



# **Debt Recovery Policy for Adult Social Care**

### **THIS IS A CONTROLLED DOCUMENT**

Whilst this document may be printed, the electronic version maintained on the policy portal is the controlled copy. Any printed copies of this document are not controlled. It is the responsibility of every individual to ensure that they are working to the most current version of this document.

Document Information	
Version	1.0
Owner	Cath Gormally, Director for Adult Services and Wellbeing
Author(s)	Zakera Pandor, Policy & Procedures Officer
Contact(s)	Zakera Pandor, Policy & Procedures Officer
Approved by	Directorate Leadership Team (DLT)
Date of approval and commencement	
Last review date	
Last reviewer	
Next Review date	12 months
Supporting Documents	<ul style="list-style-type: none"><li>• <a href="#">The Care Act 2014</a> and <a href="#">associated guidance and regulations</a></li><li>• <a href="#">Pre-action Protocol for Debt Claims</a></li><li>• <a href="#">Rules &amp; Practice Directions - Civil Procedure Rules</a></li></ul>

Amendments			
Issue Number:	Date:	Reason for change	Authorised:

# Contents

<b>1. Purpose of the policy</b>	<b>5</b>
<b>2. Legal and Policy Framework</b>	<b>5</b>
2.1 The Care Act 2014	5
2.2 Adult and Social Care Policy	6
2.3 The Equality Act 2010	7
2.4 Mental Capacity Act 2005	7
2.5 Retention policy	7
<b>3. Financial Assessments</b>	<b>8</b>
3.1 Assessing the client's ability to pay	8
3.2 Safeguarding Referrals	8
3.3 Deferred Payments Scheme	9
3.4 Top Up Fees	9
Third-party top-up fees and payments	10
First-party top- up fees and payments	10
<b>4. Principles of Debt Recovery</b>	<b>10</b>
<b>5. Debt Recovery Process</b>	<b>11</b>
5.1 Community Care Arrears	11
5.2 First Reminder	11
5.3 Second reminder	11
5.4 Final Reminder	11
5.5 Further Action	12
5.6 Community Care Arrears Invoices	12
5.7 Direct Payment Invoices	12
5.8 Community Alarms Invoices	12
5.9 Residential Care Invoices	12
5.10 Deceased Clients	13
<b>6. Invoices in query or dispute</b>	<b>13</b>
<b>7. County Court Judgements (CCJs)</b>	<b>14</b>
7.1 Definition of a County Court Judgement	14
7.2 Actions that can be taken where a County Court	15

Judgement is not paid	
7.3 Authorisation	16
<b>8. Write Offs</b>	<b>16</b>
8.1 Process for Authorisation (Cases under £2,500)	16
8.2 Process for Authorisation (Cases between £2,500 and £5,000)	16
8.3 Process for Authorisation (Cases over £5,000)	16
<b>Appendix 1 - Adult Services &amp; Wellbeing (ASW) Debt Panel Terms of Reference</b>	<b>18</b>

## **1. Purpose of the policy**

This policy covers the collection of adult social care debt and describes the approach that Calderdale Metropolitan Borough Council will take in carrying out its function. The intention of the council in agreeing this policy is to achieve the prompt collection of all sums of money it is due, while ensuring that a fair, proportionate, and consistent approach is taken to the recovery of sums that are not paid when due.

The council is committed to using the most effective recovery methods available.

This policy will ensure that recovery action is consistent and complies with legislation and best practice.

The intention is that the policy will remain in place until the underlying legislation changes. However, the policy will also be reviewed whenever there is a change to procedures, regulations, or costs to ensure it remains valid, effective, and relevant.

## **2. Legal and Policy Framework**

### **2.1 The Care Act 2014**

The Care Act 2014 places a duty on the council to arrange care and support for people assessed as having eligible needs. The council also has a power to meet certain non-eligible needs.

Capital limits, specified in regulations issued under the Care Act 2014, set the levels of capital (excluding any capital that has been disregarded) that a person can have whilst qualifying for financial support from the council.

A person with assets above the upper capital limit is responsible for the full cost of their care in a care home. A person with assets between the capital limits will pay what they can afford from their income, plus a means-tested contribution from their assets (calculated as £1 per week for every £250 of capital between the capital limits). A person with assets below the lower capital limit will pay only what they can afford from their income.

The council will apply the nationally set capital limits for the purposes of Financial Assessment.

The council will take all capital assets into account except those specifically disregarded under the regulations.

Sections 14 and 17 of the Care Act 2014 provide a legal framework for charging for care and support for Local Authority funded residential and non-residential care. These sections, along with the Care and Support Statutory Guidance, provide a single legal framework for charging for adult social care. The Care Act states that the council has discretion to choose whether to charge under section 14 of the Care Act following an individual's or carer's care and support needs assessment. The council may charge except where it is required to arrange care and support free of charge. Where the

council decides to charge, it must follow the Care and Support (Charging and Assessment of Resources) Regulations and have regard to the Care and Support Statutory Guidance issued under the Care Act 2014. The council may only charge up to the costs they incur when contracting for care.

The Care Act 2014 introduced a modern legal framework for the recovery of any debts that may have accrued as a result of a local authority meeting a person's eligible care and support needs. New powers under the Act, in particular, Section 69 of the Care Act provides a power to the council to recover debts owed to it. This new power provides equal protection to both the local authority and the individual. This is a change from previous legislation and the reason for the change is that the powers under old, repealed legislation were unilateral. They allowed a local authority to place a charge against a person's property but did not give the person from whom the recovery of the debt is being pursued the opportunity to seek alternative means for payment. The Care Act now gives the individual this opportunity. Section 70 of the Care Act also provides the council with the power to recover charges from a third party where a person has transferred assets to them to avoid paying charges for care and support. When considering how to recover a social care debt, the Council will also have regard to the Care Act Statutory Guidance, Annex D.

The way in which any outstanding charges are recoverable is covered by the Pre-action Protocol for Debt Claims under the Civil Procedure Rules (see: [Practice Direction – Pre-Action Conduct](#) guidance published by the Ministry of Justice). Charges should be recovered as a civil debt through the County Court, assuming the full range of options available to recover the debt and all other avenues for payment have been explored with the individual first.

## **2.2 Adult and Social Care Policy**

In accordance with the Care Act 2014, certain types of services will be provided free of charge. However, the council will charge for the following services as below:

Care provided in residential or nursing homes including:

- Respite care
- 24-hour care in a registered care/nursing home
- First party top-up fees for the above services and the costs of care that are over and above the standard fee rate

Care provided in a non-residential care setting including (but not limited to):

- Home care services
- Community Based Day Opportunities
- Supported Living
- Respite care
- Adult Shared Lives Placements
- Direct Payments
- Sitting Services

- Outreach services
- Provision of care and support in Extra Care settings
- Community Care Alarms
- Joint funded services – clients will be required to contribute towards the cost of the services provided by the Council but not those provided by the NHS as part of a joint package of support.
- Other

Where charges are appropriate, the council will charge up to the full cost of the service it provides and will not charge more than the cost it incurs. Individuals will only be asked to pay what they can afford towards their care cost, subject to financial assessment.

### **2.3 The Equality Act 2010**

The council has a statutory equality duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations, pursuant to section 149(1) of the Equality Act 2010, public sector equality duty.

Anti-discriminatory practice is fundamental to the ethical basis of care provision and critical to the protection of people's dignity. The Equality Act 2010 protects those receiving care and the workers that provide it from being treated unfairly because of any characteristics that are protected under the legislation.

Acting in accordance with this policy will help to ensure that the collection of debts due is conducted in a consistent and objective manner that will reduce the risk of inadvertent discrimination against persons with protected characteristics.

### **2.4 Mental Capacity Act 2005**

Under section 1(2) of the Mental Capacity Act 2005, all clients will be assumed to have capacity and able to make relevant decisions for themselves unless it has been established by assessment that they lack capacity. In addition, under section 1(3), all practical steps ought to be taken to ensure that a client is supported to make their own decisions. If a client is assessed as lacking capacity in relation to decisions regarding their property and financial affairs, it is important that their representative is involved in those decisions.

### **2.5 Retention Policy**

All documentation that supports the client's case file will be retained for at least 8 years ([adult-services.pdf](#)).

#### **Time limit for actions for sums recoverable by statute.**

In case the client or their representative defends any legal recovery action. The Council is bound by their legal duties as outlined in [finance.pdf](#) (7.4)

- (1) An action to recover any sum recoverable by virtue of any enactment shall not be brought after the expiration of six years from the date on which the cause of action accrued.

### **3. Financial Assessments**

A financial assessment is undertaken to determine how much, if anything, the client is required to contribute towards the cost of their care and residential services.

#### **3.1 Assessing the client's ability to pay**

The council should clearly discuss with the individual or their representative at the outset that care and support is a chargeable service and provide information to explain this.

A financial assessment should be completed, and the individual/representative notified in writing of the outcome of the assessment, including how charges will be calculated, the frequency of bills and payment methods.

As part of the assessment process the council should find out if the individual has someone to help with their finances or, if they lack mental capacity, whether there is a Power of Attorney or Court of Protection deputyship order in place for property and financial affairs. As well as supporting the individual, this is for the purpose of identifying the correct person to send letters to for payment of care charges.

Where a person has an attorney for property and financial affairs or a deputy, these roles give the attorney or deputy the legal authority to make financial decisions on behalf of the person. The council can discuss the options for debt recovery with the attorney or deputy. If debt accrues when a person has a deputy or attorney acting for them, the council will consider whether this individual is exercising their duties appropriately and may in appropriate cases refer the matter to the Office of the Public Guardian to ensure that payments are made promptly, and decisions taken in the person's best interests. In addition, if the deputy or attorney is in receipt of benefits, the council may request that the DWP suspend benefits whilst the council reviews the case.

Where the person lacking capacity has no Power of Attorney or deputy order in place and has substantial debts, then an application for a deputyship order will be required. The application needs to be made to the Court of Protection.

If the person does not own property or have savings, the DWP may appoint the council as appointee for the purpose of payment of benefits.

Decisions will be overseen by Adult Services & Wellbeing (ASW) Debt Panel, details of which, and the associated terms of reference, can be found in Appendix 1 of this policy document.

#### **3.2 Safeguarding Referrals**

In some arrears cases, concerns may arise that the person acting as attorney, appointee, or deputy and is responsible for paying the charges on behalf of the client is not administering the finances appropriately. In cases such as this it will be appropriate to refer the case to the Safeguarding Adults Team as potential financial abuse. Each arrears case will be considered on an individual basis before a referral is



made; only when it has been clearly established that the attorney or deputy has the ability to pay but is refusing to cooperate with all the council's attempts to enforce this, will a referral be made. An arrears visit will always be undertaken as part of this process to establish if there is a clear intention to avoid paying the charges and other factors such as whether any payments have been made, if the personal expenses allowance is being paid to the client, and the level co-operation/communication from the attorney or deputy will also influence the decision.

### **3.3 Deferred Payments Agreement Scheme**

Under sections 34 to 36 of the Care Act 2014, the council has a duty to offer a Deferred Payment Agreement (DPA), to prevent people from being forced to sell their home in their lifetime to pay for care costs. For clients in residential care, who own a property but currently have capital below £23,250, the council must consider offering a DPA provided certain conditions are met:

- Anyone whose needs are to be met by the provision of care in a care home (as defined in the Care and Support (Deferred Payments) Regulations 2014)
- Anyone who has less than (or equal to) £23,250 in assets excluding the value of their home
- Anyone who has not had their home disregarded from the financial assessment carried out under Section 17 of the Care Act.

[Regulation 3](#) of the Deferred Payment Regulations 2014 gives Local Authorities the power to offer a DPA to people who do not satisfy the criteria specified in [Regulation 2\(2\)](#). Unlike a mandatory DPA, a discretionary DPA can also be offered to people requiring care and support in supported living accommodation.

Under this scheme, the council will require a signed legal agreement allowing a legal charge to be registered against the property (provided that there is sufficient equity in the property to underwrite the loan). This will allow the part of the assessed charge relating to the value of the property to be deferred until the property is sold or the client passes away. Once the agreement is signed, a charge will be placed on the person's property which will show on future land searches.

When the property is to be sold, the council will expect the individual (or their representative) to confirm all outstanding care fees will be paid from the proceeds of the property sale before any charge on the property can be removed.

More information is available in CMBC's Charging Policy for Residential Care Services.

### **3.4 Top- Up fees**

Top-up payments must be made where a client chooses more expensive residential or nursing care than the council is offering as part of their assessed eligible needs.

#### **i. Third-party top-up fees**

If a client chooses residential care provision that is more expensive than the rate set by the council, a third-party such as family or charity can pay the difference in the amount.

Clients are not allowed to pay this top-up fee. The third-party enters into a legal agreement with the council. This states that they are responsible for paying this fee and that any debts can be recovered from them by way of legal action. As part of this process, the council will seek assurance that the third party has the means to make and sustain the payments (for the duration of the client's stay in the care home) and that they are fully aware of their responsibilities and the potential consequence of non-payment.

If there are arrears on a third-party account, the council may choose to terminate the agreement and reassess the accommodation with a view to moving the client to a less expensive placement, if suitable.

Third-party agreements will be reviewed every year as part of the annual care review process.

## **ii. First-party top-up fees**

Where a client chooses residential care provision that is more expensive than the rate set by the council, they may themselves choose to make a 'top-up' payment only in the following circumstances:

- where they are subject to a 12-week property disregard
- where they have a deferred payment agreement in place with the local authority. Where this is the case, the terms of the agreement should reflect this arrangement.
- where they are receiving accommodation provided under S117 for mental health aftercare

## **4. Principles for Debt Recovery**

Where a debt arises, and where all other reasonable avenues for recovery have first been exhausted, the council may wish to proceed to the county court in order to recover the debt owed. Firstly, the individual should be given an opportunity to engage in mediation or other suitable alternative dispute resolution with the council to discuss payment of the debt prior to proceedings being commenced.

The recovery of debts from those who are receiving care and support is a sensitive issue given the potentially vulnerable nature of the client group and the council's ultimate responsibility to meet needs under the Care Act 2014. It must be remembered that there could be a variety of reasons why the client has not paid their assessed charge and the council should always consider whether it is appropriate to take steps to recover the debt, even though it has the power to do so. It may be that in some cases a debt may have accrued as a result of a client's diminishing or lack of mental capacity. In such cases, the council may need to involve the safeguarding team.

The council should also bear in mind that they are bound by the public law principle of acting reasonably at all times and must act in accordance with human rights legislation, as well as the wellbeing principle set out in section 1 of the Care Act 2014. Therefore, it is important that court proceedings are only considered after all other reasonable avenues to obtain payment of the debt have been exhausted. If a claim does end up in

court, it is likely that the court will consider what efforts were made to resolve the debt without the need for proceedings.

Council officers will need to bear in mind the following principles when approaching the recovery of debts, especially when dealing with vulnerable clients and their representatives:

- Effective initial communication with clients around chargeable services.
- Effective and efficient collection of all money due, whilst ensuring that the client's financial circumstances and mental capacity are considered.
- Prevention of arrears by prompt billing and collection of money due, affordable repayment plans and early intervention.
- Debts must be discussed with the client or their representative.
- The council must act reasonably.
- Repayment plans should be agreed between the relevant parties and must be affordable.
- The council will consider how different approaches could impact on a client's wellbeing.

## **5. Debt Recovery Process**

### **5.1 Community Care Arrears**

As part of the debt recovery process for community care charges, clients will be encouraged to discuss the reasons for non-payment of debts and their individual circumstances with the council in order that a repayment plan can be agreed. Failure to pay charges by deadlines will result in debt reminder letters being sent to the client. Failure to pay by the deadline will result in possible enforcement action, as below.

#### **5.2 First reminder**

An overdue letter will be issued after 6 weeks where an account is in 6 weeks or more arrears of the weekly charge.

#### **5.3 Second Reminder**

This is issued 30 days after the first reminder where clients still haven't paid the amount due or agreed a repayment plan. The client is given the chance to pay or agree an arrangement.

#### **5.4 Final reminder**

Where clients still haven't paid the amount due or agreed a repayment plan 60 days after the first reminder, this will result in a council officer trying to make contact by telephone. The client is given the chance to pay or agree an arrangement. If no response is received following telephone contact, the council officer may choose to raise an invoice to prompt payment before referring to Debt Panel. This will be considered on a case-by-case basis.

## **5.5 Further Action**

In the event of no contact after all the above has been attempted, the council officer will refer the matter to Debt Panel.

## **5.6 Community Care Arrears Invoices**

Where there are still arrears outstanding, an invoice will usually be raised as a decision from Debt Panel to prompt payment. Payment terms are 28 days, and a 'Letter before Court Action' will be generated at 30 days. If the client requests to pay the invoice in instalments, they are sent an 'Arrangement Reminder Letter' informing them of the missed instalment and 'pay up to date' date before they are sent the 'Letter Before Court Action'. If the invoice remains unpaid 14 days after sending the 'Letter before Court Action', the invoice will go to debt recovery status. Failure to co-operate at this stage may result in court action.

## **5.7 Direct Payment Invoices**

The client has 28 days to make payment. If no payment is made, a reminder letter is sent to the customer. If the invoice remains unpaid, the Direct Payments team will contact the client to make a payment arrangement. Payment arrangements are on an ad hoc basis and based on the affordability of the client. If payments are missed, or not made, the invoice will be transferred to Debt Panel for a decision on further recovery action. Failure to co-operate at this stage may result in court action.

## **5.8 Community Alarms Invoices**

All invoices are issued with an automatic instalment arrangement for equal monthly payments, over the financial year. If instalments are not paid in time, the client will be notified how much they are overdue and provided with a 'pay up to date' date 3-4 days after the instalment due date.

If the invoice is not paid by the date on the arrangement reminder, the instalment arrangement against the invoice will be cancelled and the client will be sent a Community Alarm Reminder letter.

14 days after the reminder letter, if the invoice remains unpaid, the invoice may be sent to Debt Panel for a decision on further recovery action, for instance if there are other monies outstanding. Failure to co-operate at this stage may result in court action.

## **5.9 Residential Care Invoices**

Annual invoices are generated with an automatic 4 weekly payment instalment. If the instalment is not paid in time to meet the payment dates stated on the invoice, an arrangement reminder is sent three days after the instalment due date, and the client is requested to pay up to date within 7 days.

If the account is brought up to date within the time given, the client will be sent a further arrangement reminder should the same situation occur with the next payment instalment.

When an account is not brought up to date, as requested on the arrangement reminder, the payment instalment will be cancelled and the client sent a 'Residential Care Letter before Court Action', which asks for full payment of the remaining amount of the invoice (an invoice that is issued for a period in advance – some of which may not be due). The debt will be pursued by telephone and e-mail however, if the invoice remains unpaid it will be sent to Debt Panel for a decision on further recovery action. Failure to co-operate at this stage may result in court action.

### **5.10 Deceased Clients**

Once notification of a date of death is received, the Community Care Charges Team will notify the personal representative(s) of the balance due from the estate in a timely manner, in writing by either email or post and within the 6 year statute limitation period under the Care Act 2014.

The Council will suspend Debt Recovery on accounts where notification is received from the personal representative(s) that Grant of Probate/Letters of administration are being applied for.

The following will require approval by the Assistant Director for Adult Social Care Operations or Director of Adult Services and Wellbeing:

- In the absence of a personal representative(s) of the estate and providing it would be economically viable to do so, in accordance with the Civil Procedure Rules 19.8, Calderdale Metropolitan Borough Council will bring a claim against 'the estate of' the deceased and apply to the court for an order appointing them to represent the estate of the deceased in the claim followed by the sale of property, if applicable.
- In circumstances where there is a personal representative(s) of the estate, but they are refusing to co-operate/administer the estate and providing it would be economically viable to do so, in accordance with the Civil Procedure Rules 19.8 Calderdale Metropolitan Borough Council will bring a claim against 'the personal representatives' of the deceased.

Legal advice may be sought should issues arise in respect of payment from the deceased's estate.

### **6. Invoices in query or dispute**

A debt is in dispute where the debtor believes that the charge is incorrect. If an invoice is disputed, then the nature and reason for the dispute would need to be made in writing or by email to the Charging Assessment Team below within 28 days from the date of the invoice for the dispute to be considered.

The Charging Assessment Team will look at the charge again and let the individual know the outcome.

Charging Assessment Team  
Calderdale Council Adult Services and Wellbeing  
PO Box 51  
Halifax HX1 1TP  
[charging.assessmentteam@calderdale.gov.uk](mailto:charging.assessmentteam@calderdale.gov.uk)

01422 393639

If the individual still disagrees, they can appeal the decision by email or in writing. Their appeal will be acknowledged within ten working days. As soon as their appeal has been investigated, they will receive a response in writing.

If the individual is still not satisfied, they can make a complaint. The complaint can be made online, by email or by letter. They can do this themselves or they can ask someone to do it for them. Individuals should contact the complaints team below directly if they need help to do this

- FREEPOST RTGL-EXHR-SRLH  
Complaints and Compliments Team  
Town Hall  
Crossley Street  
Halifax  
HX1 1ZS  
[complaintsandcompliments@calderdale.gov.uk](mailto:complaintsandcompliments@calderdale.gov.uk)  
01422 288001  
[www.calderdale.gov.uk/v2/council/consultation-and-feedback](http://www.calderdale.gov.uk/v2/council/consultation-and-feedback) compliments-  
and-complaints

If the individual is still not satisfied with the outcome of the complaint, the complaints team will provide them with contact details of the Health and Social Care Ombudsman.

Any disputes received outside of the 28-day timescale will not be considered unless there is an exceptional reason for being unable to dispute an invoice within the given timescale.

All debt that arises must be recovered within 6 years from when the sum became due to the council.

## 7. County Court Judgments (CCJs)

### 7.1 County Court Judgment

**If all other reasonable options for debt recovery have been exhausted, the council may decide to proceed to the County Court to recover the outstanding balance. A County Court Judgment ('CCJ') is a type of court order that may be registered against a person who fails to repay money they owe.**

It is not in the Councils interest to incur further costs to attempt to recover a debt through the court process where it is unlikely that this would result in payment. Unless the person owns a property that a charge could be placed on to secure the debt, the Council may at this point feel that referral to an outside debt collection agency is more appropriate. The Council aims to treat all debtors fairly and equally and each case is investigated on an individual basis.

Before a CCJ is sought, a pre-action protocol letter will be sent to the client or their representative with details of the debts and what the consequences of this action are.

Where a CCJ is obtained, the judgment will be posted to the person by the court and will explain:

- how much they owe
- how to pay
- and when payment is required

If the council does seek a CCJ, the court will charge a fee which is appropriate to the debt. In addition to this, the council's legal team will charge hourly fees for preparing the case and attending court.

## **7.2 Actions that can be taken once a CCJ is obtained, and the debt remains unpaid, or a repayment plan has not been agreed.**

- **Third-party debt orders**

A further court order can be applied for which allows the council to seek funds owed by a third party direct from the third party.

If the council does seek a third-party debt order, the court will charge an additional fee for which the client will be liable. In addition to this, the council's legal team will charge an hourly rate for preparing the case and attending court. These additional costs will be added to the debt outstanding and included in the application for the third-party debt order.

- **Attachment of earnings**

The council may also seek an Attachment of Earnings Order. This order can be sent to an employer to ask them to deduct amounts regularly from a person's wages until the debt is cleared.

- **Charging Order**

This is an order that places a charge on a property to secure the debt and to ensure that a debt is paid from the proceeds when it is sold. The council can enforce the sale of a property to realise this debt in certain circumstances.

If the council does seek a charging order the court will charge a fee for which the client will be liable. In addition to this, the council's legal team will charge an hourly rate for preparing the case and attending court. These additional costs plus interest will be added to the debt outstanding and included in the application for the charging order.

A further application needs to be made to the court to obtain an order for sale to enforce the charging order.

There is an option for enforcement agencies to be used in certain circumstances, but this should be as a last resort.

## **7.3 Authorisation**

The decision to refer a case for an application for a CCJ and further action will be made by the Assistant Director for Adult Social Care Operations.

## 8. Write offs

In certain circumstances a debt may need to be written off and there are several reasons why debt may become irrecoverable. These include cases where:

- The customer has absconded and cannot be traced
- The customer has died, and evidence has been provided that there are no funds available in the estate
- The debt is too old to recover
- The balance is small, and the recovery costs would make the debt uneconomical to collect.
- It is not cost effective to continue recovery action
- The customer is experiencing severe financial hardship
- The individual (or their companies) has become insolvent

There are also cases where there are overpayments on accounts that cannot be refunded. This is because either the customer has moved without providing a forwarding address, or they have died, and the beneficiaries have not been found.

If it is agreed at Debt Panel that a debt above £30.00 merits being written off, a Divisional Management Team form is completed and signed off by a senior manager. This is then available for audit and finance to observe and ensure that all systems are up to date and accurate. Debts are only written off when deemed irrecoverable, therefore this process will only take place after all possible courses of action to recover the debt have been taken. Write offs are completed 4 times a year, usually the end of November, February, May, and August in line with revenue monitoring.

### 8.1 Process for Authorisation (Cases up to £5,000)

Write-offs are authorised by Operations Managers for Adult Services and Wellbeing

### 8.2 Process for Authorisation (Cases between £5,000 and £10,000)

Write-offs are authorised by Service Managers for Adult Services and Wellbeing.

### 8.3 Process for Authorisation (Cases over £10,000)

Write-offs are authorised by the Assistant Director for Adult Social Care Operations.



## **Appendix 1**

### **Adult Services & Wellbeing (ASW) Debt Panel Terms of Reference**

<b>Version Number</b>	v0.3
<b>Reference Number</b>	DP_TOR
<b>Contributors</b>	Service and Operations Managers, Assistant Director and Charging representatives.
<b>Contact person</b>	Annette Clancy
<b>Approved By (GROUP)</b>	Senior Management Team
<b>Date Approved</b>	January 2022
<b>Issue Date</b>	7 <sup>th</sup> February 2022
<b>Review date</b>	10 <sup>th</sup> February 2024
<b>Reviewing Officer</b>	Policy and Procedures Officer

Any changes to this document or associated documents should be referred to **Assistant Director, Adults Operations** in the first instance. Please do not change or save versions of this document.

This document is intended for staff purposes only.

<b>Version</b>	<b>Date modified</b>	<b>What was changed</b>	<b>Who by</b>
V0.1	-	-	-
V0.2		Updated content as directed by The Chair	Rebecca Farley, Transformation Officer.
V0.3	12.07.23	Updated content as directed by The Chair	Zakera Pandor, Policy & Procedures Officer.

## **1. Purpose**

The Council is committed to recovering all monies owed to it to maximise income to sustain services for the local community.

The Debt Panel is established to discuss cases where people that receive adult services and wellbeing care and support have a debt “*a sum of money that is owed or due*” to the directorate.

The panel decides on the appropriate action to recover any value of debt based on the persons circumstances and the context of the individual case.

The panel will oversee progress of individual cases to ensure that debts are recovered whilst maintaining care and support arrangements.

The panel will identify and feedback on procedural improvements to ensure that the Council provides services that meet the needs of the public and are reflective of legislation and ASW mission and values.

Any action is considered in line with the statutory requirements of the Care Act 2014.

## **2. Scope**

During panel meetings, The Chair of the Debt Panel will have the final decision upon case decisions.

The Chair will decide if any cases need referring to the Assistant Director of Operations for further discussion and decision-making.

The Chair can write-off debt in accordance with directorate authorisation levels. However, other options for action will always be considered before writing off any debt to protect the Councils budget.

To aid informed discussion and decision-making, the Panel will ensure that case information is available in preparation for the Debt Panel Meeting.

The Panel will review cases to understand the context and reasons for debt.

The Panel will review cases to understand the history of the case and any prior action taken to support in the person with regards to their financial situation.

The Panel will ensure accurate record keeping of all cases discussed including, progress, decision-making and outcome details.

The Panel will operate to a transparent and clear process for submission of cases to Debt Panel meetings.

The Panel will ensure that a fair, clear, and transparent approach is used to access each case.

The Panel will ensure that it operates in line with the Care Act 2014, and associated directorate policies and procedures.

### **3. Process**

#### **Submission of cases to Debt Panel**

Prior to submission to debt panel, cases where there is a debt of 6 weeks are referred to the appropriate team (including social work teams and the Community Charges team) to review and investigate reasons for the non-payment of services.

A formal referral is made to the Debt Panel if:

- the team is unable to make any progress with the recovery of the debt
- there are no safeguarding concerns

If there are safeguarding concerns, the allocated worker will follow the relevant safeguarding procedures.

Referrals to Debt Panel are co-ordinated by the Community Care Charges Officer in good time to allow for the preparation of the Debt Panel meeting.

During the Debt Panel: Reviewing the case

During the Debt Panel meeting, the Chair, Community Care Charges Officer, Operations Manager(s), and those invited to attend, discuss each of the cases.

The Panel consider the following points to make an informed decision about the outcome of the case.

- Has the person paid anything towards their service costs?
- What is the person's payment history?
- Is/have there been any payment plans in place?
- Are there any extenuating circumstances?
- Have they produced evidence of a clear intention to pay their debt?
- How likely is it that the person will make a payment?

#### **Outcomes**

The Panel will ensure that appropriate action is taken with regards to a person's situation.

The Panel will ensure that any actions are reflective of the statutory requirements of the Care Act 2014.

The Panel will ensure that the appropriate support, guidance, and information is provided to the person.

Outcomes of cases discussed at Debt Panel include:

- Choose to monitor for a defined and appropriate time.
- Referral back to the appropriate team for further investigation/discussions
- Referral to DMT for consideration and decision
- Progress to court.
- Write off debt (DMT form must be completed).

Outcomes of cases are allocated to the appropriate worker to progress.

#### **4. Membership**

- Service Manager (The Chair)
- Operations Manager(s)
- Team Managers/Management Team
- Assistant Director of Operations
- Community Care Charges Officer
- Ad-hoc invitation, a member of the directorate or other Council service may be invited to make representation for cases if required.

#### **5. Frequency of Meetings**

The Panel will meet every 10 weeks, ensuring that the management of debt is consistent, and action is responsive.

Additional meetings may be scheduled if The Chair approves.

#### **6. Reporting and Reviewing Arrangements**

The Debt Panel will report directly to the ASW Assistant Director of Operations.

#### **7. Appeals**

Appeals and complaints should be progressed via the Councils standard processes.