

Independent Review of Sundry Debt
Wirral Metropolitan Borough Council
FINAL REPORT

Prepared for Wirral MBC
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FINAL REPORT

Context

A recent review of Outstanding Sundry Debtors Accounts relating to the Department of Adult Social Services (DASS) has highlighted 'collectability' concerns regarding debts due to the Council from (a) NHS (b) Residential and Non-residential Social Care and (c) organisational debts.

The total DASS debt outstanding is £24.7 million (80 per cent of total Council debt, see Table 1 below). The recent review concluded that only £14.8 million is collectable and recommended writing off £10.9 million of debt of which £4.8 million is already provided for in the financial accounts.

Table1 - Total Council Debt Analysis £m

Department	Property Charge	Land Charge	On hold/with arrangements	On hold Or In dispute	With legal	Others	Balance
	£m	£m	£m	£m	£m	£m	£m
Social Services	2.358		0.419	9.016	3.467	9.443	24.703
Finance			0.003	0.060	0.237	0.105	0.405
Corporate Services		0.272		0.123	0.470	0.145	1.010
Law & Asset Management		0.107		0.048	0.170	0.028	0.353
Technical Services		0.246		0.150	2.379	0.816	3.591
Regeneration				0.001	0.008		0.009
CYPD				0.087	0.379	0.714	1.180
Total	2.358	0.625	0.422	9.485	7.110	11.251	31.251

The Chief Executive has asked me to undertake an independent review to consider the causes of the problems with raising and collecting the sundry debts, with particular emphasis on the client service charges in DASS, which represent half of the DASS debt. Internal Audit is also looking at the current systems for controlling sundry debtors. I have drawn on the earlier review and worked in conjunction with Internal Audit to expedite the independent review and make best use of combined resources.

Scope

The scope of my review is limited to DASS debt with particular emphasis on the complicated and high volume income and debtor issues relating to service users in receipt of residential or non-residential care. These service users include some whose charges are deferred and debt is secured against a charge on property. DASS is reviewing organisational debt relating to invoices raised against current and former care providers. The issues with the NHS are also being dealt with by the DASS and the NHS debt position is now more secure.

ANALYSIS

I have reviewed analyses of charges raised and debt collected, by category, over recent years. The figures for service users in residential care are summarised in Appendix 1 and show the collection performance since 2006/7.

SERVICE USERS - PROCESS

The processes are similar for both residential and non-residential service users. They involve a Care Assessment and a Financial Assessment. It is in the best interests of both the service user and the Council that assessments should be completed in parallel to ensure the charges are notified and explained to the service user before care starts. This enables the Council to levy the charges promptly and improves the prospects for collection.

The charging policy and guidance differs between residential and non-residential service users. Charges for residential users are governed by Charges for Residential Accommodation Guidance (CRAG) and charges for non residential users are governed by Fairer Charging policy issued by the Department of Health.

One key difference between the policies is that the Council may back date charges for service users in residential care – but not for those in non residential care.

Therefore the Council will lose income if there is a gap between the start of care packages under Fairer Charging and the start of charging for it upon completion of a financial assessment. Theoretically, the Council will not lose income if there is a gap between the start of residential care and the start of charging for it.

However, any delay in raising charges for residential care could create a higher than average first invoice for service users. The longer the delay the higher the back dated charge. The higher the back dated charge the greater the risk to collectability, especially as many users' disposal income is only sufficient for the assessed charge.

Under CRAG the Council is allowed to raise a minimum charge once care starts, pending the completion of the financial assessment. The difference between the minimum charge and the assessed charge can be significant.

It is not easy to access aggregate information about the average length of delays, whether they have changed over time and whether the responsibility rests with the operational part of DASS or the financial assessment process within PFU. It is worthy of note that the financial assessment process could start earlier if the PFU are notified earlier, enabling the financial assessment to run in parallel with the care assessment.

DASS had responsibility for PFU until April 2011 when it was transferred to the Finance Department. This change has had no material impact on the processes for financial assessment and debt recovery. The hoped for improvement in collection has not yet materialised because the PFU does not have the capacity for collection and recovery.

OVERALL CONCLUSION

The Council's record of collecting client charges is good. Since April 2006 it has raised charges of almost £70 million and collected £62 million (89 per cent). The collection rate is consistent over that period.

This performance is impressive but could be even better if the Council managed provision of care, raising charges and collecting charges including debt recovery as an integrated process.

SUMMARY OF KEY ISSUES

The first point of contact with service users is not being well handled with regard to managing service users' expectations. More needs to be done to secure service users' (a) understanding and acknowledgement that there will be charges for care and (b) co-operation to complete financial assessment before care starts.

Following first point of contact there is not enough emphasis on the need to complete the financial assessment before care commences. The current arrangements create delays in raising charges for service users in both residential and non residential care. These delays are caused by timing issues in both DASS and the PFU.

Charges for residential care can be backdated. Charges for non residential care start when the financial assessment has been completed. The delays relating to residential care are not thought to be costing the Council any loss of income. In reality the delays may be creating a problem of bad debts from the outset.

The Council's resources and procedures are inadequate for the scale and complexity of service user charges and for effective collection of debts. In particular the Council needs to invest in resources to ensure the financial assessment can be done earlier and quicker, in tandem with the care assessment. The main investment will require a permanent Collection and Recovery capacity, extra Legal resources (or a framework for buying in external capacity when needed) and capacity within DASS to address individual service user issues of non compliance, collection and recovery.

The Council also needs to develop collection and recovery procedures which recognise that it is dealing with live and continuing charges, not simply recovery of past debt.

This problem has existed for many years, has grown steadily and it is not yet solved. There has been no concerted action by the Council despite awareness at the highest level in at least three departments.

There is now awareness of the need to take action and plans are in place within DASS. In addition the Council has already allocated temporary resources to cleanse the current debt position. The Council will need permanent capacity for collection and recovery to ensure the problem does not recur.

DETAILED FINDINGS

The first point of contact with service users is not being well handled with regard to managing service users' expectations. More needs to be done to secure service users' (a) understanding and acknowledgement that there will be charges for care and (b) co-operation to complete financial assessment before care starts.

All interviewees explained that the Council's first engagement with service users does not always fully explain that service users are likely to be charged. In those cases where the issue of charging may have been properly explained, there is not always documentation to prove that. There are many examples of service users claiming they were told they wouldn't have to pay – or claiming that no one told them they would have to pay.

It is possible that service users' recollections are flawed in this regard, perhaps understandably given the circumstances that require them to need care. The issue for the Council is that in some cases it lacks conclusive documentation to rebut service users' claims.

There are an increasing number of complaints about charges by service users or their relatives. It is possible, maybe probable, that the Council's documentation of the first contact with the service user is inadequate to prove the Council's position or to offer an unequivocal rebuttal to the complaint.

Although there are some mitigating circumstances for this it is not in the best interests of the Council or the service users for the present arrangements to continue. The Department of Adult Social Services has already started to redesign the system including addressing issues affecting charging and the financial assessment. It is important that this work includes tailored documentation to enable the social worker to leave the service user with a simple clear form explaining that there may be charges depending on a financial assessment.

It may be inappropriate in some circumstances to do that at the time of the assessment. In which case, it should be done as soon as possible after the first meeting (i.e. within days). It is important that these cases should be the exception, not the norm.

Following first point of contact there is not enough emphasis on the need to complete the financial assessment before care commences. The current arrangements create delays in raising charges for service users in both residential and non residential care. These delays are caused by timing issues in both DASS and the PFU

After first point of contact the focus is understandably on putting the care package in place. Once that is done the care package needs to be uploaded to the Swift system. In most cases uploading to the Swift system is the trigger for the financial assessment.

The financial assessment is usually done by post, which is less effective and takes longer than a client visit. The PFU has a performance target of 30 days but can take longer if there are backlogs or resource constraints.

These delays in DASS and PFU are unnecessary and avoidable. The Council needs to invest in the resources and processes to activate the financial assessment, by visit not by post, in conjunction with the care assessment. I understand a business case is being prepared to support this objective.

It is damaging to the Council to start the care package before the charges relating to that care package can be assessed and raised because:

- The services users' (or their relatives') co-operation is at its highest before care starts
- Service users may not have been clear about charging from the outset and the delay has led them to believe there is no charge
- Any delay in charging causes a cash flow disadvantage to the Council
- Any delay in charging service users for domiciliary care loses the Council income and may make charges harder to collect
- Any delay in charging service users for residential care will make charges harder to collect and may create a weakening of the service users' commitment to pay.

By the time the service user receives the invoice there will have been a gap between care and charging for care. That gap could be as little as a month but could be several months. There are examples of delays of several months for residential and non residential users.

Charges for residential care can be backdated. Charges for non residential care start when the financial assessment is completed. The delays relating to residential care are not thought to be costing the Council any loss of income. In reality the delays may be creating a problem of bad debts from the outset.

The Council has a brokerage team in place to expedite the introduction of domiciliary care packages for non residential users. However it does not engage directly with the Personal Finance Unit to ensure the financial assessment is completed before care starts, or as soon as possible thereafter. Once care is put in place there can be a further delay in uploading data to Swift.

As outlined above, Swift triggers the financial assessment which then can add a further four weeks, or more, before raising charges. These charges cannot be back dated. One estimate within the Council calculates the delay as equating to £500,000 of lost charges for the period of January 2012 to December 2012.

It is probably true that the DASS budget does not lose any income as a result of the delay in charging service users in residential care. Once the financial assessment is completed the charge will be backdated. This will involve raising an interim charge soon after Swift triggers the PFU to start a financial assessment. PFU regularly face service users who claim they were told there would be no charge or that they weren't told there would be a charge. The PFU will correct any misunderstandings that the

service user may have had about charging and will raise an invoice for the difference between the interim charge and the assessed charge dating back to the start of care.

The PFU do not secure a signed acceptance of the charge, or the arrears, relying on the financial assessment form signed by the service user and the right within CRAG to back date charges.

The Council's resources and procedures are inadequate for the scale and complexity of service user charges and for effective collection of debts. In particular the Council needs to invest in resources to ensure the financial assessment can be done earlier and quicker, in tandem with the care assessment. The Council also needs to invest in collection and recovery procedures which recognise that it is dealing with live and continuing charges, not simply recovery of past debt.

The key stages in assessing and raising charges, including sundry debtor procedures for reminders when a debt is not paid on the due date, are set out in Appendix 2.

There are some significant problems with this process in relation to client charges for residential and non residential care:

- There is no process for engaging with the service user when an invoice is first unpaid by the due date
- The reminder system covering 90 days is not suitable for an ongoing service where the debt grows each month
- The case load volumes make it very difficult for DASS and PFU to obtain case by case clarity decisions on whether to 'hold' for a period before referring to Legal
- The Accounts Receivable system classifies all invoices, whether 'in dispute' or on 'hold', as 'in dispute'
- The caseload volumes make it very difficult for DASS to (a) co-operate with Legal's reasonable request for confirmation that adequate documentation exists to support debt recovery action (b) confirm clearance for recovery action.

I am satisfied that DASS, PFU and Legal would have needed to allocate more resources to debt collection recovery to cope with the caseload volumes. I am not however persuaded that the lack of resources is a good reason for failing to prioritise debt collection and recovery. Collecting monies owing to the Council is not a discretionary activity.

This problem has existed for many years, it has been steadily growing and there has been no concerted action by the Council despite awareness at the highest level in at least three departments

For several years, up until April 2011, the Department of Adult Social Services has been responsible for all aspects of raising charges and collecting debt. Throughout that period it focused, rightly, on raising charges but has not taken decisive action to:

- secure settlement of those charges
- facilitate recovery action
- write off charges where there is no prospect of recovery, especially those which are statute barred.

For some time now the Council's procedures for following up debt seem to have been put on hold. The reminders continue to be sent to clients every month but the processes of referral to DASS for decisions on whether to 'hold' or confirm clearance for legal action have effectively been suspended. Initially this related to just S100 (Residential) cases where DASS allegedly asked for them not to be sent because they were causing a blockage within the department. When S102 debts (Non-residential) were added to the Accounts Receivable system, the referrals to DASS were also suspended because of the volumes.

There have been suggestions that the Department was reluctant to tackle the issue because it might have adverse affects on their budgets. Some interviewees have told me specifically about incidents where at least one Head of Service declined to take action, on more than one occasion, because it would harm the Department's budget.

I understand the accounting policy and treatment provides for debts written off to be taken as a corporate cost. However it is quite possible that Heads of Service may have perceived that writing off debt would harm the Department's budget. It is also possible that the fact of writing off debt would raise questions about the Department receiving full income credit for all charges raised without regard to its collectability.

I am persuaded that the Department was conscious of its overall budget and would have been properly mindful of raising all income due. There is nothing wrong in that and I have found nothing so far to suggest that it was reckless in raising income. I recommend further investigations, as part of the debt cleansing exercise, to come to a firmer view on this point.

I do however believe that culturally the Department was more focused on its budget than the Council's overall financial health. The Department of Adult Social Services:

- Could and should have done more to ensure service users fully understood and accepted the fact that there would be charges following a financial assessment
- Could and should have done more to ensure financial assessments were completed on the same time frame as the care package
- Could and should have done more to ensure early and effective action as debts arose
- Continued over several years to avoid dealing properly with the issues presented by Legal and Internal Audit about the level and age of outstanding debts
- Should have been aware that the problem was growing and getting worse

- Continued (and continues) to benefit from the full benefit of income charges raised without regard to the actual level of charges paid.

The Department is not solely responsible for this situation. In 2011 the Personal Finance Unit was transferred into Benefits, Revenues and Customer Services with the intention of improving debt recovery performance. I have analysed the recovery performance from 2006 to date. The Council's recovery levels have proved remarkably consistent over that time. It is therefore reasonable to conclude that there has been no deterioration or improvement following the transfer of PFU.

This is not surprising because there has been no change to the recovery procedures following the transfer and no increase in resources to allow the unit to cover collection and recovery. It is reasonable to expect that on transfer the PFU would be seen as part of the larger resources available to undertake collection and recovery. However it appears to have continued to operate as a stand alone unit. This is partly understandable because of the specialist nature of the work and because of the limited resources transferred from DASS.

I am not suggesting that PFU has not made progress since its transfer. It has introduced a new document management system and had recently started to analyse and segment the debt problem. However there has as yet been no dedicated resource to do collection and recovery. The PFU team's work in this area is largely reactive, not proactive.

This should not come as a surprise to many within the Council. Over the years the Chief Officers in DASS, Legal Department and the Finance Department were aware of the growing problem on aged debt. There has been a corporate failure to understand the scale and consequence of this issue. None of the Departments has taken effective action to ensure this matter was addressed. It should have been recognised as a serious corporate risk which was not being mitigated. It had gone on for so long, and become so big and complicated, no one seemed to know how to address it or who should take ownership for addressing it.

It has been put to me that this is due to a lack of resources. However I find it hard to understand how Chief Officers failed to recognise the obvious conclusion that the situation would only get worse unless they (a) introduced effective collection and recovery procedures and (b) dealt with the legacy of years of neglect. Belatedly, this is now happening.

The consequences of the reactive approach by all three Departments are:

- Recovery action was not taken at the appropriate time leading several service users to conclude there is no need to pay charges
- Service users have been allowed to accumulate debt, continue receiving services without paying and faced no real consequences other than an accumulating number of reminders
- By not dealing with debt, current issues of non compliance with charges have not been addressed

- DASS continued to receive full credit for income related to service users who had a poor debt history and no intervention by DASS or any other Department to understand and address the problem
- The ultimate write off is larger than it would have been had effective recovery action been taken at the right time
- The ultimate write off comes as a 'surprise' and at the worst possible time for the Council.

It should have been evident to the three Departments that this problem would continue to grow unless action was taken to secure current charges and recover debt. It should also have been evident that sooner or later the disconnection between 'income' and 'recovery' would affect the Council's balance sheet and the net expenditure available to the Department.

I am also concerned about the governance in relation to reporting to the Council. I have reviewed the last three Annual Collection Summaries to Cabinet and recent Revenues Income & Benefits reports to Council Excellence Overview & Scrutiny Committee. None of these reports adequately covers the issue of debt for client charges in a manner consistent with the scale, nature and age of the problem.

From a financial perspective the Council cannot continue approving a net expenditure budget predicated on income which is not collected. I understand discussions are taking place between DASS and Finance with regard to new accounting arrangements to recognise actual collection rates.

There is now awareness of the need to take action and plans are in place within DASS. In addition the Council has already allocated temporary resources to cleanse the current debt position. The Council will need permanent capacity for collection and recovery to ensure the problem does not recur.

The problem will not be solved until there is a complete understanding of the work flows, systems, capacity and cultural issues which have caused it. The issues facing the Department of Adult Social Services are varied and complex. There are several parts of the Department working on different aspects of the whole system but it is not well understood, integrated or resourced.

DASS is undertaking a review of the customer journey and it is hoped that will address the important early contact when care and financial issues need to be dealt with together – in the shared best interests of service users and the Council.

The first point of contact must ensure service users are clear (and records their understanding) that they may have to pay towards their care package depending on the financial assessment. Service Users, their relatives and advocates need to understand that the care and financial assessments are inter-related and co-dependent. Both must be completed before the care package can start.

It is also important at this stage to address payment method and timeliness. It is prudent at this early stage to convert service users to payment by direct debit or standing order. This may require some system changes.

These measures should ensure:

- the foundations for charging are secure, both in terms of documentation and service user understanding
- the charges are raised promptly
- a higher degree of prompt payment.

These measures will be more effective if they are backed up by early and effective debt recovery action. The Council's current procedures are not appropriate for debts arising from an ongoing service. The service user can be three months or more in arrears before any proactive intervention is considered. There needs to be immediate personal contact with service users as soon as the first invoice is not settled by the due date.

The Council will need to ensure the collection and debt recovery function is properly resourced. There will also be a need for better and more frequent reporting of collection performance and outstanding debt.

It is possible that there is a culture among some service users that failure to pay carries no consequence. Prompt and effective recovery action will help to change that culture. On occasions the Council will need to be seen to take action against those who can but do not pay.

The Way Forward

The Council is already taking action to address the current problem. It has established a Collection and Recovery Team to work through the debtors backlog and take appropriate action to clear the debt.

This is a temporary resource and the Council will need to provide a more permanent solution to maintain effective collection and recovery.

The Department for Adult Social Services is also making changes to the process. In particular it has already started the process to:

- amend its contract with providers to make them responsible for collecting charges, including appropriate measures for managing and monitoring financial exposure
- Arrange with the NHS to pay directly for cases funded through the Continuing Health Care programme
- Design a new workbook to ensure the financial assessment is completed in one stage and early in the care assessment process
- Improve monthly monitoring of workflows and delays
- Undertake a professional assessment of client's ability to manage own affairs and, if not, ensure a suitable person has been appointed to manage the client's affairs and arrangements to ensure the invoices and reminders go to the person responsible for the debt
- Agree roles and responsibilities between DASS, Finance and Legal to ensure all stages are effectively managed under a formal Service Level Agreement

- Develop and publish a Council Fairer Charging and Disability Related Policy
- Engage with clients to communicate and implement any new charging arrangements
- Establish performance targets for reducing the outstanding debt during the financial year 2013/14 Client Charges
- Agree with the Interim Director of Finance an appropriate provision for doubtful debts
- Improve the procedures for managing and monitoring outstanding charges secured against client property and using provisions under HASSASSA to take a charge against client property as security for any debts arising.

I welcome and support these proposals. In addition I offer the following recommendations which complement the above and affect other parts of the Council as well as DASS:

Engagement with Service Users

- Alongside the new workbook, design and implement procedures to ensure care and financial assessments are fully integrated and involve personal contact with service users
- Design documentation for first point of contact with service user to ensure position with regard to charging is explicit and recorded to support basis of charging (this should be part of the new workbook)

Collection and Recovery

- Design arrangements and manage resources to ensure first invoice to service user is included in the first invoice run after care starts, in all but exceptional cases
- Design and implement procedures to increase number of service users paying by Standing Order
- Establish a permanent collection and recovery team with performance management and targets for collection levels and debt recovery
- Design and implement debt collection and recovery procedures to reflect the recurring nature of charges to users in residential and non residential care
- Agree criteria and delegated authority levels for Department to request a 'hold' on debt collection and recovery
- Ensure all requests for hold are supported by (a) valid reason and (b) specific end date consistent with the reason for holding

Monitoring / Reporting

- Monitor monthly unpaid invoices and make early direct contact with service users if they fail to pay – especially those on first invoice
- Explore options of introducing direct debit for all residential and non residential care debts.
- Design and implement monthly monitoring reports on collection and debt, with focus on active and closed cases in both residential and non residential care
- Allocate a separate field in the Accounts Receivable system to differentiate between disputed debts and debts placed on hold by Department
- Manage and report debt secured against property as a financial management and balance sheet issue as well as the DASS monitoring on these case

Governance

- Departmental risk registers and Senior Leadership Team agendas should provide for formal and frequent consideration of the debt position until the portfolio has been cleansed and ongoing collection and recovery is considered sustainable
- Develop financial management training for non financial managers with budget and or income receiving responsibilities
- The income recognition policy should be changed so that department receives credit when cash collected. This is consistent with DASS dialogue with Finance about provision for doubtful debts
- Ensure regular reports to Cabinet and Council Excellence Overview & Scrutiny Committee are open and transparent about the nature and age of material debts
- Ensure adequate resources in place within Legal to manage effective recovery action when instructed or authorised to do so.

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DASS PFU CHARGES AND COLLECTIONS

	06/07	07/08	08/09	09/10	10/11	11/12	12/13 (01/13)	TOTAL	06/07 - 10/11	11/12 - 12/13 (part)
	£	£	£	£	£	£	£	£	£	£
Opening Balance	2,952,990	3,537,206	5,632,227	6,353,089	8,042,953	8,891,561	10,325,540	2,952,990	2,952,990	8,891,561
Net Raised	6,308,878	10,445,393	10,012,535	11,470,826	10,837,231	11,094,088	10,114,602	70,283,455	49,074,763	21,208,690
Applied	5,724,564	8,350,372	9,291,672	9,780,962	9,988,623	9,660,109	9,054,578	61,850,881	43,136,193	18,714,687
Movement	584,217	209,502	720,863	1,689,864	848,608	1,433,979	1,060,024	8,432,574	5,938,570	2,494,003
Closing & Collected	90.7%	80%	92.8%	85%	92%	87%	89.5%	88%	88%	88%
Balance	3,537,206	5,632,227	6,353,090	8,042,953	8,891,561	10,325,540	11,385,564	11,385,564	8,891,561	11,385,564

APPENDIX 2

	STAGE	PROCESS	COMMENT
DASS	1.	First point of contact	Not always handled well with regard to issues of charging and assessment
	2.	Care assessment	Stages 2, 3 and 4 often done before PFU notified of need for financial assessment
	3.	Care arrangements in place	
	4.	Upload to Swift	
	5.	Confirm recovery action	This stage has effectively been suspended
PFU	6.	Financial Assessment triggered	Usually as a result of stage 4
	7.	Financial Assessment complete	Stages 7 usually done by post, which takes longer and is less effective.
	8.	Charges set	
	9.	Accounts Receivable set up	
	10.	Invoice issued	
Accounts Receivable	11.	Accounts Receivable invoice	Stages 11,12,13 &14 are not suitable for continuing service and debt
	12.	28 day reminder	
	13.	56 day reminder	
	14.	Refer back to DASS re 'hold' pending instructions	
	15.	Refer to Legal for action	This stage has effectively been suspended
Legal	16.	Request confirm from Department re documentation	This stage has effectively been suspended
	17.	Request clearance from DASS for recovery action	This stage has effectively been suspended
	18.	Act or recover	This stage has effectively been suspended