



**Cabinet**  
6<sup>th</sup> April 2021

**Report from the Strategic Director  
of Customer and Digital Services**

## Debt Write-off Update and Procedure

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Key
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Part Exempt – Appendix 3 is exempt as specified in Paragraph 3, Schedule 12A Local Government Act 1972 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).
<b>No. of Appendices:</b>	Four: Appendix 1: Internal Audit report recommendation of June 2019 Appendix 2 : Brent Council Debt Write Off Procedure Appendix 3 : Write-offs of debts over £3,000 including list of debtors (exempt) Appendix 4 : Brent Council Amended Ethical Debt Recovery Policy
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b>	Peter Cosgrove Head of Revenue and Debt Tel: 020 8937 2307 <a href="mailto:Peter.Cosgrove@brent.gov.uk">Peter.Cosgrove@brent.gov.uk</a>

### 1. Purpose of the report

- 1.1 To inform Cabinet of the changes to the write-off procedure to improve its efficiency and effectiveness and to report to Cabinet on the debts over £3,000 written off, as required by the Council's Constitution. The report also provides an updated version of the Council's debt policy to bring it up to date from the last version in 2016.

### 2. Recommendations

That Cabinet:

- 2.1 Notes the revised arrangements for the write-off of bad debts, as set out in Appendix 2.
- 2.2 Notes the debt write-offs over £3,000 listed in Appendix 3 of the report and that these largely relate to old debts from 1994 to 2010.
- 2.3 Notes that while there is a requirement to report write-offs over £3,000 to Cabinet this is the first report of this kind since the recommendation in the Council's Internal Audit report of June 2019 as set out in Appendix 1.
- 2.4 Notes the revised debt policy referred to as Ethical Debt Policy that has been updated and approved by the Strategic Director for Customer and Digital Services and includes reference to the new Breathing Space requirements as set out in appendix 4.

### **3. Detail**

- 3.1 This report details a revised procedure for how the Council deals with writeoffs, the Council's revised Ethical Debt Policy and its commitment to making the Breathing Space legislation work for residents. These form part of the Council's overarching approach to financial inclusion that aims to ensure the Council has all the tools and mechanisms for residents to support themselves economically and socially, to maximise their life chances; by maximising income to help give financial stability, housing sustainability and good health and well-being
- 3.2 The write-off procedure and Ethical Debt Policy therefore are part of the Council's drive toward an holistic way of working that seeks to support all residents, but in particular those on the borderline or left out of the welfare system who are more likely to be subject to poverty, lower living standards and socioeconomic deprivation. They therefore sit alongside the Council's Resident Support Fund and the Council's network of Community Hubs. The Council's focus for financial inclusion is on each resident, and the procedures and policy referenced in this report form part of this approach.

### Context

- 3.3 This is the first report to cabinet concerning write-off of debt since a recommendation in the final internal audit report concerning accounts receivable for 2019/20 dated 27 June 2019. While this report focused on sundry debt the principles at play apply to all debt. The full text is attached as appendix one, most significantly it states:
  - *When it is certain that the debts are no longer recoverable or cost of recovery would outweigh the benefit, debts should be written off following appropriate review and authorisation with reference to the Council's write off policy.*

And the recommendation included the following:

- *Accounts that are proposed/set for write off should be actioned without lengthy delay. A full audit trail of the write offs should be retained.*
- 3.4 Therefore, as part of sound financial management and to ensure audit requirements are met, the Council will write-off debts that it considers are not possible or cost effective to recover. By definition, the council does not write-off debts at the request of the debtor, however in appropriate circumstances it may consider setting aside a portion of the debt in line with its existing ethical debt recovery policy.
- 3.5 In view of the above during 2020 an initiative was launched to review old debts, this is and will continue to be an ongoing process, progress has been made and old debts have been written off, in particular, although not exclusively, in the Council Tax area where the focus has been on debts from 1993 to 2010.

### Write-offs

- 3.6 A revised procedure has been approved by the Director of Finance as required by the Financial Regulation and is set out at appendix two. The main change in the new procedure is that under the delegation to the Director of Finance it provides authority to staff to approve write-offs up to £200 in appropriate circumstances. All write-offs up to £1,000 may be approved by Head of Revenue and Debt. Debts over £1,000 will remain the responsibility of the Strategic Directors within their own directorates up to £20,000 and Director of Finance as now and set out in paragraph 5.1 below. Debts written off over £3,000 will be routinely reported to Cabinet. It should also be noted that the £3,000 limit has been set for nearly twenty years and is also now due to be reviewed. The Revenue and Debt team in Customer Access will coordinate the required reporting for all debts that need to be reported to Cabinet.
- 3.7 Those debts written off over £3,000 are attached as appendix three. The total amount of debts in excess of £3,000 that were written off during 2020, but mainly relate to old debts from 1994 to 2010 is in the sum of £1,783,999.67 (which includes costs in relation to those debts owing to the Council in the sum of £114,781.62) involving 338 persons and businesses. Three rent arrears debts in excess of £3,000 amounted to the total sum of £22,840.84. The grounds for writing off the debts are that they were uneconomic to collect, they were irrecoverable and because they were subject to individual voluntary arrangements (IVAs).
- 3.8 The names of the debtors as set out in appendix three are exempt from publication in the public domain pursuant to paragraph 3, Schedule 12A Local Government Act 1972, i.e. information relating to the financial or business affairs of any particular person (including the authority holding that information). The Council would not normally release the names of the debtors on data protection grounds and instances where such names are disclosed in the public domain would only be done specifically after considering the law and exemptions as set out in the Data Protection Act 2018 and the Freedom of Information Act 2000.

3.9 The amended Council's Ethical Debt Policy differs from the last agreed version of 2016 as follows:

- i. The Government has introduced a number of measures during Covid-19 pandemic which have a direct impact on the Council's ability to enforce and pursue debt. The extension of these measures mean creditors cannot rely on statutory demands to bring winding-up petitions, and are prohibited from filing winding up petitions where the company's inability to pay is due to COVID-19. These provisions also run in parallel with restrictions on landlords pursuing rent arrears, forfeiting business leases for non-payment of rent, or exercising CRAR (in England) until the end of March 2021.
- ii. The Corporate Insolvency and Governance Act 2020 (Coronavirus) (Extension of the Relevant Period) Regulations 2020 (Extension Regulations) came into effect on 29 September 2020. Furthermore, The Corporate Insolvency and Governance Act 2020 (Coronavirus) (Early Termination of Certain Temporary Provisions) Regulations 2020 (Termination Regulations) came into effect on 1 October 2020. These Regulations modify a number of the time limits on temporary measures set out in The Corporate Insolvency and Governance Act 2020.
- iii. These extensions and moratoriums will give breathing space to companies and individuals where they have been financially impacted by COVID-19. The Council is legally obliged to comply with the relevant breathing space moratoriums.
- iv. Breathing space is a new debt respite scheme that gives someone in problem debt the right to legal protections from their creditors including the Council. There are two types of breathing space: a standard breathing space and a mental health crisis breathing space. A standard breathing space is available to anyone with problem debt. It gives them legal protections from creditor action for up to 60 days. The protections include pausing most enforcement action and contact from creditors and freezing most interest and charges on their debts. A mental health crisis breathing space is only available to someone who is receiving mental health treatment and further guidance will set out who is entitled to this respite. The mental health respite has stronger protections. It lasts as long as the person's mental health crisis treatment remains in place plus 30 days (no matter how long the crisis treatment lasts). There is less rigorous checks on those requesting mental health breathing space. The legislation for this is the The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020. Guidance has been made available to all creditors and the Council will put processes in place to ensure it complies from 4 May 2021 when the rules come into force.

3.10 As a result of the changes introduced by the Government in relation to the enforcement of debt during the current pandemic, the Council's Ethical Debt Recovery Policy has been amended, under delegated authority, by the Strategic

Director for Customer and Digital Services. The Council's amended Ethical Debt Recovery Policy is set out in appendix 4 of this report. The reasoning as to why the said policy can be amended by the Strategic Director is set out in paragraph 5.6 of this report.

#### **4.0 Financial Implications**

- 4.1 No changes to service budget or collection rates are part of the changes here. Therefore there are no direct financial implications of the proposals with bad provision being made for debts that cannot be collected.

#### **5.0 Legal Implications**

- 5.1 Under paragraph 8 in the table under paragraph 9.5 of Part 3 of the Council's Constitution, the Strategic Director has authority to write off debts up to £20,000 where all steps have been taken to recover the debt(s) and the Director of Finance has not required the matter to be referred to him for consideration. All such debts written off must be notified to the Director of Finance. Debts exceeding the sum of £20,000 can only be written off with the written approval of the Director of Finance.
- 5.2 Paragraph 8.3.2 of the Council's Financial Regulations, as set out in Part 2 of the Council's Constitution, states that debts over £3,000 that are written off will be reported to the Cabinet bi-annually.
- 5.3 The Council holds a fiduciary duty to its taxpayers to ensure money is spent wisely and recover debts owed to it. Whilst, the Council has adopted a fair but robust approach in the past, it must consider that households and businesses have had a detrimental effect during the pandemic.
- 5.4 The Government has introduced a number of measures during Covid-19 which have a direct impact on the Council's ability to enforce and pursue debt. The Coronavirus Act 2020 has provided a number of protections to debtors including residential and commercial tenants from both eviction and forfeiture. The Corporate Insolvency and Governance Act 2020 has been introduced to relieve the burden on businesses during Covid-19 and to provide them with a breathing space from creditor action. In May 2021 the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 will come in to force which will provide debtors opportunity to pause any debt recovery action until they have taken appropriate financial support.
- 5.5 The various measures indicated are not designed to stop the collection or require the Council to waive the debt, it is designed to pause recovery so that businesses and households can remain afloat whilst the various Government and Public Health England restrictions remain in place and a vaccine is rolled out.
- 5.6 The Strategic Director for Customer and Digital Services has authority to amend the Council's Ethical Debt Recovery Policy as the amendments have been

made as a result of the changes introduced by the Government in relation to the enforcement of debt during the current pandemic. The amendments to that policy do not conflict with and do not result in a change or departure from any decision or policy that was previously agreed by the Cabinet or the Council pursuant to paragraph 10.1(a) of Part 3 of the Council's Constitution.

## **6. Equality Implications**

- 6.1 As described above, the Council's approach to dealing with debtors remains fundamentally unchanged, it is expected that through formalising and promoting our approach, and in particular the support that is available to vulnerable debtors, that the Council encourages engagement with vulnerable debtors who may potentially have tried to ignore their debts.

## **7.0 Consultation with Ward Members and Stakeholders**

- 7.1 Discussions were undertaken with Brent's Poverty Commission Consultative Group in order to consult regarding the implications of the new write-off policy. These included representatives from The Smith Institute, Crisis Shelter, Young Brent Foundation, Crisis, CA Brent, Child Poverty Action group.

## **8.0 Human Resources/Property Implications (if appropriate)**

- 8.1 None

**Report sign off:**

**Peter Gadsdon**  
Strategic Director of Customer and  
Digital Services