

**To:** Cabinet  
**Date:** 10 March 2021  
**Report of:** Head of Financial Services  
**Title of Report:** Approval to write-off a debt of over £100k

<b>Summary and recommendations</b>	
<b>Purpose of report:</b>	To approve the write-off of a debt of £213,810.60
<b>Key decision:</b>	No
<b>Cabinet Member:</b>	Councillor Nigel Chapman, Cabinet Member for Customer Focussed Services
<b>Corporate Priority:</b>	All
<b>Policy Framework:</b>	Budget
<b>Recommendation:</b> That Cabinet resolves to:	
1. <b>Approve</b> the write-off of the debt	

<b>Appendices</b>	
Appendix 1	What is a Company Voluntary Arrangement?
Appendix 2	Description of a Category 4 Lease

## Introduction

1. The Cabinet is requested to consider writing off an outstanding debt in relation to National Non-Domestic Rates (“NNDR”, also known as Business Rates). Cabinet approval is needed for writing off debts in excess of £100k, in accordance with paragraph 18.20 (d) of the Councils Constitution.

## Background Information

2. Debenhams PLC had been struggling for some time financially and had tried many options to improve its profitability, having previously taken out bridging loans to support the company. Due to the current changes experienced in the retail sector and the costs associated with having big stores, including commercial rent and NNDR, the company failed to improve its financial situation. On the 9 April 2019 Debenhams PLC went into administration.

3. As part of the administration process there was a “pre-pack administration” sale to Debenhams Retail Limited which took over the Oxford store from 9 April 2019. A pre-pack administration allows for the sale of a business as a going concern without impacting on the continuity of business operations upon appointment of an administrator.

### **Debenhams Retail Limited**

4. The NNDR charge for the Oxford Debenhams store from 9 April 2019 to 31 March 2020 was £430,396.72. The Council has received nine payments totalling 216,586.12 reducing the balance outstanding for this period to £213,810.60. The last payment was made on the 28<sup>th</sup> February 2020.
5. Debenhams Retail Limited proposed a Company Voluntary Arrangement (“CVA” - please see Appendix 1). This proposal was accepted by a majority of its creditors although the Council voted against acceptance of this request. The reason for the decision to reject the CVA was the financial implications to the Council of non-payment of the NNDR arrears owed to the Council, however, some payments were received in any event.

### **CVA reason and Implications to the Council**

6. The reason for the CVA and the importance of the CVA for Debenhams Retail Limited was to allow the company to re-finance and to allow a reduction in property rent and to break leases on stores that were loss making. If the CVA was not granted Debenhams Retail Limited would have lost its new finance which had been granted contingent on the CVA
7. The objectives for the CVA for Debenhams Retail Limited, as contained in the CVA Proposals, were :
  - effecting rent reductions across a group of stores that are not viable at current rent levels;
  - increasing the optionality and agility of the Company to optimise the store estate by including certain mutual break rights;
  - moving rents and other lease payments to monthly (rather than quarterly) to improve the Company’s ongoing working capital requirements;
  - exiting a number of stores that cannot be made viable even with long-term rent reductions
8. Although the store in Oxford was eventually forced to close, without the CVA it is unlikely that the Council would have received the £216,586.12 for outstanding NNDR that was paid while the store remained open and the store employees benefited from the extra time to look for alternative employment.
9. Within the proposal for the CVA the leases for the properties operated by Debenhams Retail Limited were categorised. The store in Oxford was made a Category 4 lease, the details of which are contained in Appendix 2.

## **NNDR under a Category 4 Lease**

10. The NNDR due to be paid to the relevant Rating Authority for each property in Category 4 is 50% of the Contractual Rating Liability from the Effective Date of the CVA (9<sup>th</sup> May 2019) until the earlier of (i) the date the relevant lease expires or is otherwise determined and (ii) the expiry of the Current Business Rates Year. The obligation on Debenhams Retail Limited to make payments referred to in the CVA will be accepted in full and final satisfaction of any liability for that year.

## **Financial implications**

11. As a result of the CVA the Council will need to write off £213,810.60 as the CVA has been approved and therefore the Council has no further options in regards to collecting the debt.
12. Write offs contribute towards collection fund deficits and so this write off will worsen the balance on the collection fund by the amount of the write off. Normally deficits are charged to revenue in one year, however due to the COVID-19 pandemic, collection fund deficit phasing regulations have been put in place by the Government allowing the spread of deficits arising in 2020/21 over three financial years from 2021/22 to 2023/24.
13. Under Business Rates Retention rules, the Council will suffer a direct loss of 40% amounting to £85,524.24, with the remaining balance shared between Oxfordshire County Council and the Government on a 50%/10% basis respectively.

## **Legal issues**

14. The Council's Constitution allows the Head of Financial Services to authorise write offs relating to debts up to £100k under his delegated powers. Write offs for debts in excess of this amount require authorisation by the Cabinet.

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**Background Papers:** None

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