

Overview & Scrutiny Board

27th June 2016

MONITORING OF WRITE OFFS - APRIL 2015 – MARCH 2016

Relevant Portfolio Holder	Councillor Geoff Denaro
Portfolio Holder Consulted	Yes
Relevant Head of Service	Amanda Singleton, Head of Customer Access and Financial Support
Wards Affected	All

1. SUMMARY OF PROPOSALS

- 1.1 Members are requested to consider the action taken by officers with respect to the write off of debts during the Financial Year 2015/16 and to note the profile and/or level of outstanding debt.

2. RECOMMENDATIONS

That subject to any comments, the Overview & Scrutiny Board note the contents of the report.

3. KEY ISSUES

Financial Implications

- 3.1 Provision is made within the Council's budget to allow for bad debts to be written off. The value of total write offs is well within the existing provisions. The current bad debts provisions are as follows:

	£
Housing benefit Overpayments	684,877
NDR (Business Rates)	263,349
Council Tax	270,063
Sundry Debtors (other debts)	31,493

The provisions above are set aside to reflect the costs associated with BDC element of the debt. The figures as provided within the Appendices show the total debt including that funding by the precepting partner agencies.

- 3.2 Details of written off debts during the period for Council Tax, Sundry Debts, and Overpaid Housing Benefit including a breakdown of the number of debtors, are attached at Appendix 1.
- 3.3 The total of £392,684 in irrecoverable debt was written off during 2015/16. This compares with £263,173 in 2014/15.
- 3.4 Fluctuation in the value of write offs is due to the timing of write off action being taken and does not indicate a trend. A debt is only written off when officers are confident that there is no further economical action that can

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be taken to recover the debt, and as such there is no timetable for the write off of debts.

- 3.5 Due to challenges presented by the introduction of a new finance system there has been no write off of sundry debts (eg trade waste, cesspools) during this period. Some of the debts migrated from the outgoing system were exceedingly old and officers will be reviewing whether continuing to take recovery action is appropriate and/or cost effective in respect of these old debts.
- 3.6 It is important to note that officers write back debts where information later comes to light that enables further recovery action to be taken.

Legal Implications

- 3.7 Legal advice is sought where appropriate in respect of the recovery of outstanding debts and action taken in accordance with procedures dependent on the debt in question. Further Legal action in respect of the cases written off is not considered to be appropriate, or likely to result in repayment of the debt.

Service / Operational Implications

- 3.8 The following table shows the value and number of accounts of write off for 2014/15 compared with 2015/16 for Council Tax

	2014/2015					2015/2016			
Quarter	1	2	3	4		1	2	3	4
Total Write off (£)	23,831	28,522	16,039	13,581		7,636	11,800	40,657	6,786
Number of Accounts	136	108	53	55		35	104	170	141

- 3.9 The following table shows the value and number of accounts of write off for 2014/15 compared with 2015/16 for Business Rates.

	2014/2015					2015/2016			
Quarter	1	2	3	4		1	2	3	4
Total Write-off (£)	62,966	46,935	127,625	25,647		148,258	9,315	104,662	37,022
Number of Accounts	244	102	161	106		47	14	32	21

- 3.10 An analysis of Council Tax and Non Domestic Rates arrears is attached at Appendix 2.

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- 3.11 This shows the outstanding balance of Council Tax debt at 31st March 2016 from 1995/96 was £2,829,636 compared with an outstanding balance at the end the same time in 2015 was £2,384,287. Therefore an additional £445,349 of debt has accrued during 2015/16. However, this is against an increase in possible collectable council tax of £1,581,664.
- 3.12 Non-Domestic Rates debt has decreased from £1,870,350 to £1,542,733
- 3.13 Collection rates in respect of Council Tax and Non-Domestic Rates remain high. Changes to council tax support has not had the anticipated negative impact on the overall collection rates. Comparative data is shown at Appendix 3.
- 3.14 76.2% (31,146) of Council tax bills and 45% (1,357) of NDR accounts are paid by direct debit. Considerable effort has been made to sign customers with recurring sundry debts up to pay by direct debit and there are now 11,555 direct debit payers for sundry debts compared with 2,829 in 2014/15.
- 3.15 Recovery action has a number of stages and whilst a consistent approach is taken in the main officers will also use discretion as to the best course of action to take.
- 3.16 The standard process of recovery for Council Tax and NDR debts are:
- Reminders
 - Final Notices
 - Summons and Liability Order Applications
 - Request for Financial Information - Council Tax Debt
 - Attachment of Earnings Order - Council Tax Debt
 - Deductions form Benefits - Council Tax Debt
 - Attachment of Allowances - Council Tax Debt
 - Enforcement Agents- Council Tax and NDR Debt
 - Insolvency - Council Tax and NDR Debt
 - Charging Orders - Council Tax Debt
 - Committal to Prison - Council Tax and NDR Debt
 - Security for Unpaid Debt - NDR Debt
 - Recovery in a Court of Competent Jurisdiction - NDR Debt, from a reminder through the summons, attachment of earnings.

It is important to note that cases are assessed by officers in relation to the issues that may be faced those facing recovery action. More details regarding these processes are attached at Appendix 4.

- 3.17 Officers use collect data at all stages of recovery. Measures charts showing this data are attached at Appendix 5. Although collection rates are good, the recovery picture has become more erratic in 2015/16.

- 3.18 This is due to a number of factors. Understanding of customer demand in relation to recovery showed that much of the demand was being generated by our inability to keep up to date with the high volume of correspondence received by the department, with changes to be actioned to accounts,. This resulted in some out of date information, increased customer telephone contact and re-work on accounts to react to that customer demand. A trial to slow down recovery action and focus resources on outstanding changes of circumstances was in place from June 2015 – September 2015.
- 3.19 Through this period there was only a very small reduction in the collection rate, and we learnt that the vast majority of people will pay their Council Tax without intervention. Based on our learning a decision was also taken not to take carry out recovery action in December 2015.
- 3.20 However, all possible recovery action is taken in respect of debts before write off of the debt is considered. Write offs are made only as a last resort and to comply with Audit requirements. The timing, amount and value of write offs vary due to the recovery work undertaken and are not representative of any specific trend in that year.

Customer / Equalities and Diversity Implications

- 3.21 Every option is explored to recover outstanding debts and staff work with individuals to try to find suitable solutions. In some cases pursuing a debt is going to lead to such hardship that a write off is the most appropriate option. However, if circumstances change a case can be re-opened.
- 3.22 The Council's Write Off Policy makes provision for customers to be treated fairly and equally.

4. RISK MANAGEMENT

- 4.1 Failure to authorise the write off debts results in unrecoverable debts remaining on our financial systems. This is not in accordance with audit requirements.

5. APPENDICES

Appendix 1- Write offs April 2015 – March 2016
Appendix 2- Council Tax and Non Domestic Rates Arrears Analysis
Appendix 3 – Collection rates measures
Appendix 4 – Recovery Processes
Appendix 5 – Recovery Measures

6. BACKGROUND PAPERS

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There are no background papers to this report.

AUTHORS OF REPORT

Name: Amanda Singleton
E Mail: a.singleton@bromsgroveandredditch.gov.uk
Tel 01527 881241

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Appendix 1

**Write Offs of Council Tax and Non-Domestic Rates
April 2015 - March 2016**

Council Tax Period 01/04/15 – 31/03/16	Amount (£)	Number of Accounts
Deceased no funds in estate	6,257.28	28
Bankruptcy	27,082.42	94
Uneconomical to pursue	9,069.42	113
Outside Jurisdiction	331.03	2
Credit Write Off	-7,009.59	122
Gone Away	3,167.63	25
Other	26,415.18	55
Small Balances	83.09	8
Outside 6 year Limit	1,482.77	3
Total	66,879.23	450

NDR Period 01/04/15 – 31/03/16	Amount (£)	Number of Accounts
Administration Unsecured Claim	1,365.17	2
Bankruptcy	58,499.34	7
Ceased Trading – No Assets	167,076.32	2
Company Dissolved	22,302.16	15
Company in Liquidation	187,854.72	46
Uneconomical to Pursue	1,329.36	5
Other	9,176.66	4
Costs written off	2,652.85	30
Total	299,256.58	114

Write off of Overpaid Housing Benefit April 2015 – March 2016

Reason	Amount (£)	Number of cases
Bankruptcy	£9,305.33	7
Uneconomical to recover	£859.20	13
Not reasonable to recover	£1,473.43	3
Cannot trace	£2,089.29	7
Old debt-recovery options ex	£10,878.16	10
Deceased	£1,943.58	3
TOTAL	£26,548.99	43

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Appendix 2

Council Tax Arrears

Year	Arrears Total as at 31/03/2014	Arrears Total as at 31/03/2015	Arrears Total as at 31/03/2016
1995/96	-1,558	-2,001	-3,934
1996/97	-2,748	-3,077	-3,822
1997/98	68	-480	-1,150
1998/99	1,287	921	69
1999/00	6,894	8,727	7,245
2000/01	14,957	13,979	12,202
2001/02	24,491	22,467	20,252
2002/03	35,751	33,018	29,410
2003/04	32,645	29,221	25,206
2004/05	35,245	31,991	26,828
2005/06	70,593	62,890	55,350
2006/07	89,681	80,885	67,268
2007/08	84,540	71,209	58,918
2008/09	89,762	77,715	65,732
2009/10	96,734	80,705	72,349
2010/11	158,836	133,036	122,143
2011/12	201,944	160,918	139,731
2012/13	315,014	250,782	207,425
2013/14	753,030	478,898	348,308
2014/15		852,483	518,771
2015/16			1,061,335
Total	2,007,166	2,384,287	2,829,636

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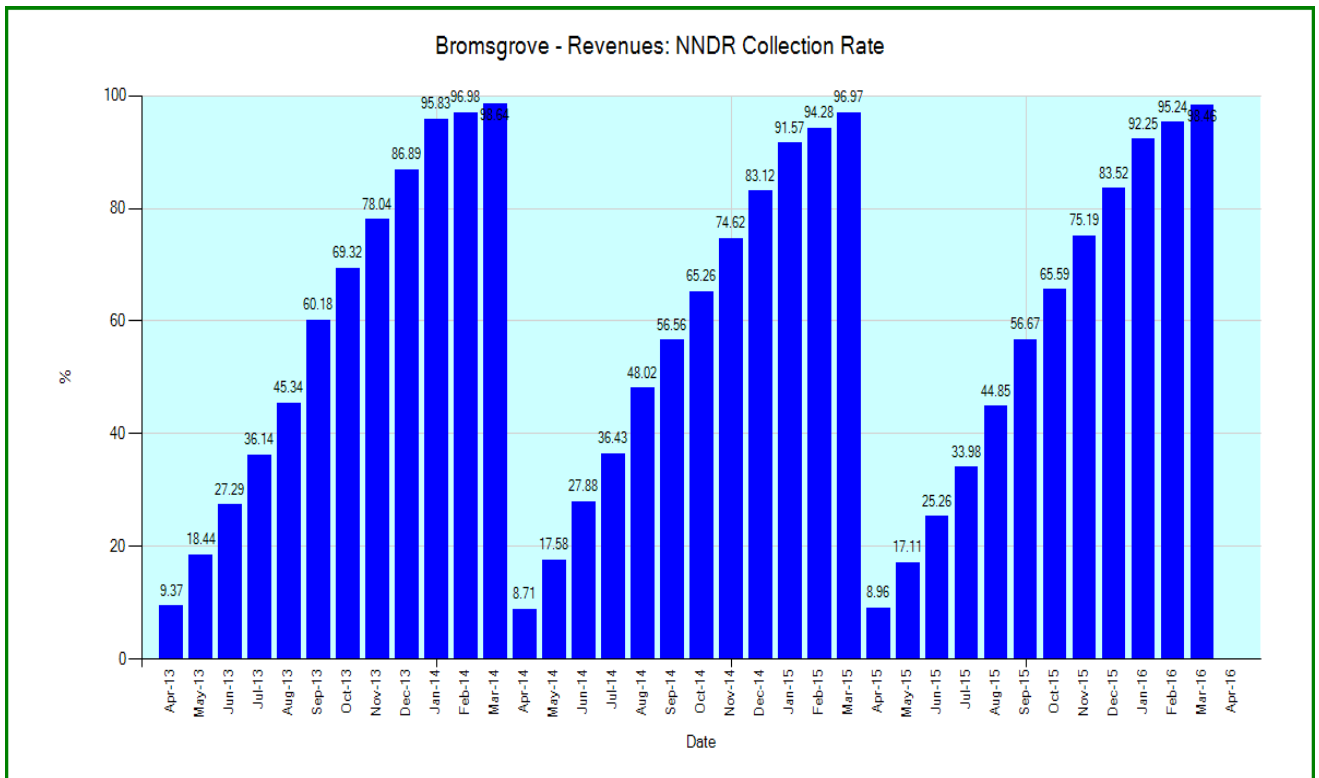
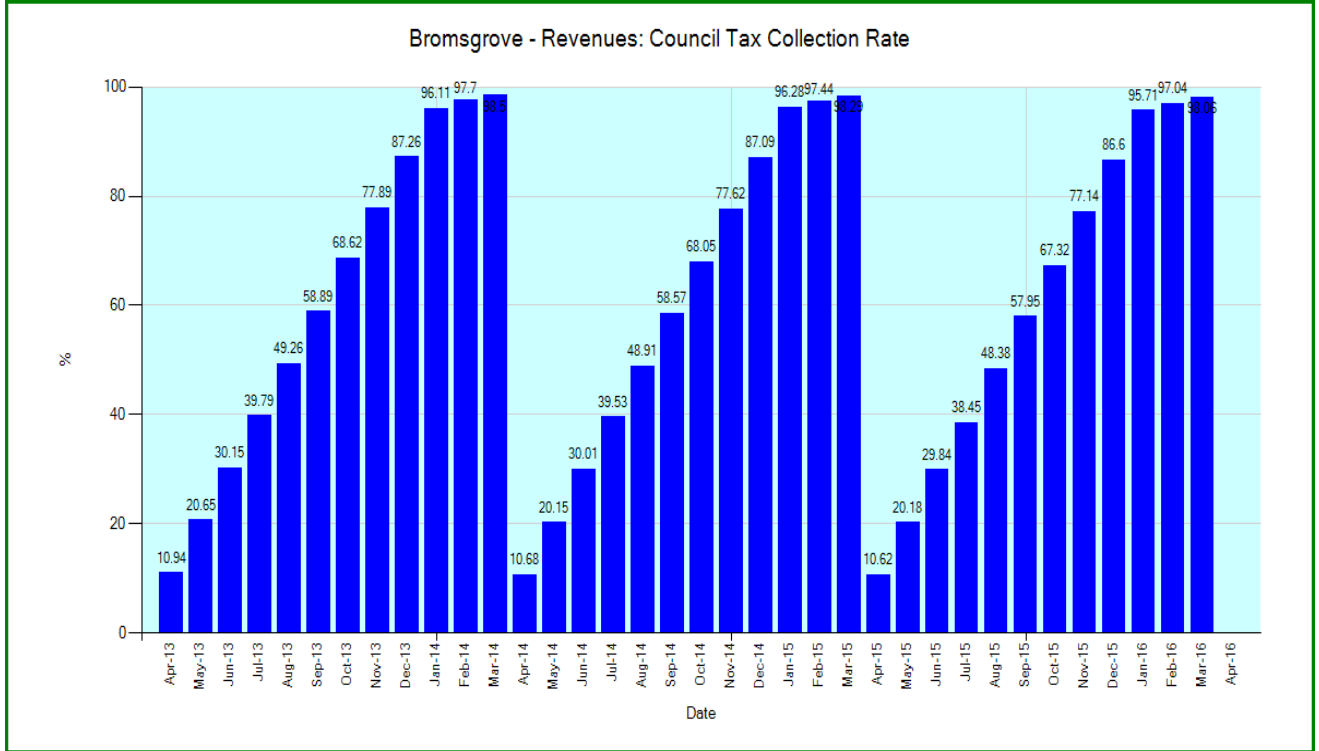
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Business Rates Arrears

Year	Arrears Total as at 31/03/2014	Arrears Total as at 31/03/2015	Arrears Total as at 31/03/2016
1991/92	54,066	74,825	72,573
1992/93	0	0	0
1993/94	0	0	0
1994/95	0	0	0
1995/96	0	0	0
1996/97	0	0	0
1997/98	0	0	0
1998/99	0	0	0
1999/00	0	0	0
2000/01	84	84	84
2001/02	0	0	20
2002/03	1,426	732	732
2003/04	1,018	79	79
2004/05	1,035	80	80
2005/06	719	160	160
2006/07	5,933	5,933	5,933
2007/08	4,591	1,391	572
2008/09	3,820	2,038	2,038
2009/10	25,977	22,563	10,189
2010/11	62,602	49,018	12,211
2011/12	88,730	68,729	25,380
2012/13	124,962	73,703	35,637
2013/14	844,451	157,075	80,288
2014/15		1,413,939	142,585
2015/16			1,154,172
Total	1,219,414	1,870,350	1,542,733

Collection Rates Measures



Recovery processes

Reminders

Reminders will be issued between 10 to 18 days of the instalment becoming due. However, during certain times of the year this may be reduced to 7 days particularly in February and March as the end of the charge year approaches.

The reminder will allow seven days for the overdue amount to be paid, or for an arrangement to be made.

If the amount is not paid then, after a further seven days, a complaint will be made to the Magistrates' court and a summons for non-payment will be issued.

In accordance with the regulations, two reminders will be issued to a Council Tax payer, and only one reminder will be issued to NDR payers, in any charge year.

Final Notice

Where the amount due is payable by one instalment, all instalments have fallen due or the taxpayer has defaulted on an instalment for the third time in a charge year a Final Notice will be issued.

The Final Notice will inform the tax or rate payer that they have lost the right to pay by instalments, that the whole balance of Council Tax or NDR for the charge year is payable, the amount due for payment, the property for which the payment is due, the ways in which payment can be made and the action that will be taken if the amount is not paid.

The Final Notice will allow seven days for the overdue amount to be paid. If the amount is not paid then a complaint will be made to the Magistrates' court and a summons for non-payment of Council Tax or NDR will be issued.

Summons and Liability Order Application

Failure to make payment or suitable arrangements to pay will result in a summons being issued.

In some circumstances if a tax or rate payer has agreed to make payments under a special arrangement then a summons may still be applied for to protect the Council's interests.

A summons is issued as a result of the Council commencing the application for a liability order. A complaint will be made to the magistrates' court requesting the issue of a summons directed to that person to appear before the court to show why he has not paid the sum which is outstanding.

The summons will be served in accordance with the regulations and will provide a minimum of 14 days between being served and the hearing date.

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The issue of the summons and the application for a Liability Order will incur costs which are debited to the debtor's Council Tax or NDR account.

In exceptional circumstances the costs may be deemed not to be payable. These circumstances may include cases where the summons has been issued solely to protect the Council's interests or where the Council Tax or NDR outstanding is below the level of the Council's costs.

Costs are set in accordance with guidelines and only cover the actual cost incurred by the Council.

In cases where the costs are removed the debtor will still be expected to pay the administration costs charged by the magistrates' court for the issue of the summons.

Revenues Officers may withdraw a summons. They will use their own discretion and evidence justification for their decision. As a general rule a summons will only be withdrawn if it has not been served, it is incorrect, or there are other exceptional circumstances.

If the debtor has a claim for Council Tax Benefit outstanding then a summons maybe issued and a liability order applied for but no further action will be taken pending the outcome of the benefit application.

If the benefit application is successful then consideration will be given to utilising the Council's powers to request that the liability order be quashed. In most cases this power will only be exercised where the subsequent benefit award reduces the balance of the liability order to the level of the costs debited to the account.

A Liability Order provides the Council with further powers to recover the debt. These powers are:

- The request for financial information - Council Tax only.
- Attachment of Earnings Orders - Council Tax only.
- Deductions from Benefit - Council Tax only.
- Attachment of Allowances - Council Tax only.
- Distress - Council Tax and NDR
- Insolvency Proceedings - Council Tax and NDR.
- Charging Orders - Council Tax only.
- Committal to Prison - Council Tax and NDR.
- Security for Unpaid NDR
- Recovery in a court of competent jurisdiction - NDR Debt

The method of recovery action will be made based on the most appropriate and effective remedy available for individual cases.

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Request for Financial Information - Council Tax Debt

Within five days of the Liability Order being granted we will write to the debtor requesting that they provide details of their employment, earnings or benefits. Information must be provided within fourteen days.

If the information is not provided, or if information provided is shown to be false then we may take action against the debtor. The debtor will be prosecuted in the Magistrates' court and a punitive fine may be issued and costs awarded. These financial penalties are distinct and separate to the Council Tax and are collected by the court.

Attachment of Earnings Order - Council Tax Debt

Where a debtor is employed an Attachment of Earnings order will be the preferred method of recovery. If it is shown that the debtor will suffer undue hardship then a payment arrangement may be agreed in preference to the Attachment of Earnings.

Deductions from Benefits - Council Tax Debt

Where an debtor is in receipt of benefits applications for deductions will be made from a debtor's Jobseeker's Allowance, Income Support, Pension Credits or Employment Support Allowance in preference to any other recovery method, unless where it appears that the debtor may have other means with which to pay the outstanding amount. This may be

- Cases where the debtor has other people resident in the property who are not liable for Council Tax but contribute towards household expenses.
- The debtor owns property and a charging order or bankruptcy petition may be appropriate.
- The debtor has savings or capital which could be used to discharge the debt.

Attachment of Allowances - Council Tax Debt

Attachments of Allowances may be made against an elected member of a billing authority or a precepting authority.

Enforcement Agents - Council Tax and NDR Debt

Where an attachment of earnings or a deduction from benefits/allowances not appropriate and a debtor does not make an offer of payment, or the debtor fails to maintain an existing payment arrangement, the Council's appointed enforcement agents (Bailiffs) may be instructed to recover the balance outstanding.

In some circumstances we may choose to issue a pre-enforcement warning letter. This is discretionary and may be done where the debt is deemed to be at a low level and warning of action may prompt payment or the debtor is making payments but the payments are made late which has resulted in the account progressing through the recovery stages

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If enforcement action is unsuccessful and the debtor is not employed nor in receipt of benefits then the available recovery actions will be limited to insolvency, charging orders or committal to prison.

Insolvency action and charging orders are remedies which will only be utilised where the debtor has realisable assets and it appears that there is likelihood that the debt will be discharged.

If the debtor has no realisable assets then committal action is the only available option. The costs of obtaining a committal order are substantial and therefore in preference to this action the Council will consider secondary distress.

Insolvency - Council Tax and NDR Debt

Where the balance outstanding under a Liability Order or a number of Liability Orders is greater than £750.00 the Council may apply for a bankruptcy order, or in the case of a company, an order for the winding up the company.

The commencement of bankruptcy proceedings will not be undertaken if the debt can be recovered by alternative methods.

Charging Orders - Council Tax Debt

Where the balance outstanding from a debtor under a Liability Order or a number of Liability Orders is greater than £1000.00 we may attempt recovery of the debt by application for a charging order.

An application for a charging order will usually only be made where recovery by way of attachment of earnings, deductions from benefits or distress has been unsuccessful.

Charging Orders can only be made against the property for which the debtor was liable for Council Tax at the time the liability order was made.

In considering the application for a charging order the Council will consider whether bankruptcy proceedings are more appropriate.

Security for Unpaid Rates - NDR Debt

On agreement between the ratepayer and the Council a charge may be placed on the debtor's interest in the property for which the liability has accrued.

Committal to Prison - Council Tax and NDR Debt

Where enforcement agents have not successfully collected the debt the Council will have the option to apply for a warrant committing the debtor to prison.

Before committal action is taken the Council will consider all other methods of recovery.

Recovery Measures

