

Report to:	Audit and Governance Committee	Date of Meeting:	Wednesday 20 March 2024
Subject:	Write-off of irrecoverable retail-related arrears with balances over £10,000		
Report of:	Executive Director - Place	Wards Affected:	(All Wards);
Portfolio:	Cabinet Members: Regeneration and Skills; and Regulatory, Compliance and Corporate Services		
Is this a Key Decision:	No	Included in Forward Plan:	No
Exempt / Confidential Report:	No - but the appendices to the report are NOT FOR PUBLICATION by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972. The Public Interest Test has been applied and favours the information being treated as exempt		

Summary:

As outlined within the Council's Constitution, all outstanding debts of £10,000 and over cannot be written off without Member approval.

This report requests the authorisation of the Audit & Governance Committee to write off the debts listed in the appendix to this report.

Recommendation(s):

(1) To approve the write off of all individual debts of £10,000 and over detailed in the appendix to this report in accordance with the Financial Procedure Rules. The total net amount for write off is £1,307,512.94 (excl. VAT).

(2) To note that the Executive Director (Place) will write off individual bad debts of up to £10k as detailed in the appendix to this report, in consultation with the Section 151 Officer and the Monitoring Officer, in accordance with the Financial Procedure Rules. The total net amount for write off is £131,337.01 (excl. VAT).

Reasons for the Recommendation(s):

The individual debts detailed in the Appendix have all been assessed on an individual basis as all means of recovery have been exhausted. These debts are now considered to be irrecoverable and are recommended for write off. The write-offs herein are in accordance with the current Business Plan for the Strand.

Approval will ensure uncollectable debt will be removed from the system.

Alternative Options Considered and Rejected: (including any Risk Implications)

Not to write off the debt – this is not recommended as the continued pursuit of debts would be expected to cost financially without prospect of financial return to the Council.

What will it cost and how will it be financed?

(A) Revenue Costs

The amounts proposed for write off are within the provisions set aside for doubtful debts and the Council will write off these debts against these provisions.

(B) Capital Costs

There are no direct capital costs associated with the recommendations in this report.

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets): The financial implications are set out within the section above. There are no other resource implications associated with the recommendations within this report.								
Legal Implications: There are no Legal implications								
Equality Implications: There are no equality implications.								
Impact on Children and Young People: No								
Climate Emergency Implications: The recommendations within this report will <table border="1"><tr><td>Have a positive impact</td><td>No</td></tr><tr><td>Have a neutral impact</td><td>Yes</td></tr><tr><td>Have a negative impact</td><td>No</td></tr><tr><td>The Author has undertaken the Climate Emergency training for report authors</td><td>Yes</td></tr></table> There are no climate emergency implications associated with the recommendations in this report.	Have a positive impact	No	Have a neutral impact	Yes	Have a negative impact	No	The Author has undertaken the Climate Emergency training for report authors	Yes
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Have a neutral impact	Yes							
Have a negative impact	No							
The Author has undertaken the Climate Emergency training for report authors	Yes							

Contribution to the Council’s Core Purpose:

Not applicable.

Protect the most vulnerable:

Facilitate confident and resilient communities:
Commission, broker and provide core services:
Place – leadership and influencer:
Drivers of change and reform:
Facilitate sustainable economic prosperity:
Greater income for social investment:
Cleaner Greener

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD7602/24) and the Chief Legal and Democratic Officer (LD5702/24) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

Not applicable.

Implementation Date for the Decision

Immediately following the Committee meeting.

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Appendices:

The following appendix is attached to this report:

- Appendix A – Irrecoverable Retail Related Write Offs over £10,000

Background Papers:

There are no background papers available for inspection.

1.0 Introduction / Background

- 1.1 The coronavirus pandemic has had significant financial implications for shopping centres and retailers across the nation. The impact of government measures such as national lockdowns, legislation, the introduction of social distancing measures and closure of non-essential retail had an immediate and ongoing impact on performance. This resulted in tenants falling into financial difficulty and accumulating arrears.
- 1.2 The government placed a moratorium on landlords taking enforcement action during the pandemic period and pursuing these outstanding debts. The moratorium was lifted during 2022.
- 1.3 Recovery procedures have since led to a reduction in the outstanding arrears as outlined in the following section. However, some tenants have ceased trading, entered administration / liquidation, or have absconded which has resulted in these debts becoming irrecoverable and which are now presented to be approved for write off in line with the requirements of the Council's Constitution.

2.0 Recovery Procedures Undertaken

- 2.1 The Council's agents have sought to recover all outstanding arrears where possible by: proactively engaging with tenants; renegotiating leases; negotiating payment plans; and issuing Letters Before Action (LBA) and other recovery methods available.
- 2.2 However, where tenants have ceased trading, entered administration / liquidation or have absconded, this has resulted in these debts becoming irrecoverable and therefore presented to be approved for write off.

3.0 Approach to Debt Write Off

- 3.1 Since the acquisition of the retail centre, and following advice from the Council's expert external advisors, as would be expected a provision for bad and doubtful debts has been made in each business case and this has formed part of the financial assumptions approved by Members. This decision paper, therefore, does not present new financial pressure for the specific account or for the Council but represents good governance and compliance with the Council's Financial Procedure Rules to bring to an end an exhaustive recovery process.
- 3.2 The provision for bad and doubtful debts is set in accordance with the Council's expert external advisors following a detailed and thorough review of outstanding arrears.
- 3.3 Assurance checks – all debtor accounts proposed for write off have been scrutinised by the Council's agents independently before being submitted for write off. Debts are scrutinised to ensure that all necessary steps are taken in pursuit of the debt.

3.4 Whenever an amount is written off it is possible that further sums may be recovered in due course as new information is obtained. This would happen in the following instances:

- Where a new address is found for an absconded debtor, attempts will be made to recover any outstanding sums.
- Whenever a firm or individual goes into bankruptcy, liquidation, receivership etc., the Council's interest is registered with the Receiver, Liquidator etc. and the receiver may pay a dividend to creditors; and
- Companies that have ceased trading but have not entered into insolvency may restart their business.

3.5 Reconciliation – following approval for the write off of individual cases, the Council's agents will reconcile the accounts and provide a reconciliation statement. Schedules of balances actually written off will accompany the statement and be submitted for evidence and monitoring of the bad debt provision.

4.0 Council's Constitution

4.1 Within the Council's Financial Procedure Rules, debts of up to £10,000 may be written off by Authorised Officers as contained within a Service's Scheme of Financial Delegation in consultation with the Section 151 Officer (the Executive Director of Corporate Resources and Customer Services) and the Monitoring Officer (the Chief Legal and Democratic Officer).

4.2 Debts of £10,000 and over should be reported jointly by the Section 151 Officer and the relevant Assistant Director to the Audit and Governance Committee for write-off action.

5.0 Debts of £10,000 and Over Identified for Write-Off

5.1 23 individual accounts with balances of £10,000 and over and totalling £1,307,512.94 (excl. VAT) have been identified for write off. Note that this includes 2 short term temporary lettings within the mall. 143 companies have been present at the retail centre since 2017 and therefore the proposed write offs represent 16.1% of these companies. Similarly, this write-off represents 7.5% of the total income since 2017.

5.2 The accounts are summarised as follows: -

All Debts – Write offs over £10,000				
Reason For Write Off	No. of cases	Amount Net	Amount VAT	Amount Gross
Administration	4	£362,839.19	£75,210.92	£438,050.11
Ceased Trading No Assets	3	£67,080.51	£13,416.12	£80,496.63
Liquidation	9	£306,632.84	£52,929.05	£359,561.89
Unable to collect - Recovery Exhausted	5	£183,499.55	£35,337.50	£218,837.05
Company Voluntary Arrangement	2	£387,460.85	£75,316.95	£462,777.80
Total	23	£1,307,512.94	£252,210.54	£1,559,723.48

6.0 Debts of up to £10,000 Identified for Write-Off

6.1 104 individual accounts with balances up to £10,000 and totalling £131,337.01 have been identified for write off. Note that this includes 93 short term temporary lettings within the mall. These units located within the walkways of the centre were particularly affected by social distancing measures implemented during the pandemic.

6.2 The accounts are summarised as follows: -

All Debts – Write offs up to £10,000				
Reason For Write Off	No. of cases	Amount Net	Amount VAT	Amount Gross
Administration	0	£0.00	£0.00	£0.00
Ceased Trading No Assets	3	£10,693.35	£2,138.68	£12,832.03
Liquidation	3	£7,612.78	£750.35	£8,363.13
Unable to collect - Recovery Exhausted	98	£113,030.88	£22,044.93	£135,075.81
Company Voluntary Arrangement	0	£0.00	£0.00	£0.00
Total	104	£131,337.01	£24,933.96	£156,270.97