

CABINET

Date of Meeting	Tuesday, 14 th March 2023
Report Subject	Business Rate Write Offs in excess of £25,000
Cabinet Member	Cabinet Member for Governance and Corporate Services including Health and Safety and Human Resources
Report Author	Chief Officer (Governance)
Type of Report	Operational

EXECUTIVE SUMMARY

For individual bad debts more than £25,000, Financial Procedure Rules (section 5.2) requires Cabinet to approve recommendations to write off debts.

Two Business Rates debts totalling £112,526 are deemed to be irrecoverable and write offs are necessary due to Insolvency. A C Canoe Products (Chester) Limited owe £37,856 and FTS Hatswell Limited owe £74,670.

Both companies have ceased trading, are insolvent and are officially in administration or liquidation and in the final stages of being wound up at Companies House. The Business Rate liabilities have now ended in both cases and since unpaid Business Rates are classed as non-preferential debts, there is little or no assets available for non-preferential creditors and successful recovery of the business rates debts is no longer possible.

RECOMMENDATIONS

1	Approve the two write offs totalling £112,526, consisting of £37,856 for A.C Canoe Products (Chester) Limited and £74,670 for FTS Hatswell Limited.
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REPORT DETAILS

1.00	EXPLAINING THE BACKGROUND TO THE WRITE OFFS
1.01	A.C. Canoe Products (Chester) Limited was a company involved in the manufacturing and wholesale distribution of canoe and sports equipment, trading from Unit 102, Zone 3, Deeside Industrial Park.
1.02	The company had always paid their Business Rates liabilities in full since 2003. In total they paid more than £656k in Business Rates up to 2021/22.
1.03	The directors of the company contacted the Council in November 2020 to advise the business was experiencing cash flow problems due to the pandemic and were seeking support from the Council to maintain payments. A non-statutory payment arrangement was set up to support the company and through these negotiations the Council successfully secured a further payment totalling £51k against the 2020/21 and 2021/22 Business Rate liabilities.
1.04	In early 2021/22, the company failed to maintain these payments and failed to contact the Council, therefore, a summons for non-payment of Business Rates was issued against the company to appear before Mold Magistrates Court on 28 th January 2022. In response to the summons the company entered into a further repayment plan at the rate of £4k per month. Two further payments, totalling £8k, were received with the final payment in March 2022.
1.05	In May 2022, the company went into administration. The company ceased trading and subsequently the lease on the property was surrendered by the administrators in June 2022. Kay Johnson Gee Corporate Recovery Limited are appointed to oversee the winding-up of the company. The insolvency report shows the company has little to no assets and debts more than £747k.
1.06	As a non-preferential creditor there is very little prospect of the Council receiving any further payment in respect of the outstanding Business Rates of £37,856.44 and a write off is necessary.
1.07	FTS Hatswell Limited was a company involved in logistics, transportation and haulage and traded from Deeside Industrial Park before moving in August 2019 to Deva 100, Chester West Employment Park, Chester.
1.08	The company always paid their Business Rates liabilities in full since trading and have paid more than £1.8m in Business Rates up to and including 2021/22.
1.09	In April 2022, the company failed to pay their 2022/23 Business Rates instalments and the company were summonsed to appear before Mold Magistrates Court in July 2022. The company directors failed to respond or appear before the court and following the award of a Liability Order, debt recovery was undertaken using the in-house Enforcement Agents (Bailiffs).

1.10	The Enforcement Agents visited the trading premises at Chester West Employment Park, but the property was found to be empty and there was no sign of trading. Further enquiries were undertaken, and a Companies House search confirmed the company has been subject to a compulsory liquidation order through the High Court on 27 th July 2022. As part of the liquidation the lease for the premises was also disclaimed on the same day.
1.11	The Council have submitted a proof of debt form to the Insolvency Service to register the outstanding Business Rates. However, as a non-preferential creditor there is very little prospect of the Council receiving any further payment in respect of the outstanding Business Rates of £74,669.52 and a write off is necessary.

2.00	RESOURCE IMPLICATIONS
2.01	There are no direct financial implications for the Council or local taxpayers by writing off these debts as business rates losses are borne by the National Collection Pool for Wales. As the Collection Pool is supported by Welsh Government, non-payment of rates does though have a wider impact on the Welsh taxpayer.
2.02	Writing off these two debts, amounting to a £112,526 loss of income to the National Collection Pool, is being recommended as a last resort and only on the basis that there is no prospect of successfully recovering these debts.

3.00	IMPACT ASSESSMENT AND RISK MANAGEMENT
3.01	For those businesses who fail to pay, recovery action is always taken to secure payment. Measures include taking legal action to secure a Liability Order at the Magistrates Court, and in certain circumstances, the use of enforcement agents/bailiffs to take control of goods.

4.00	CONSULTATIONS REQUIRED/CARRIED OUT
4.01	All write offs must be approved by the Corporate Finance Manager, but in the case of write offs over £25,000, Cabinet must be consulted before a decision is taken.

5.00	APPENDICES
5.01	None.

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<ul style="list-style-type: none"> • Local Government Finance Act 1988 • Financial Procedure Rules (section 5.2) • Companies House – A.C. Canoe Products (Chester) Limited – Company Number 01125961 • Companies House – FTS Hatswell Limited – Company Number 01850518

7.00	CONTACT OFFICER DETAILS
7.01	<p>Contact Officer: David Barnes, Revenues & Procurement Manager Telephone: 01352 703652 E-mail: david.barnes@flintshire.gov.uk</p>

8.00	GLOSSARY OF TERMS
8.01	<p>Business Rates: are a property based local tax on businesses calculated on the rateable value of the property. Although the rate of tax is set by Welsh Government, rates are administered and collected locally by each local authority and paid into a national collection pool for Wales.</p> <p>National Collection Pool for Wales: all business rates are collected and paid into the Welsh Government’s Non-Domestic Rates Collection Pool. Councils in Wales receive a redistributed share based on a formula set by Welsh Government called the Local Government Funding Formula. The formula makes a theoretical comparative judgement on what each council needs according to its population size, its wealth and poverty, and its rurality.</p> <p>Administration: effectively means a company is taken under the management of an administrator who must be a licensed insolvency practitioner (IP). During the time the company is in administration, the appointed IP will consider whether the company has the potential to trade successfully in the future (often following a period of restructuring), or whether its problems are so serious that the company needs to be liquidated. Once a company enters administration, it is given protection from creditors</p> <p>Liquidation: is the legal process that occurs when a company becomes insolvent, meaning it cannot meet its payments obligations as and when they become due. The purpose of liquidation is for an appointed liquidator to investigate the financial affairs of a company, realise all the assets and then pay a return to creditors so they receive some or all of their money back. However, not all liquidations result in creditors getting money back in the form of a dividend.</p>