

## CABINET MEETING

<b>Date of Meeting</b>	15 <sup>th</sup> September 2015
<b>Report Subject</b>	Business Rates – Write Offs
<b>Portfolio Holder</b>	Corporate Governance & Management
<b>Report Author</b>	Chief Officer Community & Enterprise
<b>Type of Report</b>	Operational

### EXECUTIVE SUMMARY

Financial Procedure Rules (section 5.2) requires debts in excess of £25,000 and being considered for write off are referred to cabinet for approval.

There is a requirement for cabinet to consider writing off business rate debts for two organisations that are no longer trading, have no assets and where successful recovery of the debt is no longer possible. The organisations are :

- Milvus Ltd (Registered in Isle of Mann) £486,063
- Midcomb Ltd (Registered in UK) £52,800

### RECOMMENDATION

1. That Cabinet approves the write off of these business rate debts, amounting to £486,063 for Milvus Ltd and £52,800 for Midcomb Ltd.

## REPORT DETAILS

1.00	EXPLAINING THE BUSINESS RATES – WRITE OFFS
1.01	<p>The write off in the case of Milvus Ltd, an off-shore company, registered with the Isle of Mann Companies House, relates to empty business rate charges from 2008 to 2013 on sixteen empty industrial units located at Central Trading Estate, Marley Way, Saltney.</p>
1.02	<p>The Council successfully obtained Liability Orders against Milvus Ltd at Mold Magistrates Court on four occasions for non-payment. Bailiffs were subsequently engaged to enforce the Liability Orders but all attempts to secure payment were unsuccessful as there were no assets or goods to take control of belonging to Milvus as the units were always empty. The directors of Milvus reside in Liechtenstein, a country that falls outside of UK legal jurisdiction.</p>
1.03	<p>Around the same time as empty rates were first charged, BDO Stoy Hayward, were appointed in 2008 as Law of Property Act (LPA) Receivers by Norwich Union Mortgage Finance. However, LPA Receivers do not usually have responsibility to recover or discharge payment of business rates during their appointment. The LPA Receivers act in a capacity to only secure payment of the mortgage and the legal interests of the financial institution that are appointed by.</p>
1.04	<p>BDO Stoy Hayward discharged their limited responsibilities and all sixteen empty properties were eventually sold by the Receivers to a property investment company by in March 2014.</p>
1.05	<p>Specialist external lawyers acting on behalf of the Council have looked at the prospect of still recovering the unpaid business rates from Milvus, even though it is a company registered off-shore, including the ‘winding-up’ of the company.</p>
1.06	<p>Milvus continues to be registered as a live company based from the Isle of Mann, but with no accounts being filed with the Isle of Mann Companies House since 2008 and with no sign of any trading activity, either in the Isle of Mann or within England and Wales, it is now considered to be dormant company with no assets. There is no prospect of recovering the £486,063 of unpaid empty business rates and winding-up action against Milvus would be a pointless and expensive exercise for the Council to undertake with no prospect of recovering any monies. It is not in the public interest to take any further action on this occasion.</p>
1.07	<p>In the case against Midcomb Ltd, unpaid empty business rates amounting to £52,800 are requested for write off. Midcomb was the ratepayer and owner of business premises at Select House, Glendale Avenue, Sandycroft and were liable for payment of empty rates from 2012 to 2014.</p>
1.08	<p>The Council successfully obtained a Liability Order in 2013 and steps were immediately taken to enforce payment by way of bailiff action. Part payment of £3,500 was made but all efforts to recover the remaining balance of £52,800 have been exhausted.</p>

1.09	Steps to 'wind-up' Midcomb Ltd in the High Courts of Justice have been considered but now ruled out as there is no prospect of recovering the debt on the basis that the company is now a shell company with no assets. The directors of Midcomb recently purchased the property at Select House in a personal capacity through their own registered charity, AW Charitable Trust, but the same directors have subsequently sold it on again to another registered charity, CLC International UK, who now allege to use the property for charitable purposes. Winding-up action against Midcomb Ltd would also be a pointless and expensive exercise for the Council to undertake with no prospect of recovering any monies.
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<b>2.00</b>	<b>RESOURCE IMPLICATIONS</b>
2.01	There are no direct financial implications for the Council or local taxpayers as business rates which are collected (or not collected) are borne by the National Collection Pool for Wales. As the Collection Pool is supported by Welsh Government, non-payment of rates and rates avoidance does though have a wider impact on the Welsh taxpayer.
2.02	Writing off these two debts, amounting to losses of £539,063, is being recommended as a last resort but in the context of the £0.43b collected from ratepayers over the period these debts have accrued, amounts to a total loss of just 0.0013% of all collectable balances.

<b>3.00</b>	<b>CONSULTATIONS REQUIRED / CARRIED OUT</b>
3.01	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 to write off debts.

<b>4.00</b>	<b>RISK MANAGEMENT</b>
4.01	For those that fail to pay, recovery action is always taken to secure payment. Measures include the use of bailiffs to take control of goods and on occasion steps are taken to 'wind-up' companies who fail to pay.
4.02	On some occasions, the cost of taking action such as 'winding-up' a company in the High Court is not appropriate on the grounds of the cost to the public purse, especially if there is still no prospect of recovering the debt outstanding.

<b>5.00</b>	<b>APPENDICES</b>
5.01	None.

<b>6.00</b>	<b>LIST OF ACCESSIBLE BACKGROUND DOCUMENTS</b>
6.01	<p>Financial Procedure Rules (section 5.2)</p> <p><b>Contact Officer:</b> David Barnes Revenues Manager</p> <p><b>Telephone:</b> 01352 703652</p> <p><b>E-mail:</b> <a href="mailto:david.barnes@flintshire.gov.uk">david.barnes@flintshire.gov.uk</a></p>

<b>7.00</b>	<b>GLOSSARY OF TERMS</b>
7.01	None