

## **INCOME RECOVERY SURVEY ANALYSIS**

A total of twenty three local authorities responded to the questionnaire. Of these 10 were county councils and three were London boroughs, the rest being Metropolitan District Councils or Metropolitan Borough Councils.

Between them, responding authorities reported a total social care debt outstanding of £55.6 million at the end of March 2008. Debt as a percentage of social care budgeted client income varied from authority to authority from a low of 3.4% (a county council) to a high of 69% (a Metropolitan Borough). The average social care debt authorities had was £18 million.

Overall, the bulk of this total debt (over £32 million) was residential, the rest being more or less equally domiciliary or in partnership with health. However behind the overall figure for partnership, eight authorities reported that partnership with health debt was zero.

Most (70%) responding authorities' payers were mixed payers and gross payers were on average 47% of the mix.

Six authorities were unable to say whether residential debt was secured or not and four authorities had no reported secured residential debt. The rest averaged 52% of residential debt secured. The actual percentages of secured residential debt ranged from 2% (a county council) to 98-100% (county councils again).

Authorities were pretty evenly divided between those who pursued debt departmentally and those who relied on corporate pursuit. Where debt was pursued departmentally all but two authorities used different procedures and where these were described they were said to be "softer" and to take into account client vulnerability.

Just over half of responding authorities reported working with the DWP on income recovery and out of 16 authorities which were able to say whether they were currently taking legal action against clients, only six were. All authorities except one reported that they do pursue income recovery through client representatives or relatives.

The last two questions in the survey asked authorities if they had any comments on the issues raised or any suggestions for guidance that would be useful to their authority. Only two authorities had no thoughts or comments. There was overwhelming agreement on the

need for guidance in this area and the biggest concern that authorities had was for guidance around income recovery from clients' representatives or relatives. These thoughts and comments are set out in full at Appendix 1.

The survey did also ask for any examples of existing guides or procedures. One authority sent through its arrears procedure, another sent a legal guide and a third sent a document on its charging policy.

## **Appendix 1**

### **Comments from responding authorities – on what guidance would be useful and on thoughts generally**

The main area of concern is taking court action against clients who may not have an understanding of the implications of receiving a court summons or previous action taken previous i.e. arrears letters. Our Legal Dept has advised that we consider action taken especially if client has Learning Disabilities or Mental Health Needs. My concern is, are we treating people differently and due to the fact we chasing debts I feel everyone should be treated with the same procedure.

Guidance on the accounting treatment of payments made net of assessed charges. Guidance on the accounting treatment of assessed charges as part of the personalised budget agenda. IPF already run a Financial Assessments Benchmarking club to which a number of authorities subscribe.

A good practice guide would be helpful

Helpful guidance would be around -binding third party agreements, who you can successfully take to court. Currently mixed comments some say it has to be the client others that they have taken EPA and appointee to court.

Guidance on the following would be helpful:

- 1) Bad debtors/Doubtful debtors – what to do for deliberate non-payers of domiciliary care.
- 2) 'Financial abuse' – where relatives refuse to pay or where it appears they spend the client's money
- 3) Legal options available

Most new secured debts are as a result of the "Deferred Payments Scheme (DPS)" introduced by government a few years ago.

Minimum equity requirements for using DPS are three years worth of Nursing Care fees or five years worth of Residential Care fees.

Other points (on which guidance cd help some?) are:

Active write-off policy. Write-off target is <0.4% of debt per year.

Performance in recent years 0.3-0.4%.

No writing back of social care debt.

Some 14,000 clients cared for in total.

Court proceedings are rarely issued to clients (2-5 per year), though when they are (as they can be following policy a few years ago) there is generally some effect. Only occasionally does a client

simply refuse to pay after judgement against them, when we have to continue providing the care anyway.

More cases are issued against client reps (15-30 per year). That does need careful documentary back-up, else they can deny responsibility.

We have difficulties pursuing those who lack capacity and whose relatives have no legal authority – appointeeships in particular.

Anything on securing client contribution debts against family members. Currently where a debt arises we take appointeeship away from the family but it is often difficult to recover the lost revenue for the period prior to the Authority taking over.

Social Care debt is very difficult to recover in a timely manner, some nationally recognised guidelines would be helpful.

We intend to pay IB's net of SU contribution and this should reduce the amount of debt management required. Guidance in this area is promised and is eagerly anticipated. We are currently reviewing our Fairer Charging Policy and will review our debt management procedures as part of this. We will be pursuing debts much more pro-actively if our recommendations are agreed by Elected Members.

To avoid accumulating debt, intervention from Dept for Work & Pensions and Office of Public Guardian, in partnership with Local Authorities to cease or suspend payment of pensions & benefits to allow these monies to be paid directly to local authorities.

It would be helpful if CIPFA had any procedures from other authorities that they produced some sort of best practice guidance for all to use. The Finance Manager for Income currently works with other authorities on income as part of the National Association of Financial Assessment Officers, and they are constantly checking with each other on how we handle debt and the chasing of it. It would be helpful if CIPFA could produce a document containing guidance on best practice. Especially if this included some of the more complicated issues e.g. legal charges/ tenancies in common/ joint tenancies etc.

Guidance specifically around Vulnerable Adults and financial abuse. Training exists for dealing with Vulnerable adults and safeguarding but does not seem to touch on financial issues – this is often the route into vulnerable adult situations in the first place. [We] operate a system across all client groups of Self Directed Support. This system is person centred and focuses on outcome for the

individuals, the emphasis is on contribution from the individual as a citizen to support their whole life rather than services and interlinked charges.

Guidance on pursuing a relative who may have misappropriated a clients money.

Guidance on options LAs have to pursue debt from a third party without the first party having to be the complainant. Currently Police and CPS will only act upon complaints by the SU where money has been used inappropriately by a third party. As this is usually a family member, the SU is reluctant to be part of the process. Money should be invested into finding out how we can address these issues legally and successfully.

How to deal with cases where relatives misuse client funds and bills are not paid

The authority follows a charging policy based on CRAG. Procedural guide attached but note it is currently being revised.

A position on the soft loans issue would be helpful. Further guidance on shared ownership (tenants in common) would be helpful.

Also, problems where couples have divorced – not always clear whether charges could or should be placed against assets. Such cases are usually referred for legal advice.

No procedural guidance exists for this area.

Residential – [We] are looking to obtain Counsel's opinion on pursuing reps/families under the Fraud Act where other avenues have proven unsuccessful. It would be useful however, if any other Authority has already obtained an opinion for this to be shared and also highlighted particularly if there has been success. I would like to see more pressure brought upon the Department of Works and Pensions to pursue appointees who fail to act in their duty to pay for contributions for care from benefits received on behalf of Service Users. Far too often Local Authorities are unable to legally recover the money accrued for contributions from the Appointee and the client has no money left to also pay the arrears that have accrued. If the DWP were to pursue the appointee for failure to maintain their responsibility in this area, we would see less debt being written off in these cases.

We have an increased number of cases where degradation of assets has occurred. Where assets have been passed to family members

and then spent, it has proved difficult to recover these. Guidance on this would be very helpful. We have also seen a significant increase in the past 12 months of the number of safeguarding cases where there has been the potential for financial abuse.

Guidance on dealing with non payment where the client has a power of attorney or representative who is not paying care invoices.