SURREY
COUNTY COUNCIL

Adult Social Care Select Committee
5 September 2013

Income / Debt Update Report

Purpose of the report: Scrutiny of income and outstanding debts.

Introduction:

1. This report:

* sets the context for the assessment, billing and collection of charges for Adult Social Care services (paras 2-15);

* explains the main outcomes from the recent Rapid Improvement Event, which was designed to assess the current position and identify improvements to the end to end process (paras 16-19);

* summarises the current debt outstanding in a new format emerging from the RIE and designed to provide a clear and thorough overview of the position (paras 20-22);

* incorporates the comments of the 'owners' of the main component elements of the system on the current position, ie Toni Carney (ASC Financial Assessment and Benefits team – benefit maximization and assessment of means / income due), Jackie Knutton (Shared Service Centre – billing and income collection) and Jacky Edwards (Legal & Democratic Services – legal recovery action);

* draws overall conclusions from the point of view of the End to End Process Owner (Paul Carey-Kent – Finance).

Background to charging

2. Under the current charging rules, with few exceptions, Adult Social Care has a duty to charge individuals provided with care in a residential or nursing home setting and the power to charge for non-residential services. Charging for residential and nursing home care is prescribed by regulations and statutory guidance. Generally, a person is expected to pay the full cost of their placement if they have more than £23,250 in

savings or they have sufficient income to pay the full fee. If the person satisfies the council that they are unable to pay the full fee, then a financial assessment must be undertaken to determine the level of contribution. This is a task undertaken by the Financial Assessments and Benefits Teams working alongside care practitioners in the Locality Teams.

3. In certain circumstances, a person may have the means to pay the full fee but cannot do so immediately, for example because their capital is tied up in a property or the person lacks capacity to manage their financial affairs and cannot access their funds. In these circumstances, it may be appropriate for the council to fund the full cost of the placement and recover charges from the person in due course. Almost all people supported by Adult Social Care will be required to pay towards their residential placement at either a contribution level or the full fee.

4. If the person owns a property, the Council can offer to defer part payment of the care fees in exchange for a legal charge (mortgage) over the property. This provides security for the council in that the debt will be paid when the property is sold. This is referred to as a 'deferred payment agreement'. In other circumstances, when a resident fails to pay an assessed charge and a debt accrues, if the person has a beneficial interest in a property, the council may be able to create a legal charge on the property (land) and secure the debt. These are referred to as section 22 legal charges. Legal charges are used whenever possible to secure outstanding debt.

5. Charging for non-residential services is at the discretion of the council. Most councils charge and in doing so must use the Department of Health's 'Fairer Charging' framework to design their charging policies. Under Surrey County Council's Fairer Charging Policy, around 24% of people receiving chargeable services pay a contribution towards the cost of their support package. There are no provisions in the charging legislation for placing legal charges on property to secure debts that have accrued under the Fairer Charging policy.

6. Following the Dilnot Report, the Government is proposing changes to the system of financing social care: those are currently progressing through Parliament with a planned introductory date of April 2016. Relevant details are awaited, but the effect – giving those who currently fund their own care the potential for funding by the Council in some circumstances – could be to exponentially increase the amount of debt collection required if the system applied parallels the current one.

Impact on the Budget

7. ASC is budgeted to collect £37.6m in charges in 2013-14 (£33.5m for residential care, £4.1m for non-residential care). The actual charges are credited to the ASC budget as they are raised, which currently happens at a rate of some £3m per month. Ideally, the amounts due will all either be paid immediately within the relevant cycle, or else secured against assets under the arrangements for deferred debt (i.e. when a client has the means to pay, but it is tied up in a property).

8. Clearly, it is helpful from a budgetary point of view to ensure that financial assessments are timely, and accurately project the income due to the Council, and that the Council collects as much income as possible, as soon as possible. It is also a

feature of the end to end process that the council will pursue formal recovery action, through the courts if necessary, in suitable cases.

9. It is the responsibility of the Council's Financial Assessment and Benefits (FAB) to carry out the means-tested financial assessment and to maximise clients' income; ensuring that they claim as many benefits as possible, and so increase their own income, against which charges are assessed and raised by the Council.

10. Ultimately, the ASC (and County Council) budgets benefit from that income, if properly assessed and validly due, unless it cannot be collected. As not all sums can be collected, for a variety of reasons, the council holds a provision against the ASC revenue budget to account for the likelihood of 'bad debts'. This provision is adjusted quarterly. The adjustment is calculated according to a set formula to take account of factors (such as the age of debt, whether it is 'secured' or not and on what basis), which correlate to the likelihood of achieving collection.

11. If it turns out that charges are not validly due, or charges cannot be collected, or legal recovery action cannot secure payment, the sums billed will ultimately need to be written off. Write offs are processed for the following reasons:

- Bankrupt / insolvent / no means to pay
- Deceased - Insufficient Funds
- Absconded - unable to trace
- Uneconomical to pursue further
- Evidence is inconclusive and legal recommendation
- Compromise Settlement

12. The write-offs made in recent years have been:

2010-11:	£1.23m
2011-12:	£0.37m
2012-13:	£0.44m

13. Thus write-offs have been running at some 1.3% of the amount due over the last two years, following a substantial push to clear historic problems in 2010/11. Consistent with that, to date only £90,000 has been written off in 2013-14.

14. All write offs are made as a charge to the ASC revenue budget. The Directorate also maintains provision for the write-off of bad debt in order to represent the position prudently and to smooth the position across years.

15. If no other action is taken the reduction in the remaining debt value following the write offs then requires less bad debt provision to be made, so that – all things being equal – an equivalent amount is released from the provision back into the ASC revenue budget upon the next recalculation of the provision requirement.

Rapid Improvement Event

16. A rapid improvement event was held in the week commencing 24 June 2013 to look at the end-to-end process from the initial financial discussion to the collection of the debt. The event identified a number of proposals to alter processes and improve performance, in particular:

- To transfer the responsibility for the 'paying for care discussion' from care practitioners to the Financial Assessments and Benefits teams
- To set timescales for the completion of financial assessments so that as far as possible, the financial assessment is complete in advance of the provision of support.
- To clarify the arrangements when a person fails to provide financial information in accordance with the agreed timescales.
- To update training in the FAB Teams and create training manuals on complex matters to develop a clear process for emergency provisions where the Supported Self Assessment cannot be approved in AIS
- To look at IT systems and potential improvements (SWIFT / AIS / Wisdom)
- To improve the quality of statements from SAP to create single contact number for clients, to ensure queries / complaints are directed to the appropriate teams, first time, and volumes recorded
- To review the dunning process (ie the steps in the debt recovery cycle) and investigate options for increasing dunning.
- To introduce additional indicators / categories for more effective management of debt and undertake a review of the aged debt

17. The shift in responsibility for the 'paying for care discussion' from care practitioners to the Financial Assessments and Benefits teams is a significant change to the current process. This will mean that financial discussions will take place after an initial determination of eligibility but alongside the assessment of need and support planning. Subject to the implementation of a new reporting tool, the new process will be piloted in two locality teams from early September, with the intention of rolling out to all localities in November.

18. The anticipated benefits of the new process are:

- Prompter financial assessments and a reduction in backdated charges
- Earlier welfare benefits advice to help inform support planning
- Accurate financial assessments with earlier identification of complex issues which may impact on debt recovery
- A simpler process for clients, resulting in a reduction in queries / complaints

19. In addition to implementing the proposals from the rapid improvement event, the Financial Assessment and Benefit teams are continuing to work on migrating records from Abacus to SWIFT financials. An additional temporary resource for 6 months has

been agreed to assist with delivery with this, hence releasing capacity to maximise debt raising, which it is believed will lead to gains exceeding the £80,000 cost.

Current Debt Summary:

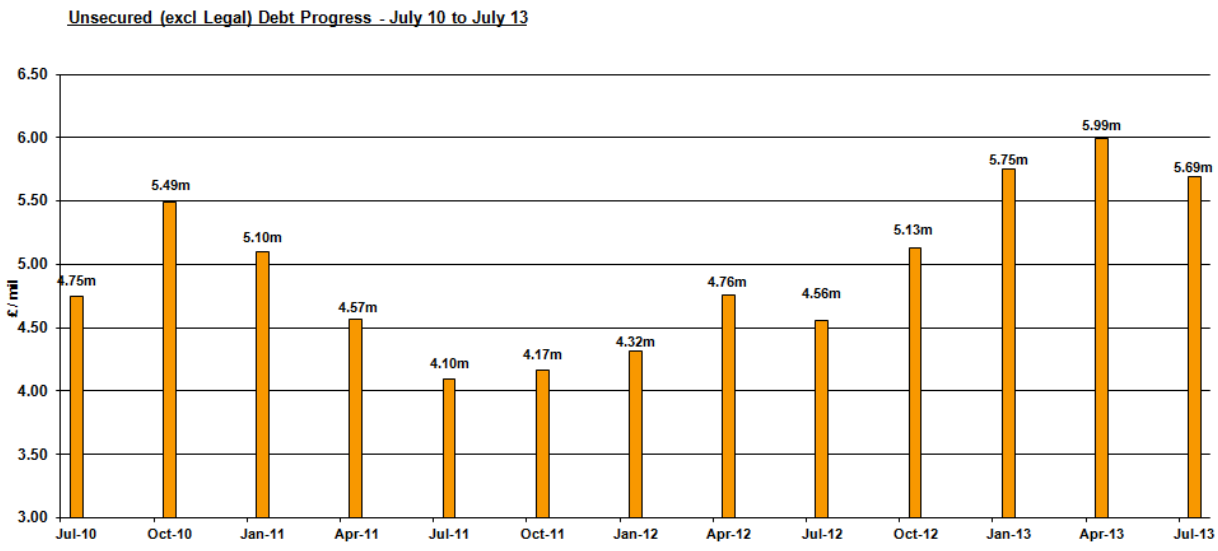
20. The below table summarises the current debt position as at 31 July 2013. Officers recommend that this format should be adopted as the basis for future reporting to Members and performance monitoring going forward:

Debt > 1 Month Note: £ million			July		
	1	**Secured**	**6.87**		
	2*	**Unsecured (no specific reason identified)**	**2.81**		
	2a	Under query	0.71		
	2b	Query resolved, requiring adjustment	0.11		
	2c	Probate	0.33		
	2d	Installments	0.44		
	2e	Deferred payment applications	0.22		
	2f	Charging orders	0.23		
	2g*	**Total unsecured debt subject to a recovery 'block'**	**2.04**		
	3	Legal	1.98		
	4*	Deputyship	0.90		
		Unsecured debt outstanding	**7.73**		
		Total	**14.60**		
Charges posted	5	Billing charges posted in month - not yet due	2.66		
Total debt	6	Total debt including charges posted in month	17.26		
% collected	7	% received of amount billed (12 mth avg)	96%		
DD collections	8	% pymts collected by DD	63%		
			IM:	**YTD:**	**TTD**
Legal	9	Number of cases referred	2	8	193
Referrals	10	Value of debt at date referred	0.15	0.51	5.42
Current	11	Number of 'open' cases	59		
Legal Cases	12	Current value of 'open' cases	1.98		
			IM:	**YTD:**	**TTD:**
Legal Recovery	13a	Number of cases	7	25	104
	13b	Value of debt collected	0.10	0.17	2.54
	13c	Value of debt secured by charging order			0.16
	13d	Value of debt due by instalments			0.05
	13e	Value of debt no longer in dispute			0.39
	13f	Overall value of legal recovery action			3.15
	13g	Legal costs / expenses			-0.19
	13h	Net recovery - Legal cases			2.96
			IM:	**YTD:**	
Write-Offs	14	Number of cases	25	68	
	15	Value of debt	0.03	0.09	
	15a	Bankrupt / insolvent / no means to pay		0	
	15b	Deceased - Insufficient Funds		0.04	
	15c	Absconded - unable to trace		0.01	
	15d	Uneconomical to pursue further		0.02	
	15e	Evidence is inconclusive and legal recommendation		0	
	15f	Compromise Settlement		0.02	

*	**Unsecured debt not subject to Legal action**	
2*	Unsecured (no specific reason identified)	2.81
2g*	Total unsecured debt subject to a recovery 'block'	2.04
4*	Deputyship	0.90
	Total Unsecured debt not subject to Legal action	**5.75**

	Explanatory Notes:
1	Secured Debt: current value of debt secured against property and payable upon a future event
	Secured debt: section 55 Deferred Payment Agreement / Legal Charge - payable 56 days after death
	Secured debt: section 22 Imposed Legal Charge for failure to pay charges - payable on disposal of property
2*	Unsecured debt: value of outstanding debt that is not secured against property
2a	Unsecured debt: a query / complaint has been raised by the debtor
2b	Unsecured debt: a query / complaint has been resolved and account requires adjustment
2c	Unsecured debt: deceased case awaiting grant of probate to resolve
2d	Unsecured debt: payment of arrears by instalments has been agreed
2e	Unsecured debt: debtor has applied for a deferred payment agreement
2f	Unsecured debt: a charging order has been applied to property following litigation
2g*	Unsecured debt: Total: where a reason for non-payment is recorded and dunning suspended
3	Current value of cases referred to Legal Services for formal recovery action
4*	Current value of cases referred to the Deputyship Team to investigate and where possible put appropriate arrangements in place to manage the finances of persons who lack mental capacity
5	Total value of care charges raised in the last month. These charges become due after 30 days
6	Total value of debt owed to Surrey County Council.
7	Debt paid as a proportion of charges raised (NB proportion will be lower than 100% as charges include secured debt)
8	Proportion of charges collected by direct debit
9	Number of cases referred to Legal Services for recovery - IM: in month; YTD: year to date; TTD: total to date
10	Value of cases referred to Legal Services for recovery - IM: in month; YTD: year to date; TTD: total to date
11	Number of current and 'open' legal cases being pursued
12	Value of current and 'open' legal cases being pursued
13a	Number of Legal cases where debt has been recovered - IM: in month; YTD: year to date; TTD: total to date
13b	Value of debt recovered from Legal cases - IM: in month; YTD: year to date; TTD: total to date
13c	Value of debt secured by charging order / legal charge (Legal cases) - TTD: total to date
13d	Value of debt agreed to be paid by instalments from (Legal cases) - TTD: total to date
13e	Value of debt no longer 'in dispute' and payment awaiting specific event - e.g probate / sale of property - TTD: total to date
13f	Gross value of legal recovery action taken - TTD: total to date
13g	Legal costs / expenses incurred in Legal recovery action (NB net figure - ie it takes account of costs recovered) - TTD: total to date
13h	Net value of Legal recovery action
14	Number of cases approved for write-off in month
15	Aggregate value of write-offs approved in month
15a	Value of write-offs: debtor bankrupt / insolvent / no means to pay
15b	Value of write-offs: debtor deceased and insufficient funds in the estate to meet the debt
15c	Value of write-offs: debtor absconded and cannot be traced
15d	Value of write-offs: uneconomical to pursue the debt further
15e	Value of write-offs: evidence is inconclusive and legal recommends write-off
15f	Value of write-offs: compromise settlement reached; balance to write-off

21. The quarterly trend for the figure of unsecured debt not subject to legal action (lines 2,2g and 4 in the table above) has run as follows over the past three years, which shows some increase since the reductions achieved (largely by significant write-offs) in 2010-11: that is the performance trend which lay behind the need for a RIE. This remains a valid comparative figure, though there is a case for concentrating more broadly on changes in the set of measures set out above.



Conclusions:

22. This report sets out the background and the means through which it is intended to enhance performance in the raising and collecting of debt, and resets the indicators by which that performance can be measured. It is proposed that the table at Para 22 should be produced regularly (with trends developed) and be made available as the simplest consistent means by which members can understand the position, track the impact of action stemming from the RIE, and ask for any explanations required. It is worth flagging that the Government's reform proposals following on from the Dilnot report could considerably change the Council's income collection requirements from April 2016, which may well lead to more radical options being explored.

Recommendations:

23. It is recommended that members note the current position, and take a view on their preferred format and frequency for future reporting.

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