

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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

22 August 2017

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 £40,381.51 owed by M-Ports Ltd (dissolved).

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.
6. Makro Properties Ltd v Nuneaton and Bedworth Borough Council (2012) EWHC 2250 (admin). The High Court held that storage of paperwork amounting to just 2% of the floor space was sufficient to amount to rateable occupation. The Judge acknowledged that ratepayers can organise their affairs to avoid paying rates, and stated that "if the outcome was unacceptable it was for the legislature to determine whether reform of the law was needed."

Considerations

7. The debt of £40,381.51 owed by M-Ports Ltd (Dissolved) is considered to be irrecoverable and it is good accounting practice to write off.
8. The balances relate to three hereditaments at the site known as Old Station Yard, Cambridge Road, Impington, Cambridge, CB24 9NU . A breakdown of the balances owed, along with the periods and properties to which they relate is shown in APPENDIX A.

9. The site, a former hardware store, was purchased by Mitre Developments Ltd in January 2013, with a view to developing the site into residential apartments. The site at the time consisted of two “assessments”, or individual areas of rateable value. The bigger of the assessments had a rateable value of £47,750 and the smaller part £12,250.
10. We were originally advised that M-Ports Ltd were in occupation of the smaller assessment with effect from 3rd June 2013. Then, in August 2013, Mitre Developments advised us that M-Ports Ltd had moved and were actually occupying the larger assessment with effect from 31st July 2013. The account was duly amended and bills issued.
11. Payment was not forthcoming, and the account was passed to our enforcement agents, Newlyn PLC, on 20th December 2013. Unfortunately, Newlyn were unable to collect the balance, and had not been able to gain access to the property, and so they returned the case. We tried again with our other Enforcement Agents, Jacobs, but they too were unsuccessful.
12. We were later advised that M-Ports Ltd had contacted the Valuation Office Agency and requested that they split the assessment, as they were not occupying the whole of the larger assessment. On 15th October 2014, the VOA split the assessment into two smaller parts, one with an RV of £5,200 and the other £23,500. The effective date was 31st July 2013, and so the accounts had to be rebilled from this date, effectively deleting all recovery action that had been taken to date.
13. M-Ports Ltd had declared to the VOA that they occupied the smaller assessment, and so new bills were issued to them for this part, with the remainder being billed to Mitre Developments. Mitre disputed the charge, and advised that M-Ports were liable for both assessments. The accounts were updated to reflect this, and bills sent to M-Ports.
14. Again, no payment was forthcoming from M-Ports Ltd, and the accounts passed through recovery action, with enforcement agents being instructed in March 2015. A further summons for the 2015 year was issued in May 2015, but it wasn't until July 2015 that we received any contact from M-Ports in relation to this charge, when we were contacted by Mr James on behalf of the company to advise that they should not be liable for the charge as he has no tenancy agreement. Recovery action was then held pending investigation regarding the lease.
15. We approached Mitre developments for comment, and they advised that they would provide a copy of the lease. However, despite several requests for this information, no lease was provided. As a result, case law shows us that where no lease for an empty property exists, liability will fall on the entity entitled to possession. In this case it would be the owners, Mitre Developments, and so the account was duly re-billed in this name.
16. In December 2015, following some months of ongoing dialogue, a meeting was held with those parties involved. Mr James (on behalf of M-Ports Ltd), Mr Collins (director, Mitre Developments Ltd) and Roger Evans (Company Accountant for both) attended, and met with two Council Officers. During the meeting, Mr James confirmed that M-Ports had indeed been in occupation of the larger assessment, and produced

photographs showing that it was being used to store a van and forklift. This being the case, and due to their being actual occupation, we had to rebill again in the name of M-Ports Ltd. However, all parties also confirmed that Mitre would be taking back control of the whole site with effect from 1st January 2016. The accounts were amended accordingly.

17. As the whole property was then empty, Mitre were entitled to receive an empty exemption of 6 months. Just as this was due to expire, in June 2016 we were contacted by Mitre to advise that although they had intended to take control of the whole site, there was in fact continued occupation by M-Ports. In July 2016, two Council officers visited the site, accompanied by Mr Collins. It was confirmed that there was a degree of occupation by M-Ports Ltd, in that a computer, telephone (which was connected), filing cabinets and paint were still in the premises. Therefore, M-Ports Ltd were still liable, and we were required to rebill once more.
18. We commenced recovery action as payment was not made, and a court summons was due to be issued in November 2016. However, on checking with Companies House, it showed that M-Ports Ltd had been dissolved.
19. We have continued to make investigations in relation to the activities that occurred over the life of these debts, but have regrettably concluded that there is no prospect of recovery, nor is there any further action that could be taken in relation to these charges. We are bound to bill the charges in accordance with the hierarchy of liability, and the relevant case law, and we can only act upon the information that is available to us at any time.

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 £16,153.

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 Aims

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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APPENDIX A

M-PORTS LTD (DISSOLVED)

Account reference: 3030119122

Property Address: PT GND FLR, Old Station Yard, Cambridge Road, Impington

Year to which debt Relates	:	2013	£484.92
		2014	£2,449.20
		2015	£2,496.00
		2016	£1620.41
		TOTAL	£7,050.53

Account reference: 3030117509

Property Address: PT GROUND & MEZZANINE FLOORS, Old Station Yard, Cambridge Road, Impington

Year to which debt Relates	:	2013	£989.32
		TOTAL	£989.32

Account reference: 3030120695

Property Address: PT GND & 1ST FLOORS, Old Station Yard, Cambridge Road, Impington

Year to which debt Relates	:	2013	£1,909.48
		2014	£11,327.00
		2015	£11,585.50
		2016	£7,519.68
		TOTAL	£32,341.66

TOTAL for Write Off **£40,381.51**