

CABINET

Date of Meeting	Tuesday, 21 st September 2021
Report Subject	Business Rates – Write Offs
Cabinet Member	Deputy Leader of the Council (Governance) and Cabinet Member for Corporate Management and Assets
Report Author	Chief Officer (Governance)
Type of Report	Operational

EXECUTIVE SUMMARY

Financial Procedure Rules (section 5.2) requires Cabinet to approve any recommendation to write off debts in excess of £25,000. A £103,150 Business Rates debt is considered to be irrecoverable for the Arcadia Group Plc. The company was placed into Administration in December 2020 with debts in excess of £800m owed to creditors and with a £510m deficit in the company pension fund.

The company entered into Liquidation from July 2021. Consequently, there will be few or no assets available for non-preferential creditors. Successful recovery of the business rate debt is no longer possible and a write off is necessary.

RECOMMENDATIONS

1	Approve the write off of the £103,150 business rate debt for the Arcadia Group Plc.
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REPORT DETAILS

1.00	EXPLAINING THE BACKGROUND TO THE REQUEST FOR WRITE OFF
1.01	Arcadia Group PLC were a High Street fashion retailer who traded across the UK and overseas and at its peak had more than 2,500 outlets from over 466 stores, including a retail store located at Broughton Retail Park.
1.02	The company had always paid their Business Rates liability in full and since trading at Broughton Retail Park in 2003, the Arcadia Group had paid in excess of £3.92m in Business Rates up to 2019/20.
1.03	In early 2020, the company announced plans to close multiple stores across the UK and worldwide as a result of rising debts and difficult trading conditions. The impact of the global Coronavirus Pandemic also had a significant impact on the company.
1.04	During 2020/21, the company stopped making Business Rate payments. A summons for non-payment of Business Rates was issued by Mold Magistrates Court on 25 th September 2020 and a realistic payment agreement to pay £51.3k each month was then reached with the company. Two payments of £51.3k were successfully recovered with the last payment being received on 17 th November 2020.
1.05	On the 1 st December 2020 Arcadia went into Administration with debts in excess of £800m owed to creditors and with a £510m deficit in the company pension fund.
1.06	The company continued to trade from December 2020, albeit, under the direction of Deloitte's as administrators although the Broughton Retail store ceased trading and permanently closed on 14 th January 2021.
1.07	A further £37.1k was received from the administrators to cover the Business Rate liability from the 1 st December 2021 to the 14 th January 2021.
1.08	Mazars have now been appointed to oversee the final winding-up process of what remains of the company. The liquidation process could take over a year; and with HMRC being designated a preferential creditor and owed in excess of £44m in unpaid VAT, 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 £103.1k.

2.00	RESOURCE IMPLICATIONS
2.01	There are no direct financial implications for the Council or local taxpayers by writing off this debt 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 this debt, amounting to a £103.1k 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 the debt.
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3.00	IMPACT ASSESSMENT AND RISK MANAGEMENT
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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.
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4.00	CONSULTATIONS REQUIRED/CARRIED OUT
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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 make the decision.
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5.00	APPENDICES
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5.01	None.
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6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
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6.01	<ul style="list-style-type: none"> • Local Government Finance Act 1988 • Financial Procedure Rules (section 5.2) • Companies House – Arcadia Group PLC – Company Number 00237511
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7.00	CONTACT OFFICER DETAILS
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7.01	Contact Officer: David Barnes, Revenues Manager Telephone: 01352 703652 E-mail: david.barnes@flintshire.gov.uk
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8.00	GLOSSARY OF TERMS
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	<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. Council’s in Wales receive a redistributed share based on a formula set by</p>
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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.

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

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 look into 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.