

## 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 Chief Officer Democratic and Registration 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 Chief Officer Democratic and Registration Services has confirmed the decision has not been called in.

**1. Description of decision**

To approve the writing off of £197,333.94 in respect of unpaid debts considered to be irrecoverable as set out in Appendix A to the report.

**2. Date of decision**

1<sup>st</sup> February 2019

**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 and have no estate;
- (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 of the debts was considered and rejected as there is no prospect of receiving payment.

**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

*Da Hodgson*

Date

*1/2/2019*

Name of Decision Taker

*MAYOR DAVE HODGSON*

This is a public document. A copy of it must be given to the Chief Officer Democratic and Registration Services as soon as it is completed.

Date decision published: *06/02/19*

Date decision can be implemented if not called in: *13/02/19*

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

**Bedford Borough Council – The Mayor**

**January 2019**

**Report by the Chief Officer for Customer Experience and Digital Services**

**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 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 writing off of £197,333.94 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 and have no estate;
- (d) have no means to pay the debt; or
- (e) the debt is otherwise unenforceable.

#### 4. **Key Implications**

##### (a) **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 5 debts proposed for write off relating to 5 separate parties.

Number	Reason
1	Deceased.
1	Insolvency (company voluntary arrangement)
2	Debtor has been made bankrupt.
1	All available legal remedies to recover the sum due have proved unsuccessful.

##### (b) **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**.

##### (c) **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 2018/2019, including brought forward arrears, are currently as shown below.

Type of Debt	Total Collectible	Amount Proposed to be Written Off	% of Collectible Debt
Council Tax	£106.1 million	£0.046m	0.04%
Non-Domestic Rates	£68.4 million	£0.025m	0.04%
Sundry Debts	£126.6 million	£0.023m	0.02%
Benefit Overpayments	£6.0 million	£0.103m	1.72%

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.

(d) Risk Implications

There are no risk implications arising from this report.

(e) Environmental Implications

There are no environmental implications arising from this report.

(f) 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 2018 represented 2% of the value of invoices payable during 2017/18. 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**.

Item No.	Council Tax	Reason for Write Off	Amount
1	Mr A	Insolvency	£22,804.58
4*	Mr C (see item 4 below)	Insolvency	£9,655.49
5*	Mrs D (see item 5 below)	Irrecoverable	£13,920.21
<b>Total Council Tax</b>			<b>£46,380.28</b>

\*The outstanding Council Tax is recommended for write off in conjunction with a larger debt for overpaid Housing Benefit

Item No.	Non-Domestic Rates	Reason for Write Off	Amount
2	HHGL Limited trading as Homebase	Insolvency	£25,005.41
<b>Total Non-Domestic Rates</b>			<b>£25,005.41</b>

Item No.	Sundry Debt	Reason for Write Off	Amount
3	Mrs B – Residential care fees	Deceased	£23,271.22
<b>Total Sundry Debt</b>			<b>£23,271.22</b>

Item No.	Housing Benefit Overpayment	Reason for Write Off	Amount
4	Mr C	Insolvency	£45,547.90
5	Mrs D	Irrecoverable	£57,129.13
<b>Total Housing Benefit Overpayment</b>			<b>£102,677.03</b>

<b>Overall Total</b>	<b>£197,333.94</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 **£197,333.94**
- 5.4 Where the debtor is not a person the full name of the debtor and the specific address of the property for which the debt accrued is shown in in this 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:

Finance Portfolio Holder  
Management Team  
Chief Officer for Internal Audit

No adverse comments have been received.

*Report Contact Officer:* Lee Phanco, Chief Officer for Customer Experience and Digital Services,  
e-mail: [lee.phanco@bedford.gov.uk](mailto:lee.phanco@bedford.gov.uk)

*File Reference:* Lphanco (H):Reports/Irrecoverable Debt/January2019

*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: **Mr A**

<b>Council Tax</b>	<b>Period</b>	<b>Amount Proposed for Write Off</b>
Various addresses	14/11/04 to 29/06/16	£22,804.58
<b>Total</b>		<b>£22,804.58</b>

**Details**

The Council Tax debt relates to four different properties. Whilst action to recover the sums due has been taken promptly the Council has experienced exceptional difficulty in making contact with Mr A who has refused to engage with the Council or its agents.

There have been over 50 visits made by enforcement agents from three different companies and also Council officers in attempt to engage with Mr A and secure payment of the outstanding sums. Enforcement agents did seize a luxury sports car which was believed to belong to Mr A, however, Mr A was able to later prove that ownership of the vehicle rested with a company that was registered abroad and the vehicle had to be returned. The enforcement agents were not able to identify any other goods belonging to Mr A that could be seized.

The Council applied to the County Court for a bankruptcy order and Mr A was declared bankrupt on 15 October 2015. The trustee appointed to administer the bankruptcy has now declared first and final dividend of 2.27 pence in the pound, payment of which was received on 8 June 2018.

Mr A is currently believed to be living abroad and there is no further action that can be taken to secure payment of the outstanding amount.

## **ITEM 2**

Name of Debtor: **HHGL Limited trading as Homebase**

<b>Non-Domestic Rates</b>	<b>Period</b>	<b>Amount Proposed for Write Off</b>
Homebase, Riverfield Drive, Bedford		£25,005.41
<b>Total</b>		<b>£25,005.41</b>

### **Details**

The company had paid the rates due but entered into a Company Voluntary Arrangement (CVA) from 31 August 2018 with the approval of a majority of its creditors. Under the terms of the CVA the company will pay 65% of the rating liability. The company is understood to be in the process of surrendering the leases for the two stores that it operated in Bedford and the amount recommended for write off is the residual liability up to 31 March 2019 that will not be paid after allowing for payment of 65% of the rates due.

The CVA is a formal insolvency and the law prevents the Council from taking any further action to recover the outstanding rates.

### **ITEM 3**

Name of Debtor: **Mrs B (deceased)**

<b>Sundry Debt</b>	<b>Amount Due</b>
Residential care charges	£23,271.22
<b>Total</b>	<b>£23,271.22</b>

The outstanding amount relates to unpaid fees for residential care provision. Mrs B initially went into respite care, but, unfortunately, did not recover sufficiently to return home and her placement in residential care became permanent. The action that could be taken to enforce payment was extremely limited as Mrs B was elderly, frail and living in residential care.

Mrs B has now passed away. She formerly lived in a rented property and there no is evidence of any estate, therefore, there is no prospect of recovering the outstanding amount.

### **ITEM 4**

Name of Debtor: **Mr C**

<b>Overpaid Housing Benefit / Council Tax Benefit</b>	<b>Period</b>	<b>Amount Due</b>
Overpaid Housing Benefit	Created 26/04/16	£45,547.90
Council Tax	2003 to 2016	£9,655.49
<b>Total</b>		<b>£55,203.39</b>

### **Details**

The Council paid Housing Benefit to Mr C for a number of years on the basis that he was entitled to Pension Credit and Attendance Allowance and, therefore, Housing Benefit. His entitlement was investigated by the Department for Work and Pensions fraud investigation service in 2016 following a suspicion that he had also been undertaking paid employment. It was determined through the investigation that there had been an overpayment of Housing Benefit and Council Tax Benefit because Mr C had not declared his earned income.

The Department for Work and Pensions made a decision not to prosecute Mr C for fraud offences; it is understood that this was due to Mr C's health and age.

The Council successfully recovered £1,287.60 from Mr C's ongoing Housing Benefit entitlement, however, Mr C was declared bankrupt on 4 June 2018 and there is now no prospect of the overpayment being recovered. Furthermore, the Insolvency Service has advised there are no assets and that creditors are unlikely to receive any money.

## **ITEM 5**

Name of Debtor: **Mrs D**

<b>Overpaid Housing Benefit/Council Tax Benefit</b>	<b>Period</b>	<b>Amount Due</b>
Overpaid Housing Benefit	Created 13/04/15	£57,129.13
Council Tax	2002 to 2016	£13,920.21
<b>Total</b>		<b>£71,049.34</b>

## **Details**

Mrs D was originally awarded Housing Benefit and Council Tax Benefit because the Department for Works and Pensions notified the Council that Mrs D was entitled to, and receiving, Job Seeker's Allowance. Therefore, the Council was obliged to award her Housing and Council Tax Benefit.

However, in April 2015 notification was received by the Council that Mrs D was resident in the UK illegally and had used three fraudulent passports to obtain residency and benefits. In fact, she had no recourse to public funds and should not have been entitled to welfare benefits including Housing Benefit of Council Tax Benefit. Consequently, the Council was required to withdraw the benefits leading to the above sums becoming payable.

A court order was obtained at the earliest opportunity in order to seek to recover the sums due and the Sheriff's Office were instructed to recover the debt through the High Court enforcement process. In March 2017 the Sheriff's Office advised they had have not received any payment from Mrs D and could not locate goods of sufficient value to cover the debt.

In order to pursue recovery of the debt the Council applied to the HM Courts & Tribunals Service to summons Mrs D for questioning in person at the Court to establish her means to repay the debt along with her circumstances. At the hearing Mrs D offered to pay £30 per month, but to date no payment has been received.

Mrs D no longer resides in the Borough and the Council has no way of enforcing the court order, since Mrs D has no income, has no recourse to public funds and, as far as can be ascertained has no assets or capital.

## APPENDIX B

### Official Notices of Insolvencies or Dissolutions

# HHGL LIMITED

Company number **00533033**

Follow this company

File for this company

Overview

Filing history

People

Charges

Insolvency

Registered office address

**Witan Gate House, 500-600 Witan Gate, Milton Keynes, United Kingdom, MK9 1BA**

Company status

**Voluntary Arrangement**

Overview

Filing history

People

Charges

Insolvency

## 1 Insolvency case

### Case number 1 — Corporate voluntary arrangement (CVA)

Date of meeting to  
approve CVA

**31 August 2018**