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## **Sundry Debt Write Off – Over £20k**

To: **Cabinet – 1 August 2013**

Main Portfolio Area: **Financial Services**

By: **Corporate Income Team Leader, EK Services**

Classification: **Unrestricted**

Ward: **Not Applicable**

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**Summary:** **A case history of the recovery of a grant awarded in relation to the Fort Lodge Hotel.**

### **For Information**

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#### **1.0 Introduction and Background**

- 1.1 This report is brought forward following the Cabinet meeting in March 2013 at which a number of debt write offs over £20k were approved. At this meeting, Members requested that further detail was brought back to them in respect of the Fort Lodge Hotel debt so that this could be made public.
- 1.2 The Fort Lodge Hotel received a total grant of £41,679.99 in 2001 and 2002 to undertake improvements to the Hotel. The giving of this grant fully adhered to the required processes in place at that time. The grant was issued by the Tourism Department and was paid to Rumpy Steak Bars Ltd and Fort Lodge Hotel (no Limited). Rumpy Steak Bars Ltd changed their name to Fort Lodge Hotel Limited on 5 June 2002.
- 1.3 The terms of the grant were breached and part of the grant subsequently became repayable to Thanet District Council. Some of the grant was repaid by one of the directors of the company, and the amount outstanding, £25,009.99, was invoiced as follows:
- Debtor: Company director  
Invoice Amount: £25,009.99  
Invoice Number: A7924463  
Invoice Date: 29 March 2006  
Invoice Detail – Repayment of tourism grant due to breach of grant conditions.
- 1.3 The grant was paid to Rumpy Steak Bars Ltd and Fort Lodge Hotel but rather than invoicing the companies, the invoice was raised to the company director. As the invoice did not match the paperwork for the grant, the debt was not enforceable through the County Court if this director chose not to repay the debt.
- 1.4 The invoice was not paid and Cabinet therefore authorised the write off in March 2013. This report, outlining the detail of the case, was requested by Cabinet as part of the authorisation process.

## **2.0 The Case History**

- 2.1 The invoice was issued in March 2006 and due to non payment, reminders were issued in April, May, October and November 2006. The initial reminder was issued with a covering letter advising that the Council was aware the debtor was liaising with the Leader of the Council in relation to this matter.
- 2.2 In December 2006 the debt was referred for further recovery action. The then Interim Head of Finance and the S151 Officer (both of whom have now left the council) requested that the Legal Department contact the debtor to request payment. There was a delay in the Legal Department actioning this request and it was issued in September 2007. No contact was established with the debtor from this letter.
- 2.3 The Legal Department at the time decided that recovery action could not be taken through the County Court because the grant was paid to Rumpy Steak Bars Ltd and Fort Lodge Hotel but the invoice was raised in the name of the director. The grant agreement was not with the debtor so he had no legal obligation to repay this debt and recovery action could not be taken through the Courts against him. Any payment was reliant on the good will of the debtor.
- 2.4 In August 2008, the Interim Revenues and Benefits Manager recommended that the debt should be written off because no action could be taken against the debtor and the prospect of him paying without this action was minimal.
- 2.5 Cabinet did not approve the write off as they wanted further efforts to be made to recover the debt. In June 2009 the debtor met with the Leader of the Council and the Revenues Team Leader. He confirmed his intention to pay but confirmed that his financial circumstances meant that at that time he could not repay the grant.
- 2.6 No further action was taken as Thanet District Council was not made aware of any change in circumstances which would enable the debtor to repay the invoice.
- 2.7 Fort Lodge Hotels Limited was dissolved on 30/03/2010 with six County Court Charging Orders left unfulfilled against it. This means that third parties took County Court action against the company and placed charges against the assets of the company. When the company was dissolved, it did not have the assets to clear the charges.
- 2.8 EK Services inherited the debt in June 2011. No further recovery action was taken because there was no prospect of recovery. Due to how the invoice was raised, the debt was not enforceable and as Fort Lodge Hotels Ltd was dissolved in 2010 no corrective action could be taken. The debtor has made no payments in 5 years and there was no prospect of any payments being received in the near future.
- 2.9 In February 2013 the Corporate Income Team Leader (EK Services) supplied a write off schedule to the Financial Services Manager, along with a report for authorisation. Cabinet authorised the write off in March 2013

## **3.0 Observations**

- 3.1 The invoice being issued to the director rather than Rumpy Steak Bars Ltd or Fort Lodge Hotel directly impacted on the recoverability of the debt. Those involved in the loan agreement now no longer work for the Council and as such we can not establish why decisions were taken to invoice the individual rather than the companies. The age of the debt and the fact that the relevant companies are dissolved means that no corrective action can be taken to increase the recoverability of the debt.

- 3.2 Further correspondence could have been issued to the debtor following the meeting in 2009. However, the debt was unenforceable and the debtor had no legal obligation to pay and the Council was not made aware of any changes in circumstances which would increase the prospect of recovery.
- 3.2 The EK Services Corporate Income Team inherited the debt in June 2011. Working practices prioritise action on debts with a greater prospect of recovery and given the prospect of successful recovery was minimal; the recovery of this debt was not prioritised and was treated as irrecoverable
- 3.3 There was a delay in administering the write off and work is now ongoing to make sure debts are written off promptly, on a regular basis, within a reasonable timeframe of the decision being taken to write the debt off.

**4.0 Further information**

- 4.1 The recovery process has changed since 2006. The EK Services Corporate Income Team, responsible for recovering Sundry Debts have received ‘substantial assurance’ in the recovery of Corporate Debt and Housing Benefit Overpayments, following action being taken on Audit advice. The working practices of the team are continuously being reviewed and they are currently being considered as an EK Services pilot for co-location. The team is currently based across the three partnership sites. Co-location to one site would help increase resilience, efficiency and the spread of best practice for the team.
- 4.2 The Corporate Income Team prioritises debts based on the likelihood of successful recovery and this has had a positive impact on performance. The General Ledger Debt at 12/13 year end totalled £830,972 which is a reduction from £947,868 in 11/12 and £1,087,681 in 10/11. In addition, debts over 60 days old now total 42% of the debt compared to 50% in 2012/13
- 4.3 The Corporate Income Team is also responsible for the recovery of Housing Benefit Overpayments. £572,822 was recovered through Housing Benefit Sundry Debtors in 12/13 compared to £528,057 in 11/12 and £462,380 in 10/11. This represents an 8% and 24% increase respectively.

**5.0 Conclusion**

- 5.1 Any write off is a last resort and not a decision taken lightly. However, in this case, there was no alternative because the action taken at the time of the raising of the invoice prohibited any prospect of successful recovery.
- 5.2 There have been many significant changes to the recovery of Corporate Income since 2006 and performance continues to improve.

**6.0 Recommendation**

- 6.1 Members note the report.

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Reporting to	Mandie Kerry, Income Manager, EK Services

**Annex List**

None	N/A
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### **Background Papers**

None	N/A
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### **Corporate Consultation Undertaken**

Finance	Sarah Martin, Financial Services Manager
Legal	Harvey Patterson, Corporate & Regulatory Services Manager