

Proposed Decision to be taken by the Portfolio Holder for Transport and Environment on or after 21 July 2017

Irrecoverable Debts

Recommendation

That the Portfolio Holder for Transport and Environment writes off as irrecoverable the debts accruing to £54000.12 as set out in the report.

1.0 Key Issues

- 1.1 The Council uses all reasonable means to maximise income collection, prevent arrears arising, and manage outstanding debt effectively. Measures include:-
- Discussing financial arrangements and agreements with customers and their representatives when a service is being agreed so they are aware of their responsibilities
 - Prompt billing and collection of money due
 - Taking court action only after all other reasonable actions by the Council have been exhausted
 - Taking appropriate, proportionate and effective enforcement action
 - Seeking evidence where customers state that there are no funds to pay debts
- 1.2 In 2016/17 WCC invoiced a total of £71.6m, with £64.4m collected, the remainder being pursued. The proposed write-offs totalling £54000.12 are less than 0.046% of the value of invoices raised in the last year.
- 1.3 The Council is currently pursuing a number of outstanding debts and in the case of those listed in Section 2.0 it has been decided that it would be uneconomical to pursue these further. It is therefore proposed that these debts totalling £54000.12 are written-off. The Portfolio Holder may approve the write-off of individual debts between £2,000 and £50,000.
- 1.4 The cost of writing-off would be set against the provision for bad debts that the County Council sets aside each year.

2.0 List of cases recommended for write-off

- 2.1 On 7 December 2010, St Mary's Abbey Church, Nuneaton, was invoiced a total of £4,932.65 for archaeological recording of the Priory.

On 5 April 2011, a letter was received from English Heritage. The letter explained that English Heritage only provided the grant for the works and the grantee or professional advisor are responsible, in this case ST Mary's Abbey PCC.

A letter was sent to Kenneth Holmes Associates on 9 August 2011 explaining that the original contract had been signed by their firm on behalf of the PCC. If the firm did not have authorisation to sign the contract this would lead to legal implications.

An email to our DRO on 11 August 2011 from St Mary's Abbey Church stating negotiation for this work began in late 1990's. The letter also stated that they have no records in the PCC which delegates authority to Kenneth Holmes Associates to sign a contract on their behalf.

In January 2015, Exchequer Services referred the outstanding invoice to Legal Services. Legal Services requested a copy of all the paperwork relating to the debt but unfortunately some of the oldest paperwork had got lost in an office move.

In the absence of the backup of paperwork Legal Services tried to obtain a witness statement but were unsuccessful. Legal Services confirmed they did not have sufficient evidence to use in court to prove the debt.

- 2.2 This matter relates to an invoice to Provision UK Ltd for a reimbursement of archaeology works undertaken dating back to 7 September 2012 totalling £16,965.60.

Following the invoice being sent to the debtor, a cheque for £5,000 was eventually paid on 8 January 2013 and the debtor proposed payments of this amount each month.

The debtor was chased for payment and they advised that they were having financial issues but would make a payment of £5,000 on 26 April 13 and a further payment to clear the invoice of £6,965.60 on 10 May 2013.

Further contact was received from the debtor who advised the previous proposals were no longer viable and instead offered payments of £750 per

month. This offer was accepted. A number of payments of this amount were received reducing the balance to £3,000.

In October 2015, the company was put into liquidation and confirmation that there were no dividends due to Warwickshire County Council was received in December 2016.

The amount to be written off is £3,000.

- 2.3 European Textile Recycling Ltd (ETR) won the tender for delivering textile recycling services for Warwickshire from November 2013. As part of their bid, they offered a higher price per tonne than their competitors.

In May 2014, the CEO of ETR provided 2 months' written notice to lower the price that they paid by 6p per KG. After investigation this was agreed by Legal Services.

In October 2014, ETR once again contacted WCC advising of a possible further request for a further reduction in price. ETR returned later that month with 3 months' notice of an additional 10p reduction per KG.

ETR were advised in November 2014 that the extra reduction was not agreed.

Due to invoices not being paid WCC wrote to ETR by letter dated 20 August 2015 confirming that a decision to terminate the Contract with immediate effect had been made. ETR's debt stood at £210,475.20 and a repayment plan was agreed at a rate of £30,068 per month. The debt would then be settled by 31 March 2016.

In mid-February 2016, an email was received from ETR wishing to reduce their instalment payments to £12,432.26 per month, with a view to settling their remaining debt in 9 months which was agreed.

On 8 November 2016 ETR acknowledged that they were due to pay the remaining balance of £74,593.52 by the end of the month. They said they would not be able to do this, and that they wanted to put forward a settlement figure of £40,000. WCC countered at £50,000. This was accepted by ETR whose payment cleared on 1 December 2016.

A balance of £24,593.52 remains outstanding on invoiced sums and will need to be written off as irrecoverable.

- 2.4 Mr A was invoiced back on 19 February 2011 for £3,724.70 for damage to traffic signalling equipment. Following a reminder letter being sent out the debtor called to advise he would contact his insurance company. However no further contact was received so a reminder statement was sent in December 2011.

The debt continued to be chased by WCC and the matter was referred to Legal Services on 2 March 2017. Exchequer Services have been advised that the matter can no longer be pursued as it is outside of the limitation period, i.e. more than 6 years from the date of the invoice.

- 2.5 Mr B was invoiced for damage to street lighting equipment following an incident in June 2010. The invoice for the works totalling £2,318.01 was raised in January 2011.

The debtor contacted WCC to say that his insurance company, Quinn Direct have 'gone bust' so he was asked to look into this further and get back to Exchequer Services with some details. No further contact or payment was received. The matter was referred to Legal Services in August 2011.

The matter has now been referred back to Legal for write off as the invoice is outside of limitation and so cannot be pursued any further.

- 2.6 The claim for £4,217.11 arises from damage caused to street furniture through a road traffic collision. The invoice was raised against Ms C as the owner of the responsible vehicle, as per information received from the Police.

The Police had attempted to take action, and in response Ms C's son, Mr C, submitted a defence under s.172 of the Road Traffic Act 1988 identifying himself as driver of the vehicle at the relevant time and denying that he a) was driving without due care and attention, b) failed to stop, and c) failed to report an accident. He denies hitting anything but the kerb.

An attempt was made to submit a claim to the Motor Insurers' Bureau on the grounds that the driver who caused the damages is therefore unidentified but this claim was unfortunately rejected as out of time.

The son has submitted a defence which the information we hold cannot rebut. As a result, this matter is submitted for write off on the grounds that the debtor (who would be Mr C, rather than his mother) has raised a defence which makes the result uncertain.

- 2.7 The debt of £2,389.92 arises from damage caused to street furniture by a foreign registered car in August 2011. The Police Report provided an address in Leamington for the driver and an invoice was raised to that address in May 2012. Post was returned and Exchequers were unable to trace the driver. Legal Services looked into pursuing the insurer but the driver was Slovakian and the insurer was Austrian. It is possible the driver himself is no longer resident in the country which is why we have been unable to trace and

therefore the costs of pursuing this debt may outweigh the likelihood of being able to trace the driver.

- 2.8 There is a total debt of £2,113.79 owed by Coachlinks across 2 invoices, as follows:

Date	Invoice	Detail	Sum	Owed
25 Jan 2013	10047238	insurance settlement	£4,050.00	£1,000
15 Apr 2013	10053188	recharge of repairs	£1,113.79	£1,113.79

On 22 March 2013, Coachlinks advised a Debt Recovery Officer that an agreement had already been made with WCC that the debt could be paid monthly by instalments. A Credit Note of £1,050 was to be raised, and Coachlinks would pay £1,000 on 15 April 2013 and 15 May 2013 to clear the account.

Following various chasing no payments were ever made.

On 20 August 2013 Coachlinks confirmed they had gone into liquidation on 16 August 2013.

On 10 September 2013, Legal Services sent a Proof of Debt form to Bottomley & Co, Liquidators, registering the County Council's claim against the company in liquidation.

On 14 January 2015, we were notified that as a non-preferential creditor, we would not be receiving any dividend. The full debt therefore needs to be written off as irrecoverable.

- 2.9 10094999 - Quotemehappy.com - £6,710.42

A sum of £37,007.97 was submitted to Quotemehappy.com insurance in respect of damage caused to Blythe Bridge in May 2013. Following a review of the claim with the client department, it was noted that the amount submitted was incorrect and after a considerable amount of time spent collating the necessary evidence, a revised claim was submitted for £36,710.42. This new figure included additional expenditure not accounted for in the initial claim.

Following many questions and meeting, the loss adjuster offered to settle the claim at £30,000 in an attempt to 'prevent wasting more professional time' and advised that offer would remain open for 14 days.

Following the acceptance of the offer, a balance of £6,710.42 will need to be written off.

3.0 Background papers

None

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This report was circulated to the following elected members prior to publication.

Local Members:

N/A

Other Members:

Cllr Jeff Clarke, Councillor Alan Cockburn, Cllr John Horner, Cllr Dave Shilton, Cllr Matt Western, Cllr Jenny Fradgley