SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO:	Finance and Staffing Portfolio Holder	22 August 2017
LEAD OFFICER:	Executive Director Corporate Services	

Request for Authorisation to Write Off Debts in Excess of £25,000

Purpose

1. To request the Portfolio Holder's authorisation to write off debts in excess of £25,000

2. This is a key decision because The Council's Constitution requires that any debts in excess of Level 2 (currently £25,000) must only be written off with agreement from the Finance and Staffing Portfolio Holder.

3.

Recommendations

2. It is recommended that the Portfolio Holder agree to the write off the debt of the amount of £68,600.27 in respect of Scotia Aid - Sierra Leone SC041617.

Reasons for Recommendations

4. All reasonable efforts to recover the debts have been tried and have proved unsuccessful. There is no likelihood of the debts being recovered and it is appropriate to write it off at this time to ensure good accounting practice.

Background

5. The Council's Constitution requires that any debts in excess of Level 2 (currently £25,000) must only be written off with agreement from the Portfolio Holder.

Considerations

6. The debt of £68,600.27 in respect of Scotia Aid - Sierra Leone SC041617 is considered to be irrecoverable and it is good accounting practice to write off.

7. The balances relate to units 7,8 & 11 Green End, Gamlingay, and span the period 14th April 2015 – 31/12/2016. A breakdown of the balances owed is shown in APPENDIX A.

8. We were advised that Scotia Aid- Sierra Leone had taken occupation of the units in April 2015, and after confirming registration with the Charities Regulator for Scotland, the OSCR, the account was set up in this name.

9. An application for Mandatory Charitable Relief was received, although it wasn't until July 2015 that the charity allowed us access to the property to determine occupation. On viewing the property, it became clear that only a very small part of the building was being used.

10. We confirmed in writing to the charity that whilst we could accept that there was occupation, the actual amount of use was such a small proportion of the overall premises that we could not conclude that the unit was "wholly or mainly used for the purposes of the charity", one of the tests required to be met to qualify for mandatory charitable relief.

11. No payments were received, and a court summons was duly issued, and it was not until the morning of the court hearing that the charity's solicitor made contact to advise that, as the charity was unincorporated in status, the liability fell to the trustees of the charity rather than in the name of the charity itself. As result, we were required to rebill the charge in the name of the trustees.

12. The conduct of the charity became cause for concern, and these concerns were reported to the Scottish charities regulator. There were three areas that were reported, namely, that it appeared that the charity had entered into a rates mitigation scheme, the staffing structure and large amounts of funds spent on consultancy fees, and the conduct and lack of communication re liable parties. Thus commenced an ongoing dialogue and it was understood that similar concerns had been raised about the charity and its trustees across both England and Scotland.

13. We continued to pursue the organisation for payments of the charges due, and following the granting of a liability order, the balance were passed to our enforcement agents to collect. The enforcement agents were unable to determine any goods of any value in England, and they are not able to enforce the liability orders in Scotland, and so the balances were returned to us.

14. On investigation, we noted that one of the trustees resigned, and due to the unincorporated status of the charity, new bills were required.

15. We continued to take this new debt through the recovery process, whilst maintaining contact with the OSCR. In July 2016, the OSCR published their interim report on their inquiry to date in which they confirmed that they had obtained orders from the Court of Session to appoint a Judicial Factor to control the administration of Scotia Aid Sierra Leone, along with a further order to prevent the charity form selling, leasing or otherwise disposing of any of its property. The two remaining trustees, Keiran Kelly and Alan Johnston, were suspended and the charity's bank accounts were frozen. The report can be found in APPENDIX B.

16. We made contact with the appointed Judicial Factor regarding the outstanding balance and the ongoing leases. She advised at the time that it appeared that the charity was insolvent.

17. As a result of the ongoing work by the OSCR, in December 2016 the Court of Session granted a motion to remove Keiran Kelly and Alan Johnston from any role in the management or control of the charity. The order for removal also had the affect of permanently disqualifying Mr Kelly and Mrs Johnstone from acting as trustees of any charity.

18. Whilst the leases were disclaimed, we continued to monitor progress of the OSCR, and in April 2017, Mr Johnston was made bankrupt. Through further investigation we then found that Mr Kelly was made bankrupt on 26th October 2016. On 15th June 2017, Scotia Aid Sierra Leone was declared insolvent. Please see APPENDIX C for details.

19. Consideration has been given to initiating bankruptcy proceedings against the third trustee, Mr D Houston. However, due to the insolvent nature of the other trustees and the charity itself, along with the OSCR's ongoing investigation, it is considered that there is little prospect of success.

Options

20. The options available are:

(a) Write off the outstanding debts.
The debts are deemed to be irrecoverable and it is considered good accounting practice to write it off at this time.

(b) Retain the debts on the Council's accounts
The debts are considered irrecoverable and to retain the debt as due in the Council's accounts may distort the representation of the Council's debtors

Implications

21. In the writing of this report, taking into account financial, legal, staffing, risk management, equality and diversity, climate change, community safety and any other key issues, the following implications have been considered: -

Financial

22. The write off of debts represents a loss of income to the Council's Collection Fund. An allowance for bad debt is made within the accounts, and the amounts written off fall within this provision. Any adjustment for debt written off occurs within the Collection Fund prior to the apportionment of any surplus or deficit, and so the impact is shared. The proportionate share for South Cambridgeshire District Council equates to approximately 40%, or around £27,440.

Legal

23. The Council has fulfilled its legal obligations in attempting to enforce payment

Equality and Diversity

24. We ensure that revenue collection and benefits administration are delivered in a fair and consistent manner to all members of the community.

Consultation responses (including from the Youth Council)

25. No consultation has taken place as it is considered good accounting practice to write it off at this time.

Effect on Strategic Objectives

26. Efficient revenue collection with minimal levels of debts written off is essential to ensure that budgeted funding is available to enable the Council to provide services.

Background Papers

Where the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 require documents to be open to inspection by members of the public, they must be available for inspection: -

(a) at all reasonable hours at the offices of South Cambridgeshire District Council;
(b) on the Council's website; and
(c) in the case of documents to be available for inspection pursuant to regulation 15, on payment of a reasonable fee required by the Council by the person seeking to inspect the documents at the offices of South Cambridgeshire District Council.

No Background Papers

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