 2017

**3. Reasons for decision**

The debts are considered to be irrecoverable because the debtors are either:

- (a) insolvent and have no realisable assets;
- (b) a dissolved company;
- (c) have died;
- (d) have no means to pay the debt; or
- (e) the debt is otherwise unenforceable

**4. Alternatives considered and rejected**

The alternative of not writing off the debts was considered and rejected.

**5. How decision is to be funded**

The loss of revenue from writing off the debts will be met from the provision for bad debts contained in the Council's approved budgets.

**6. Conflicts of interest**

Name of all Executive members who were consulted AND declared a conflict of interest.	Nature of interest	Did Standards Committee give a dispensation for that conflict of interest? (If yes, give details and date of dispensation)	Did the Chief Executive give a dispensation for that conflict of interest? (If yes, give details and the date of the dispensation).

The Mayor has been consulted on this decision

n/a

Signed Don Hodgson Date 16 March 2017 Name of Decision Taker MAYOR DAVID HODGSON

This is a public document. A copy of it must be given to the Service Manager (Democratic & Member Services) as soon as it is completed.

Date decision published: 17<sup>th</sup> March 2017

Date decision can be implemented if not called in: 28<sup>th</sup> March 2017

(Decision to be made exempt from call in.....YES or NO.....)

**Bedford Borough Council – The Mayor**

**March 2017**

**Report by the Assistant Chief Executive & Chief Finance Officer**

**Subject:     WRITE OFF OF IRRECOVERABLE DEBT**

**1.     Executive Summary**

To request approval from the Mayor in accordance with the Council's Constitution to write off debts in respect of non-domestic rates, council tax, sundry debts and overpaid housing benefit owed to the Council in excess of **£20,000** that are considered to be irrecoverable.

**2.     Recommendation**

**The Mayor is requested to consider, seek clarification and, if satisfied, to approve the write off of £298,819.34 in respect of unpaid debts considered to be irrecoverable as set out in Appendix A.**

**3.     Reasons for Recommendation**

The debts are considered to be irrecoverable because the debtors are either:

- (a) insolvent and have no realisable assets;
- (b) a dissolved company;
- (c) have died;
- (d) have no means to pay the debt; or
- (e) the debt is otherwise unenforceable.

#### 4. Key Implications

##### 4.1 Legal Issues

The Council has a legal obligation to act diligently in the collection of all debts and has a range of legal powers to enforce payment. In each case all appropriate action has been taken to enforce payment but this has proved unsuccessful.

There are 10 debts proposed for write off relating to 10 separate parties.

Number	Reason
2	Deceased.
3	Debtor has been made bankrupt or the company has been liquidated.
1	Company voluntary arrangement or individual voluntary arrangement.
2	Company has been dissolved.
2	All available legal remedies to recover the sum due have proved unsuccessful.

##### 4.2 Policy Issues

It is recognised to be good accounting practice to write off bad debts once it is established that the debts are unlikely to be paid. The Council has an agreed Fair Debt Collection Policy and all appropriate actions to recover the sums due have been taken in accordance with that policy.

The Council's Constitution requires there to be Executive approval to write off individual debts in excess of **£20,000**.

##### 4.3 Resource Implications

The Council retains 49% of the Non-Domestic Rates yield for the Borough following the localisation of Non-Domestic Rates with effect from 1 April 2013. The Council, therefore, bears 49% of the loss arising from uncollected Non-Domestic Rates. In determining the amount of income expected to be received from Non-Domestic Rates the Council is required to make a provision for non-collection. The amount proposed to be written off is within the amount provided for when determining the expected income for the year.

The loss of income due to uncollected Council Tax is accounted for through the Collection Fund and will affect the overall surplus or deficit of the Fund at the close of the financial year. The surplus or deficit is shared with the major precepting bodies and the Council's effective share of lost income is approximately 85% of the amount written off. The amount proposed to be written off is within the amount provided for when determining the expected income to the Collection Fund for the year.

Where Housing Benefit is overpaid due to fraud or claimant error the Council is allowed to retain 40% of the subsidy it originally received from central Government in respect of the benefit paid. Therefore, the direct cost to the Council is 60% of the amount of the overpayment. However, any uncollected amounts written off represent a loss in income to the Council's General Fund. The amounts proposed for write off are within the provision made for doubtful debts in the Council's accounts.

The write off of unpaid sundry debts are a loss of income due to the Council, normally to the General Fund. The amounts proposed for write off are within the provision made for doubtful debts in the Council's accounts.

In considering the write off of debt, regard should be made to the sum proposed for write off in comparison to the total sums collectible annually.

The total sums collectible in 2016/2017, including brought forward arrears, are currently as shown below.

<b>Type of Debt</b>	<b>Total Collectible</b>	<b>Amount Proposed to be Written Off</b>	<b>% of Collectible Debt</b>
Non-Domestic Rates	£72.4 million	£115,284.93	0.15%
Council Tax	£100.6 million	£32,430.36	0.03%
Sundry Debts	£175.6 million	£88,104.40	0.05%
Benefit Overpayments	£6.0 million	£89,194.98	1.04%

A claim has been submitted to the insolvency practitioner in respect of the outstanding amounts where the debtor is insolvent and, in the event of a dividend being paid to unsecured creditors, the Council is assured of receiving payment of the dividend due. The write off of debt is an accounting process to ensure the Council's accounts properly reflect the expected likelihood of payment not being received. This process does not affect the Council's ability to seek to recover the debt should there be a relevant change in circumstances or the Council's right to receive a share of any proceeds from an insolvency.

#### 4.4 Risk Implications

There are no risk implications arising from this report.

#### 4.5 Environmental Implications

There are no environmental implications arising from this report.

#### 4.6 Equalities Analysis

In preparing this report, due consideration has been given to the Borough Council's statutory Equality Duty as set out in Section 149(1) of the Equality Act 2010, to have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

A relevance test for equality has been completed. The equality test determined that the proposal has no relevance to Bedford Borough Council's statutory equality duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. An equality analysis is not needed.

### 5. Details

- 5.1 The Council has a strong record in the collection of sums due with annual collection rates for Non-Domestic Rates exceeding 98% and for Council Tax exceeding 97% of the sums due in that year. Arrears of sundry debts as at 31 March 2016 represented 4% of the value of invoices payable during 2015/16. The collection of arrears routinely continues after the end of the financial year resulting in final collection rates being higher than those reported at the end of the financial year. The sums proposed for write off are within the overall value anticipated in the Council's agreed budgets to allow for bad debt.

5.2 The amounts proposed for write off are summarised below and further detail is provided in **Appendix A**.

	<b>Non Domestic Rates</b>	<b>Reason for Write Off</b>	<b>Amount</b>
1	Bodyflight Limited	Insolvency	£36,135.00
2	Satin Nightlife Limited	Company dissolved	£32,539.71
3	Xlpress Limited	Insolvency	£23,127.00
4	Quality Deals (Beds) Limited	Company dissolved	£23,483.22
<b>Total Non-Domestic Rates</b>			<b>£115,284.93</b>

	<b>Council Tax</b>	<b>Reason for Write Off</b>	<b>Amount</b>
5	Mr A	Insolvency	£32,430.36
<b>Total Council Tax</b>			<b>£32,430.36</b>

	<b>Sundry Debt</b>	<b>Reason for Write Off</b>	<b>Amount</b>
6	Mr B – Residential care fees	Deceased	£24,041.77
7	Ms C – Home care fees	Deceased	£38,859.24
8	4Children – Redecoration of children’s centres	Insolvency	£25,203.39
	<b>Total Sundry Debt</b>		<b>£88,104.40</b>

	Housing Benefit Overpayment	Reason for Write Off	Amount
9	Ms D	Irrecoverable	£28,804.48
10	Ms E	Irrecoverable	£34,195.17
	<b>Total Housing Benefit Overpayment</b>		<b>£62,999.65</b>

<b>Overall Total</b>	<b><u>£298,819.34</u></b>
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- 5.3 The Council's Constitution requires Executive approval to write off individual debts in excess of **£20,000**. The amounts owed by each person or organisation shown exceed this amount and approval is requested from the Mayor to write off the total outstanding amount of **£298,819.34**.
- 5.4 Where the debtor is an individual their full name and the specific address of the property for which the debt accrued is in the report. Where the debtor is formally insolvent or a company has been dissolved a copy of an official notification of the insolvency or dissolution is shown at **Appendix B**.

## **6. Summary of Consultations and Outcome**

The following Council Units or Officers and/or other organisations have been consulted in preparing this report:

Portfolio Holder for Finance  
Management Team  
Head of Internal Audit

No adverse comments have been received.

*Report Contact Officer:* Lee Phanco, Assistant Chief Finance Officer  
e-mail: [lee.phanco@bedford.gov.uk](mailto:lee.phanco@bedford.gov.uk)

*File Reference:* E.5(c) and L.6(j)



*Previous Relevant Minutes:*    *None*

*Background Papers:*        *None*

*Appendices:*                *Appendix A – Details of Debts Proposed to be Written Off*  
                                      *Appendix B – Official Notices of Insolvencies or Dissolutions*

**DETAILS OF DEBTS PROPOSED TO BE WRITTEN OFF****ITEM 1**

Name of Debtor: **Bodyflight Limited (in Company Voluntary Arrangement)**

<b>Non Domestic Rates</b>	<b>Period</b>	<b>Amount Proposed for Write Off</b>
Building 36 & 37, Twinwoods Business Park, Thurleigh Road, Milton Ernest, Bedford, MK44 1FD	1/4/15 to 31/3/16	£36,135.00

**Details**

The company had paid the rates due up to December 2015 but became insolvent and, with the approval of its creditors, entered into a Company Voluntary Arrangement (CVA) on 6 January 2016. Under the terms of the CVA the company will continue to trade and will contribute sufficient funds to enable a dividend of 25p in the £ to be paid to creditors. The Council's claim in the CVA is £48,180.00 which is the unpaid balance of the non-domestic rates of £96,135.00 due for the property for the 2015/16 financial year. The amount recommended to be written off represents 75% of the outstanding balance. The full amount of rates due from April 2016 has been paid.

## **ITEM 2**

Name of Debtor: **Satin Nightlife Limited**

<b>Non Domestic Rates</b>	<b>Period</b>	<b>Amount Due</b>
14/15 St. Paul's Square, Bedford, MK40 1SL	7/10/13 to 31/3/14	£14,415.08
	1/4/14 to 31/10/14	£17,910.63
Legal costs		£214.00
<b>Total</b>		<b>£32,539.71</b>

### **Details**

The company operated the licensed premises at 14/15 St. Paul's Square between October 2013 and October 2014. No payments of non-domestic rates were received from the company. Liability orders were obtained in respect of both debts and enforcement agents (bailiffs) were instructed to seize goods belonging to the company. However, the enforcement agents were unable to identify any goods belonging to the company, the premises were occupied under license from another limited company and all goods at the premises were owned by another party. The company was struck off the company register and dissolved on 25 November 2014.

### **ITEM 3**

Name of Debtor: **Xlpress Limited**

<b>Non Domestic Rates</b>	<b>Period</b>	<b>Amount Due</b>
Unit 1,Alington Road, Little Barford, St. Neot's, Cambs,PE19 6YH	1/4/14 to 26/1/16	£23,017.00
Legal costs		£110.00
Total		£23,127.00

### **Details**

The company leased the property from April 2014 and initially paid the non-domestic rates. Payments ceased in March 2015 and a liability order was obtained for the 2015/16 charge in June 2015. A payment arrangement was agreed following the issue of the liability order but only one payment was received in July 2015. However, before enforcement agents could be instructed, notification was received that the company was insolvent and was proposing to enter into a Company Voluntary Arrangement (CVA). The proposed CVA did not ultimately proceed and the company was placed into creditors' voluntary liquidation in January 2016.

## **ITEM 4**

Name of Debtor: **Quality Deals (Beds) Limited**

<b>Non Domestic Rates</b>	<b>Period</b>	<b>Amount Due</b>
Ground Floor, Unit 12a, Fenlake Industrial Estate, Fenlake Road, Bedford, MK42 0HB	1/4/11 to 31/3/12	£6,598.50
	1/4/12 to 31/3/13	£7,875.00
	1/4/13 to 31/3/14	£8,085.00
	1/4/14 to 27/4/14	£609.72
Legal costs		£315.00
<b>Total</b>		<b>£23,483.22</b>

### **Details**

The company occupied the premises from 28 May 2010 but failed to make any payment of rates. Liability orders were obtained from the Magistrates' Court and enforcement agents (bailiffs) were instructed to collect the outstanding payments. Some success was achieved with the enforcement agents collecting £7,000 between 2010 and 2012; however, payments were not sufficient to meet the outstanding liability. From mid 2012 onwards the enforcement agents were unable to collect payment or to identify goods belonging to the company that could be seized to settle the debt.

The company ceased trading in April 2014 and was subsequently struck off the company register and dissolved on 20 September 2016.

## **ITEM 5**

Name of Debtor: **Mr A**

<b>Council Tax</b>	<b>Period</b>	<b>Amount Due</b>
Property 1, Bedford, MK40 4DF	8/4/12 to 30/6/16	£8,586.26
Property 2, Kempston, Bedford, MK42 8UY	1/7/12 to 24/11/14	£4,666.26
Property 3, Bedford, MK40 1HU	1/10/12 to 31/3/15	£3,724.51
Property 4, Bedford, MK40 4FP	10/10/12 to 9/5/13	£758.83
Property 5, Bedford, MK42 9HL	8/2/13 to 22/9/16	£4,839.09
Property 6, Bedford, MK40 4DG	9/7/13 to 13/11/15	£3,529.71
Property 7, Bedford, MK40 1QW	14/8/13 to 14/6/14	£776.37
Property 8, Bedford, MK40 4LB	1/11/13 to 2/3/14	£486.06
Property 9, Bedford, MK40 4LS	1/11/13 to 4/3/14	£492.74
Property 10, Bedford, MK40 1QN	23/3/15 to 31/3/17	£2,698.35
Property 11, Bedford, MK40 3SZ	5/7/15 to 4/1/17	£1,872.18
<b>Total</b>		<b>£32,430.36</b>

### **Details**

Mr A leased 11 properties from private landlords over a period five years. These properties were then sublet as houses in multiple occupation, generally to migrant workers. Where a property is let as a house in multiple occupation liability for Council Tax remains with the 'owner' of the property, which in this case is the leaseholder.

Liability orders were obtained in respect of each debt and debts were referred to enforcement agents. It has proved very difficult to identify a home address for Mr A at which to enforce the liability orders. A vehicle was seized from him by enforcement agents at one stage but he was able to show that he was not the owner of the vehicle and the agents were obliged to return the vehicle.

No other goods belonging to Mr A have been identified. It is not possible to obtain charging orders against the properties as Mr A is not the freehold owner. Therefore, consideration was given to the only remaining options to enforce payment; issuing bankruptcy proceedings or applying to the Magistrates' Court for him to be committed to prison. However, the difficulty in locating a home address for service of documents made these courses of action impracticable. Mr A has now been declared bankrupt by the County Court and is believed to be residing with a relative. A claim has been submitted in the bankruptcy but it is considered that there is little if any prospect of receiving a dividend in the bankruptcy.

## **ITEM 6**

Name of Debtor: **Mr B**

<b>Sundry Debt</b>	<b>Period</b>	<b>Amount Due</b>
Respite care charges	02/04/14 to 23/08/14	£1,943.42
Residential care charges	23/08/14 to 15/08/16	£22,098.35
<b>Total</b>		<b>£24,041.77</b>

The outstanding amount relates to unpaid respite and residential care fees. A financial assessment was conducted to determine Mr B's ability to pay a contribution toward the cost of residential care and invoices were issued accordingly. Mr B's was assisted in his financial affairs by a family member and considerably difficult was experienced in obtaining regular payments of an amount sufficient to meet the cost of care.

The Council commenced the process to take over responsibility for managing Mr B's financial affairs. However, he passed away in August 2016 before any payment could be made under these arrangements. Mr B lived in rented accommodation prior to residential care and there is no evidence of any estate.

## **ITEM 7**

Name of Debtor: **Mrs C**

<b>Sundry Debt</b>	<b>Period</b>	<b>Amount Due</b>
Home care charges	23/03/10 to 24/12/12	£38,859.24

### **Details**

The outstanding amount relates to unpaid home care charges. Attempts were made at the time the care was being provided to conduct a financial assessment to determine Mrs C's ability to pay the charge for home care, however, no information regarding her financial circumstances was disclosed and as a result invoices were issued for the full cost of care. Mrs C, who lived in rented accommodation, passed away in January 2013 and there is no evidence of any estate.

## **ITEM 8**

Name of Debtor: **4Children**

<b>Sundry Debt</b>	<b>Period</b>	<b>Amount Due</b>
Redecoration of Children's Centres	Invoice issued 16/8/16	£25,203.39*

\*excluding VAT

### **Details**

The debtor was a registered charity and a company limited by guarantee with income of £29 million in 2015/16. The charity held a contract to operate the Children's Centres which included a lease that required the tenant to make good any dilapidations at the end of the lease. At the end of the contract, as an alternative to carrying out the work required to remedy the dilapidations, the charity agreed to pay a sum of £25,203.39 to the Council to compensate for the cost of repairs and redecoration. However, the charity became insolvent very shortly after the invoice was issued and on 31 August 2016 it was placed into administration by order of the High Court.

The debt is unsecured and the administrators have indicated that it appears unlikely that the company will have sufficient assets to enable any dividend to be paid to unsecured creditors.



## **ITEM 9**

Name of Debtor: **Ms D**

<b>Housing Benefit overpayment</b>	<b>Period</b>	<b>Amount Due</b>
	Overpayment created 21/6/06	£28,804.48

### **Details**

The overpayment of Housing Benefit arose as a result of fraud; Ms D was working but not had not declared her earned income and consequently was successfully prosecuted by the Council for fraud offences. The Council obtained a Court Order in 2012 and endeavoured to enforce payment through an attachment of earnings order but this proved unsuccessful. A summons was then issued for Ms D to attend for questioning at the County Court but despite instructing a process server it was not possible to trace Ms D in order to serve the summons.

It was subsequently identified that Ms D was receiving Employment and Support Allowance (ESA) and a request was made to the Department for Work and Pensions (DWP) for deductions from the allowance. However, DWP have advised that the maximum amount of deductions is already being taken from her ESA until at least 2021. It is considered unlikely that Ms D's financial circumstances will improve, therefore, there is little if any prospect of recovering the outstanding amount in the foreseeable future and any additional enforcement action will incur further costs which are unlikely to be paid.

## **ITEM 10**

Name of Debtor: Ms E

<b>Housing Benefit overpayment</b>	<b>Period</b>	<b>Amount Due</b>
	Overpayment created 28/7/07	£34,195.17

### **Details**

The overpayment arose as a result of fraud; Ms E was living with her partner but did not declare this and consequently the Council successfully prosecuted her for fraud in 2009. The Council obtained a Court Order in 2012 and endeavoured to enforce payment via a Writ of Control, however, this was unsuccessful as the bailiff was unable to make contact with the debtor.

The Council called Ms E for questioning by the County Court at which time she agreed to make minimal payments of £15.00 per month due to her only income being tax credits. Only a small number of payments were received before Ms E defaulted on this arrangement. An instruction was passed to the High Court Sherriff's Office to recover this debt and an offer of £30.00 per month was received from Ms Lal. However, the instruction was returned by the Sherriff's Office on the grounds the offer was not a realistic payment to settle the debt.

Ms E is currently in receipt of Carers Allowance; however, it is not possible to order deductions from this income as the maximum deductions are already being taken for other debts. Ms E lives with her partner, however, enforcement action cannot be taken against the partner as the claim for Housing Benefit was made by Ms E.

It is considered unlikely that Ms E's financial circumstances will improve, therefore, there is little if any prospect of recovering the outstanding amount in the foreseeable future and any additional enforcement action will incur further costs which are unlikely to be paid.

**Official Notices of Insolvencies or Dissolutions**

The screenshot shows a web browser window with the Companies House website. The address bar displays 'https://beta.companieshouse.gov.uk/company/05268286'. The page header includes the Companies House logo and a 'BETA' notice. A search bar is present with the placeholder text 'Search for a company or officer'. The main heading is 'BODYFLIGHT LIMITED' with the company number '05268286'. A green button 'Follow this company' and a link 'File for this company' are visible. Below this is a tabbed interface with 'Overview' selected, showing details like 'Registered office address' (Twinwoods Business Park, Thurleigh Road, Milton Ernest, Bedford, MK44 1FD) and 'Company status' (Voluntary Arrangement). The bottom of the page shows 'Company type' and 'Incorporated on'.

Company profile | Comp: x BODYFLIGHT LIMITED - x

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**BODYFLIGHT LIMITED**

Company number **05268286**

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**Overview** Filing history People Charges Insolvency


Registered office address  
**Twinwoods Business Park Thurleigh Road, Milton Ernest, Bedford,  
MK44 1FD**

Company status  
**Voluntary Arrangement**

Company type Incorporated on


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Company number **08655067**

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Registered office address  
**15 St Pauls Sq, Bedford, Bedfordshire, Beds, England, MK40 1SL**

Company status  
**Dissolved**


Company type  
**Private limited Company**

Dissolved on  
**25 November 2014**

Incorporated on  
**19 August 2013**


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# XLPRESS LTD

Company number **07515127**

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Registered office address  
**Jupiter House Warley Hill Business Park, The Drive, Brentwood,  
Essex, CM13 3BE**

Company status  
**Liquidation**

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Registered office address  
**12a Fenlake Rd Ind Estate, Fenlake Road, Bedford, England, MK42 0HB**

Company status  
**Dissolved**

Dissolved on  
**20 September 2016**


Company type  
**Incorporated on**

Maciej Burakowski | Bank x

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Personal Insolvency  
> Bankruptcy Orders

**Publication date:**  
12 January 2017, 11:32

**Edition:**  
The London Gazette

**Notice ID:**  
2681570

**Notice code:**  
2503

**Issue number:**  
61817

**Page number:**  
703

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## Bankruptcy Orders

### Burakowski, Maciej

1 The Buntings, Bedford, MK41 7LA

Birth details: 1 June 1987

Maciej Burakowski, Employed, of 1 The Buntings, Bedford, Bedfordshire, MK41 7LA formerly of 29 Prebend Street, Bedford, MK40 1QN and formerly of 24 Cutcliffe Place, Bedford, MK40 4DF

In the Office of the Adjudicator

No 5016946 of 2017

Date of Filing Petition: 5 January 2017

Bankruptcy order date: 6 January 2017

Time of Bankruptcy Order: 00:00

Whether Debtor's or Creditor's Petition—Debtor's

C Hudson 2nd Floor, Rosebrae Court, Woodside Ferry Approach, Birkenhead, CH41 6DU, telephone: 0151 666 0220

Capacity of office holder(s): Receiver and Manager

6 January 2017

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Company number **01789253**

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**Overview** Filing history People Charges Insolvency

Registered office address  
**Smith & Williamson Llp, 25 Moongate, London, EC2 6AY**

Company status  
**In Administration**

Company type  
**Private Limited Company by guarantee without share capital use**

Incorporated on  
**6 February 1984**