

## **SLOUGH BOROUGH COUNCIL**

<b>REPORT TO:</b>	Cabinet
<b>DATE:</b>	18 <sup>th</sup> July 2022
<b>SUBJECT:</b>	Adult Social Care Debt Recovery Policy
<b>PORTFOLIO:</b>	Cllr Natasa Pantelic, Social Care and Public Health
<b>CHIEF OFFICER:</b>	Marc Gadsby, Interim Executive Director for People (Adults)
<b>CONTACT OFFICER:</b>	Marc Gadsby, Interim Executive Director for People (Adults)
<b>WARD(S):</b>	All
<b>KEY DECISION:</b>	Yes
<b>EXEMPT:</b>	No
<b>DECISION SUBJECT TO CALL IN:</b>	Yes
<b>APPENDICES:</b>	Appendix 1 - ASC Debt Recovery Policy Appendix 2 – ASC Debt recovery Policy EqIA

### **1 Summary and Recommendations**

- 1.1 This report sets out the Adult Social Care (ASC) Debt Recovery Policy 2022/23 with regards to debts that may have accrued as a result of the Council meeting a person's eligible care and support needs.

#### **Recommendations:**

Cabinet is recommended to:

1. Approve the ASC Debt Recovery Policy appended at Appendix 1.

#### **Reason:**

1. To ensure that the ASC debt recovery policy is robust and follows guidelines as defined within the Care Act 2014 and that internal procedures are aligned to this.
2. To enable clients to be aware of the processes involved when collecting unpaid debts.
3. To ensure the Council achieves value for money in its debt collection arrangements and makes consistent decisions taking account of the nature of ASC debts.

#### **Commissioner Review**

*"The Commissioners are content with these proposals."*

## 2 Report

### Introductory paragraph

2.1 The Council charges ASC service users for a range of adult social care services in accordance with statutory requirements and its local charging policy.

2.2 Whilst the majority of income due is paid on time, the Council has a duty to ensure that all revenue owed to the council is collected promptly and effectively.

2.3 The Council's most recent ASC Debt Recovery Policy is from 2013, which is a joint policy with Arvato, who provided the Council's financial services at the time. This is no longer the case as finance services are provided in house.

2.4 The policy sets out to formalise best practice and includes guidance to ensure that the council has a transparent, consistent and proportionate approach to the recovery of money owed to the council having due regard to minimising arrears whilst not causing undue hardship or consequences to the service user as a result.

2.5 The Council approved a Corporate Plan for 2022-25 at its full council meeting on 19 May 2022. One of its key priorities is "A council that lives within our means, balances the budget and delivers best value for taxpayers and service users." Having a specific debt recovery policy for ASC debt supports this key priority.

### Options considered

Option	Detail	Advantages	Disadvantages
Option 1 - Develop a new Debt Recovery Policy  <b>This option is recommended.</b>	<p>Develop and implement a new debt recovery policy to reflect the council's current operational processes with regards to collecting unpaid debt as a result of receiving care and support services from the council. The council's previous ASC Debt Recovery Policy was written in 2013, prior to the Care Act 2014, and was in conjunction with Arvato – who provided the council's finance services at the time.</p> <p>This option is recommended as the new policy takes into account the legislation set out within the Care Act 2014 and reflects the current practice within ASC with regards to debt recovery. This also provides clients with awareness of procedures and processes when the council is collecting ASC debt.</p>	<ul style="list-style-type: none"><li>- Policy will be up to date with current legislation</li><li>- Policy will add greater detail to the process for clients to understand with greater visibility.</li><li>- Policy will reflect the current processes within the service.</li><li>- Policy will support the collection of unpaid debt to the council.</li></ul>	
Option 2 – Continue to utilise the previous Debt	Alternatively, the council can continue to utilise the previous debt recovery policy,		<ul style="list-style-type: none"><li>- Policy was written prior to Care Act</li></ul>

Recovery Policy from 2013	<p>implemented in 2013, jointly with Arvato.</p> <p>This option is not recommended, as it was written before the Care Act 2014 legislation was in place and does not reflect the current practice within ASC debt recovery. Therefore, clients do not have a true awareness of the procedures in place with regards to collecting ASC debt.</p>		<p>2014 legislation.</p> <p>- Policy reflects process from previous arrangements with Arvato.</p>
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## Background

2.3 The Care Act 2014 introduced a modern legal framework for the recovery of any debts that may have accrued as a result of the Council meeting a person's eligible care and support needs.

2.4 The recovery of debts from those who are receiving care and support is a sensitive issue given the potentially vulnerable nature of the service users in need of care and support, and the Council's ultimate responsibility to meet eligible care and support needs as set out within the Care Act.

2.5 Given this, Council officers will bear in mind the following principles when approaching the recovery of debts:

- Possible debts must be discussed with the person or their representative (if the person lacks capacity or provides consent). The Council will give its service users a variety of options to discuss payment of their accounts, the preferred method is to utilise the ASC web based portal, however the Financial Assessment team can also be contacted by telephone, email, in writing or face to face at Observatory House.
- The Council must act reasonably and will review the appropriateness of each recovery option based on what is known about the service users circumstances, their ability to pay, their past payment history, their mental capacity or any other physical health or age-related limitations and the requirement to recover outstanding monies in a timely and efficient manner.
- Arrangements for debt repayments should be agreed between the relevant parties. And repayments must be affordable. When debt is not agreed, the council is entitled to take action in accordance with its policy, which may include legal proceedings.
- Where appropriate, the Council will direct the service user to sources of debt and benefits advice.
- Court action should only be considered after all other reasonable avenues have been exhausted.

2.6 The key elements within the new debt recovery policy, which have been added since the previous policy in 2013 are:

- Addition of the legislation and legal status which govern the policy, to add clarity and understand of what the policy represents.
- Addition of the principles of debt recovery, as per 2.5 above.
- Addition of guidance on how the council will support clients through the process and the assistance people will receive when the debt recovery procedure is required.

- Addition of clarity on which services are charged for and which are exempt.
- Addition of detail on how clients can pay debts.
- Development of the detail on the debt recovery process, the Financial Charging Teams role within this, the timescales for recovery, and how the arrangements for payment are made.
- Addition of detail on deferred payment agreements.
- Addition of detail on mental capacity.
- Development of detail around the escalation process and involvement of County Courts.
- Development of detail on when debt is written off.
- Redevelopment of the process and for debt recovery and third-party debt recovery.

### **3. Implications of the Recommendation**

#### 3.1 Financial implications

3.1.1 An updated debt collection policy for ASC charges will provide a more robust framework for the council to collect debts owed to it and should contribute to increasing income for the council.

3.1.2 The collection of debt within the policy relates to both safeguarding the recovery of monies owed to the council where deferred payments are arranged, and ensuring clear and robust processes where such arrangements are not in place

3.1.3 Annual income from all service users' contributions to the cost of care provision average £4.3m per annum.

3.1.4 The total outstanding debt over 6 months is £3.2m. Debt over 12months is £2.1m and £1.1m is debt aged between 6-12 month, twenty-five percent of the annual service users' contributions, however this is likely a result of a financial contributions project in 2021/22 which resulted in c£800k of backdated invoices being raised, and will include client debt for which settlement has been deferred in agreement with the Council.

3.1.5 Improvement to financial assessment processes, clarity of the debt management processes will lead to a reduction in both the outstanding debt and bad debt provisions

#### 3.2 Legal implications

3.2.1 Introduction of the new policy will support the council ensure all activity with regards to the collection of ASC debt it lawful and in line with legislation.

3.2.2 The Care Act 2014 provides a single legal framework for charging for care and support services in accordance with duties under the Act. Except where the Council is required to arrange care and support free of charge, the Council may make a charge when it is arranging to meet a person's care and support needs or a carer's support needs. The statutory guidance confirms that the new framework is intended to make charging fairer and more clearly understood by everyone. The overarching principle is that people should only be required to pay what they can afford and there is a means testing mechanism to support this.

3.2.3 The guidance refers to the following principles in relation to the approach to charging:

- ensure that people are not charged more than it is reasonably practicable for them to pay
- be comprehensive, to reduce variation in the way people are assessed and charged
- be clear and transparent, so people know what they will be charged

- promote wellbeing, social inclusion, and support the vision of personalisation, independence, choice and control
- support carers to look after their own health and wellbeing and to care effectively and safely
- be person-focused, reflecting the variety of care and caring journeys and the variety of options available to meet their needs
- apply the charging rules equally so those with similar needs or services are treated the same and minimise anomalies between different care settings
- encourage and enable those who wish to stay in or take up employment, education or training or plan for the future costs of meeting their needs to do so
- be sustainable for local authorities in the long-term

3.2.4 The guidance also emphasises the need to ensure that sufficient information and advice is available in a suitable format for the person's needs, in line with the Equality Act 2010 duties.

### 3.3 Risk management implications

3.3.1 Adoption of the policy will mitigate the risk of non-recovery of current and new adult social care debts by ensuring that there is a common understanding of our approach to debt collection.

3.3.2 This is a sensitive area dealing with a most vulnerable section of society in a highly legislated area of work. Inconsistent application of Council policy may lead to poor levels of service and reduce the chance of the Council being able to legally recover the debt.

### 3.4 Environmental implications

3.4.1 There are no environmental implications.

### 3.5 Equality implications

3.5.1 An Equality Impact Assessment (EqIA) has been completed for the implementation of the policy, assessing the impact on groups of people who share a protected characteristic under the Equality Act 2010.

3.5.2 Certain groups of people are likely to be disproportionately impacted by this policy as they are more likely to be paying charges for ASC services. This includes older persons and those with disabilities. Data is not available for all protected groups, which makes it difficult to monitor impact, however further work will be undertaken to improve data collection to better understand which groups are most impacted and what steps are necessary to mitigate any negative impact. For instance, it may be necessary to consider language barriers or steps required to support individuals with diminishing capacity.

3.5.3 The EqIA identifies the action described above, but also the need to ensure there is mitigation in place for effective communication of the policy to all relevant groups, including where there may be language barriers.

### 3.6 Procurement implications

3.6.1 There are no procurement implications.

3.7 Workforce implications

3.7.1 There are no workforce implications.

3.8 Property implications

3.8.1 There are no property implications.

**4. Background Papers**

None