



**CABINET**

**6<sup>TH</sup> MARCH 2014**

**AGENDA ITEM (9)**

**NATIONAL NON-DOMESTIC RATES WRITE-OFFS IN EXCESS OF £5,000**

<b>Accountable Member</b>	Councillor Lynden Stowe Leader of the Council
<b>Accountable Officer</b>	Jon Dearing Joint Head of Revenues and Benefits 01285 623304 jon.dearing@cotswold.gov.uk

<b>Purpose of Report</b>	To seek approval for writing off two National Non-Domestic Rate debts in excess of £5,000 where the defaulters have absconded
<b>Recommendation</b>	<b>That the write-off of two National Non-Domestic Rate debts, each in excess of £5,000, be approved.</b>
<b>Reason for Recommendation</b>	Despite various actions being taken, we have been unable to recover the debts.

<b>Ward(s) Affected</b>	Not applicable
<b>Key Decision</b>	No
<b>Recommendation to Council</b>	No

<b>Financial Implications</b>	The total financial impact to the collection fund is £16,092.74 in respect of the Andoversford Estate Company debt; and £5,643.09 in respect of the debt incurred by Mr. John Lee trading as 'The Chinese Experience'
<b>Legal and Human Rights Implications</b>	None
<b>Environmental and Sustainability Implications</b>	None
<b>Human Resource Implications</b>	None
<b>Key Risks</b>	None
<b>Equalities Analysis</b>	Not applicable

<b>Related Decisions</b>	None
<b>Background Documents</b>	None
<b>Appendices</b>	None

<b>Performance Management Follow Up</b>	To implement the Cabinet's decision
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### Background Information

#### 1. Mr. John Lee Trading as 'The Chinese Experience'

1.1 Mr. Lee telephoned the Business Rates office on 22<sup>nd</sup> October 2012 and stated that he was now the occupier of 27 Castle Street, Cirencester, having taken over occupancy on 15<sup>th</sup> October 2012. A bill for Business Rates for the period 15<sup>th</sup> October 2012 to 31<sup>st</sup> March 2013, amounting to £4,058.01, was issued to Mr. Lee on 25<sup>th</sup> October 2012, with the first instalment being due on 3<sup>rd</sup> December 2012.

1.2 No payments were received and a Reminder was issued on 4<sup>th</sup> January 2013, followed by a Final Notice on 25<sup>th</sup> January 2013 and a Summons on 22<sup>nd</sup> February 2013. A Liability Order was granted at Cheltenham Magistrates' Court on 25<sup>th</sup> March 2013 for £4,113.01, including costs.

1.3 A Notification of Hearing was issued on 25<sup>th</sup> March 2013. On 2<sup>nd</sup> April 2013, Mr. Lee contacted the office and made an arrangement to pay the debt by instalments of £250 per week, starting on 10<sup>th</sup> April 2013. A payment of £500 was received on 23<sup>rd</sup> April 2013, and a further payment of £250 was received on 29<sup>th</sup> April 2013. However, no further payments have been received, despite a reminder letter being sent.

1.4 As no further payments were forthcoming, the Liability Order was forwarded to the Council's Agency Bailiffs on 3<sup>rd</sup> June 2013 for collection of these debts. Visits were made and an arrangement was agreed which resulted in £400 being paid to the Agency Bailiffs, who retained £93 for fees incurred and forwarded £307 to the Council. This reduced the debt on the Liability Order to £3,056.01, including costs.

1.5 In the meantime, a bill for Business Rates for the period 1<sup>st</sup> April 2013 to 31<sup>st</sup> March 2014, totalling £9,066.75, had been sent to Mr. Lee on 15<sup>th</sup> March 2013. As no payment was received, a Reminder was issued on 22<sup>nd</sup> April 2013, followed by a Final Notice on 20<sup>th</sup> May 2013 and a Summons on 21<sup>st</sup> June 2013.

1.6 Notification was received from the new occupant that he had taken over the premises on 16<sup>th</sup> July 2013 and so Mr. Lee's account was closed. A Liability Order was granted by Cheltenham Magistrates' Court on 22<sup>nd</sup> July 2013 for the remaining balance of £2,693.08, including costs, for the 2013/14 year. This Order was issued to Messrs. Bristow & Sutor, together with the original Order, for collection.

1.7 A total of £115 has been removed to reflect the Summons/Liability Order costs for both debts, leaving a balance outstanding in the sum of £5,634.09.

1.8 During a visit on 19<sup>th</sup> July 2013, the Bailiff was told that Mr. Lee had left the premises two weeks previously and a new occupier had taken over. The new occupier said that he did not have a forwarding address, nor any details, for Mr. Lee. As Messrs. Bristow & Sutor have tried to trace Mr. Lee, without any success, the Liability Orders were therefore returned to the Council. Further address searches have been conducted by the Revenues Recovery Officer to try and trace Mr. Lee, including through the Anti-Fraud Network, without success.

1.9 However, we will continue to try and trace the debtor and will write the back on to the system for recovery if we are successful.

## 2. Andoversford Estate Company

2.1 After the tenant of this unit on the Andoversford Estate left the premises on 24<sup>th</sup> December 2010, the liability for Business Rates reverted to the owners (Andoversford Estate Company). As the unit was empty, the relevant exemption period was applied. However, that period is limited to a maximum of six months and it expired on 23<sup>rd</sup> June 2013. After the expiry of the exemption period, the full Business Rates liability became due.

2.2 A bill for the resultant charge was issued on 7<sup>th</sup> June 2011, followed by a Reminder on 19<sup>th</sup> July 2011 and a Final Notice on 16<sup>th</sup> August 2011. In the absence of any payments, a Summons was issued on 16<sup>th</sup> September 2011.

2.3 A letter had been received from the Company stating that the unit had remained empty and that it was the only asset of the Company. The letter referred to the possibility of an LPA Receiver being appointed by the Lender as the Company was not paying its mortgage, and asked that the Business Rates Liability be waived. A letter was sent in response to explain that the Council had no powers to waive the charges in these circumstances and that recovery action would continue. The letter also requested that a representative of the Company should contact the Council to negotiate a payment agreement.

2.4 In the absence of any payments, a Liability Order was granted by Cheltenham Magistrates' Court on 17<sup>th</sup> October 2011 and a Notification of Hearing was issued on 18<sup>th</sup> October 2011. No further contact was made and, as no payment was received, the Liability Order was forwarded to the Council's Agency Bailiffs for collection of the debt. The Bailiff visited the premises, and also the Manchester address of the Management Company (which the Bailiffs stated is also the registered office address for the Andoversford Estate Company). The Bailiff spoke to a Company Director who said he was unable, and refused, to pay the debt.

2.5 In the meantime, a Bill for Business Rates for the period 1<sup>st</sup> April 2012 to 31<sup>st</sup> March 2013 totalling £30,915 had been sent to the Company on 15<sup>th</sup> March 2012. As no payment was received, a Reminder was issued on 27<sup>th</sup> April 2012, followed by a Final Notice on 25<sup>th</sup> May 2012 and a Summons on 22<sup>nd</sup> June 2012. A Liability Order was granted by Cheltenham Magistrates' Court on 23<sup>rd</sup> July 2012.

2.6 Advice was sought on the appropriate action to be taken to recover the debt and it was subsequently decided to seek a winding-up of the Company. Letters sent by the Council prompted a response from a Director to the effect that, as the Company had no assets, there was no point in winding it up. A statement of the Company's affairs as the unit, which had been the Company's only asset, had been sold in the meantime, and an LPA Receiver had been appointed by the Mortgage Company. The statement showed that the Company had not received any proceeds from the sale of the unit so, as all appropriate recovery action has now been taken, the debt is being submitted to the Cabinet for approval of write-off.

2.7 The amount of Business Rates owing for the year 2012/13 was adjusted to take account of the fact that the Company's liability for Business Rates on this unit had ceased when the property had been sold. As a result, the liability was reduced to £16,092.74.

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