

Committee: Overview and Scrutiny Financial Task Group

Date:

Wards: All

Subject: Social Care Charging

Lead officer: Caroline Holland – Director of Corporate Services

Lead member: Councillor Mark Allison

Contact officer: David Keppler – Head of Revenues and Benefits

Recommendations:

- A. The Financial Task Group to note the report
 - B. The Financial Task Group to identify any additional work or information required
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. At the Financial Task Group of the 4 April 2019 a report was presented on the specialist debt collection agency and debt factoring.
- 1.2. The Task Group requested an update report to provide detail on further work and engagement on social care charging to include the development of stronger protocols and protections for disabled people being pursued by debt recovery for social care debts.

2 DETAILS

- 2.1. The responsibility for financial assessments of individuals accessing adult social care sits with the Community and Housing Department. The Council's Adult Social Care Charging Policy, the current version of which dates from April 2018 and which is available on the Council's website, provides the policy framework within which financial assessments are undertaken. The Charging Policy is required to be compliant with the Care Act 2014 and associated regulations, including the requirements arising from the Minimum Income Guarantee (or, in residential care, the Personal Expenses Allowance). The Care Act stipulates a small number of conditions and services that cannot be charged for. These exemptions are detailed in the Charging Policy – see appendix 1
- 2.2. Charging for residential care home provision is a statutory requirement and the council therefore has no option other than to charge for these services. Charging for community based services is discretionary, but as far as officers are aware there is currently only one local authority in England that does not charge for these services. Merton Council's Charging Policy covers both residential and community based services.
- 2.3. The Financial Assessment team within Adult Social Care are responsible for undertaking financial assessments for individuals who are being assessed for social care services in the community or in residential care.

- 2.4. The Financial Assessment team have set procedures and protocols that staff follow to facilitate engagement with individuals or their representatives to ensure that accurate and timely financial assessments are completed and the correct charges applied.
- 2.5. The Financial Assessment team aim to complete the financial assessment within five working days of receiving all of the required information relating to the individual's financial circumstances. The standard procedure the team follows in requesting the necessary information is as follows:
 - 2.5.1 The individual is first contacted by telephone and a home visit to complete the necessary documentation is offered. Where the individual agrees to a home visit this is followed up as quickly as possible. All of the Financial Assessment Officers in the team have welfare benefits advice training and will as a matter of routine offer the individual advice on benefits maximisation as part of the home visit process;
 - 2.5.2 If the individual does not agree to a home visit they are given the option of completing the necessary documentation online, or the documentation is posted to them.
 - 2.5.3 If an online or hard copy form is not returned within 14 days, or is returned incomplete, the individual is contacted and reminded of the importance of completing and returning the form.
 - 2.5.4 If a completed online or hard copy form is not received within 28 days the Financial Assessment team follow the full cost procedure as detailed in the Council's Charging Policy. This means that the individual is written to explain that the Council has assessed them as being liable for the full cost of the services they are receiving. This letter makes clear that the individual is still able to request a full financial assessment (including a home visit) if they wish and this will then be progressed in as timely a manner as possible.
 - 2.5.5 Both during and after the 28 day period outlined in 2.5.3 and 2.5.4 above, the responsible Financial Assessment Officer will liaise with the Social Worker or Occupational Therapist undertaking the care assessment to establish whether there are any extenuating factors that impact on the individual's ability to complete and return the form. This helps to ensure that the full cost procedure is only followed as a last resort.
- 2.6. It is also worth noting that for individuals who are placed in residential care and who own their own home the Council offers a Deferred Payment scheme that, subject to various qualifying criteria, means that individuals do not have to sell their property during their lifetime. There are currently 2 individuals on this scheme.
- 2.7. Once the financial assessment is completed invoices are issued and clients or their representatives are expected to make payments as billed. All clients are encouraged to pay by direct debit and staff will at every opportunity promote payment by this method. In December 2019 767 invoices were issued and of these 347 (45.2%) paid by direct debit. Campaigns to encourage direct debit take up are undertaken periodically.
- 2.8. As at 31 December 2019 adult social care debt was £4.693 million. As at the beginning of the financial year (1 April 2019) the level of debt was £4.463 million.

- 2.9. For the period 1 October 2019 to 31 December 2019 the council raised invoices for £2,029,000 for Adult Social care clients. As at 18 January 2020 there is still £645,000 or 32% unpaid.
- 2.10. The debt recovery team take a sensitive approach to collecting adult social care debt. The standard letters are tailored to address more vulnerable clients and the team will look to engage with clients or representatives at the earliest opportunity to discuss cases and agree payment arrangements.
- 2.11. Where the team fail to make contact we will often liaise with the client's social worker or we will look to undertake visits to clients, but recognising where some clients may not have capacity. The Financial Assessment team also continue to liaise closely with the debt recovery team to ensure that the debt is recorded correctly and continue to attempt to engage with the individual to encourage compliance.
- 2.12. As a last resort the team will initiate legal proceedings to recover or secure debts. As previously reported the team commenced a year pilot with a specialist adult social care collection agency in February 2018.
- 2.13. As at the 30 December 2019 we had passed 34 cases totalling £1.8 million, the majority of which were for residential debt and there were some deceased estates. Of these cases 8 totalling £238,000 were returned as uncollectable after investigations. Another 7 cases totalling £322,000 were paid in full
- 2.14. They currently have 18 live cases and they have identified 8 (£416,000) as 70% to 100% prospect of payment, 9 (£741,000) as 50% to 69% prospect of collection, 1 (£73,000) less than 50% prospect of collection. Of the debt outstanding they have indicated that £803,000 could be paid within six months
- 2.15. Agreement was reached for the Shared Legal Service to undertake legal work for an initial trial period of six months for all debts and this commenced in July 2019. Currently they have 10 cases with a total value of £172,000. Progress has been made on all cases and action commenced, including some legal proceedings. One case where £14,500 of a £16,400 has been paid and another one where the full debt of £8,116 has been paid in full.
- 2.16. Before the collection agency or the Shared Legal Service progress with the collection of adult social care debts they will require evidence that all of the appropriate pre-action stages of recovery have been concluded and that legal action has become the last resort remedy. The evidence required at this stage will be: Financial Assessment, Capacity Assessment, Equality Act/Care Act Assessment, Deferred payments agreements and that any complaints and/or queries have been fully addressed and resolved.
- 2.17. Quarterly monitoring reports are received from both the specialist collection agency and the Shared Legal Service and a quarterly meeting is held with the Shared Legal Service.
- 2.18. The Director of Community and Housing and the Director of Corporate Services chair a Debt Recovery Task Group where all aspects of the assessment, billing and collection are discussed and monitored.

3 ALTERNATIVE OPTIONS

3.1. None for the purpose of this report

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1. None for the purpose of this report

5 TIMETABLE

5.1. None for the purpose of this report

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1. The income from clients and the associated debt is reported as part of the Quarterly Monitoring report to Cabinet and the Financial Monitoring Task Group. The provisions for bad debts are calculated at year end and included within the outturn reports and Final Accounts reported to Cabinet, Financial Monitoring Task Group and the Standards & General Purposes Committee.

7 LEGAL AND STATUTORY IMPLICATIONS

7.1. None for the purpose of this report

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. None for the purpose of this report

9 CRIME AND DISORDER IMPLICATIONS

9.1. None for the purpose of this report

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. None for the purpose of this report

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Appendix 1 - Adult Social Care Charging Policy

12 BACKGROUND PAPERS

12.1.