

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Adult Social Care
Date:	28 May 2010
Title:	Write off of irrecoverable Debts 2009/10
Reference:	1551
Report From:	The County Treasurer and the Director of Adult Services

Contact name: Kevin Armstrong

Tel: 01962 847233

Email: Kevin.armstrong@hants.gov.uk

1. Executive Summary

- 1.1. This report identifies eight debts of over £5,000 totalling £59,158.56 where it has not been possible to recover the amount due from debtors and for which Executive Member approval is required for write off.
- 1.2. This paper seeks to
 - give an overview of the relevant financial procedures and regulations
 - set out the overall context of debts written off during the year
 - compare level of debts written off to the target level of debt write off
 - briefly consider the future direction.

2. Contextual information

- 2.1. Hampshire County Council's financial regulations and procedures, as amended in April 2007, set out the arrangements for debt write-off as follows:

Up to £1,000	County Treasurer to authorise
Between £1,000 and £5,000	County Treasurer in agreement with the Chief Officer.
Between £5,000 and £50,000	Joint report from Chief Officer and County Treasurer for approval by Executive Member
Greater than £50,000	Approval by the Leader

3. Finance

- 3.1. The following 504 debts totalling £235,280 (2008/09 – 458 debts totalling £238,110.62) have been written off during 2009/10:
- 287 debts with a total value of £176,326 relating to clients in independent sector residential homes (Total 2008/09 215 debts - £163,322.85).
 - 41 debts to the value of £15,000 relating to clients in County Council homes (Total 2008/09 63 debts - £36,910.34)
 - 176 debts to the total value of £43,954, for non-residential charges (2008/09, 180 debts - £37,877.43).
- 3.2. Assuming the debts referred to above are agreed for write off, the total write off figures for 2009/10 will be £294,438 (2008/09 £340,986).

4. Performance

- 4.1. For 2009/10 the actual write offs compared to the individual maximum write off targets is shown below.

	Income Actual £000s	Target write off as % of actual	Target Write Off £000s	Actual Write Off £000s	Actual Write Off %
Residential	42,100	0.40%	168	233	0.55%
Non-Residential	8,369	0.50%	42	61	0.73%
TOTAL	50,469	0.42%	210	294	0.58%

- 4.2. Overall, actual debt written off in 2009/10 is 0.58%, which is 0.16% above the total target figure. For residential care the actual write off total is 0.15% above the target and non-residential care is 0.23% above the target.
- 4.3. Whilst it is unlikely that the recent economic downturn has had significant impact on the incidence of debt write offs for 2009/10, the situation will be monitored through the Panel and by Adult Services Departmental Management Team during 2010/11 to see if there is a higher level of write offs and whether any cause and effect relationship can be established. If the recession does become a factor and the level of debts written off does increase then the maximum write off targets could be reviewed for the revised budget report for 2011/12.

5. Other key issues

- 5.1. Debt management procedures ensure that irrecoverable debts are minimised by taking appropriate action to try to recover debts in all circumstances.

- 5.2. The Financial Assessment and Benefits (FAB) team is dedicated to ensuring that the initial financial arrangements are thoroughly conducted so that the client's benefits are maximised and that arrangements around Appointeeships and Power of Attorney are robust.
- 5.3. The FAB team also has a Safeguarding role to play as they are trained to identify and report to the care manager concerns around financial and non-financial issues relating to the client.
- 5.4. Sometimes recovery is not achievable or would involve disproportionate legal and professional fees and staff-time to make pursuit of the debt cost effective. Where appropriate, legal advice is sought either directly or through the Financial Assessments Panel.
- 5.5. The Financial Assessments Panel draws representation from County Treasurer's Department (Revenue Services and Adult Services Devolved Finance Unit), Adult Services Department and Legal Services from the Chief Executive's Department. The Panel reviews individual cases of debts greater than £1,000, makes recommendations and ensures further action is taken as appropriate and where possible.
- 5.6. The following debts have been considered by Panel who have agreed that either no further action is available or that further action will not result in debt recovery.

6. Debts recommended for write off

6.1 Client 1 - £7,001.37 (deceased)

- 6.1.1 The client had been in permanent residential care since November 2004. To begin with all invoices and correspondence were sent to one of the client's relative who was the client's official appointee for the Department of Work and Pension (DWP) benefits. However, the appointee only made sporadic payments.
- 6.1.2 In September 2005 another relative took over responsibility for the finances. After several months all payments from the new appointee stopped. Despite repeated requests from Revenue Service only sporadic further payments were made by this relative.
- 6.1.3 In April 2007, having had no response from the relative, the Council contacted the DWP to revoke appointeeship for the client's benefits. In July 2007 Hampshire County Council took over responsibility for the client's finances. From that time the ongoing invoices were fully paid.
- 6.1.4 Legal Services were asked to consider pursuing the client's appointees. However, in November 2008 Legal Services advised that in this instance the appointees could not be pursued.
- 6.1.5 Consideration was given to pursuing the client. However, it was determined that, as the client had virtually no savings, the client could only afford to pay back a minimal sum per month. It is clear that the debt would not be repaid within a reasonable timescale.

6.1.6 In March 2009 the client died leaving no assets. The Panel agreed that the debt could not be pursued and recommended that it be written off.

6.2 Client 2 - £5,814.40– (deceased)

6.2.1 The client had been in permanent residential care from December 2002.

Records indicate that the client's relative was involved in making payments although there was no legal authority in place.

6.2.2 From the beginning, payments for the client's fees were erratic and arrears built up. In October 2003 the relative arranged to pay £50 per month towards the arrears as well as paying the ongoing charges.

6.2.3 In October 2005 the client's relative indicated that the client had financial difficulties before going into care. The relative was asked to provide evidence of the origin of the debts. However, no evidence was ever received.

6.2.4 A number of letters were sent by Revenue Services requesting payment. However, no response was received. A final notice before legal proceedings was issued in February 2006. However, this was returned as the addressee had moved away.

6.2.5 The client died in July 2006. Nevertheless, payments of £50 per month towards the arrears continued to be received up until July 2007 at which time it appears that the relative moved without notifying the County Council. In the meanwhile, Revenue Services had written to the relative in October 2006 to attempt to increase the amount of monthly payment due to the excessively long length of time that £50 per month would take to clear the debt.

6.2.6 Various searches have subsequently located the relative only for the relative to move again.

6.2.7 In June 2009 Legal Services advised there was no possibility of pursuing the relative as there was no agreement between the relative and Hampshire County Council and Panel therefore recommended that the debt be written off.

6.3 Client 3 - £5,615.98 – (deceased)

- 6.3.1 The client had been in receipt of domiciliary care from September 2004. From the beginning the payment was sporadic and a debt began to accrue. Through the period of care the client also had many spells of hospitalisation, which delayed the debt recovery process.
- 6.3.2 In February 2005 the client agreed to pay arrears of £1,247 over a six month period. However, by April 2005 the standing orders for the arrears had still not been activated. Despite care management's attempts to work with the client over financial planning, the debt continued to grow. Legal action was postponed whilst the client was in hospital for an extended period.
- 6.3.3 After a number of unsuccessful attempts, a reassessment of the client's financial contribution was achieved in July 2008 and the client was receiving support from an external agency with financial management. As a result of this ongoing support care management decided not to proceed with legal action.
- 6.3.4 The client died in January 2009 leaving no estate. With no Estate to pursue, the Panel recommended that the debt be written off.

6.4 Client 4 - £5,105.64 - (deceased)

- 6.4.1 The client had been in residential care since February 2000. From the beginning there were problems with payment as the client's relative was cashing the pension as appointee but not paying the provider and did not respond to letters from Revenue Services.
- 6.4.2 When another relative took over appointeeship in November 2000 the ongoing costs began to be paid although no payment in respect of arrears was received.
- 6.4.3 In December 2001 legal judgement by default against the first appointee when the appointee failed to appear at Court. However, at that time no trace could be found of the appointee to enforce the judgement.
- 6.4.4 The client died in April 2003 leaving no assets. However, efforts continued to recover the debt from the appointee.
- 6.4.5 In August 2006 the appointee was traced to a new address. However, the court experienced difficulty in serving papers on the appointee, which has to be done in person. Finally, in July 2007 the court agreed to issue an arrest warrant for the appointee at which point the appointee agreed to set up a standing order of £100 per month. No payments were ever made.
- 6.4.6 Further options, including use of bailiffs, were considered. Investigations revealed that the defendant was over 65, had been long term unemployed and owned no property. Legal Services advised that, in the circumstances, there was little prospect of recovery and therefore Panel recommended that the debt be written off.

6.5 Client 5 - £6,096.10 - (deceased)

- 6.5.1 The client had been in permanent residential care from May 2005. Invoices were raised and sent to the client's relative who was acting as the client's representative, albeit with no apparent legal authority.
- 6.5.2 From the beginning the payments were sporadic. After being written to by Revenue Services several times the relative agreed in May 2006 to set up a standing order to cover off both the ongoing charges and a contribution towards the arrears. No payments were ever received.
- 6.5.3 Checks with DWP ascertained that the relative was not an appointee for the client's benefits. In September 2006 in response to a query from Revenue Services the relative confirmed that they had access to the client's bank accounts. At this point the relative relinquished responsibility for the client's finances.
- 6.5.4 When the client died in February 2007 a final account was sent to the relative, who was the executor of the will. No response was received and legal proceedings were initiated.
- 6.5.5 Finally, in August 2009 the relative agreed to pay £20 per month towards the arrears. However, no payments were ever received.
- 6.5.6 Further investigations in December 2009 confirmed that the relative had significant debt problems, did not own any property and worked minimal part-time hours. In the circumstances, Legal Services advised that there was little chance of recovery and that the debt was uneconomic to pursue. Panel agreed to recommend write off.

6.6 Client 6 - £6,769.78 - (deceased)

- 6.6.1 The client had been in permanent nursing care since July 2007.
- 6.6.2 On entering the nursing home the client retained responsibility for their own finances. However, only sporadic payments were made and a debt started to accrue.
- 6.6.3 A care management assessment determined that the client did not have capacity to manage their own financial affairs. In March 2008 Revenue Services contacted DWP to suspend the client's pension credits whilst a suitable appointee was found.
- 6.6.4 In July 2008 the manager of the private home became appointee. The appointee was informed by DWP that back-dated pension credits of £3,895 would be paid into the client's bank account.
- 6.6.5 In December 2008 it was discovered that in October 2008 the DWP had paid the back-dated pension credits into the old bank account and that before the account was frozen in November 2008 the money had been cleared out leaving no balance to pay the arrears. It was not possible to trace who had withdrawn the cash.

- 6.6.6 An immediate appeal was lodged with the DWP as it had been made clear to them several times not to make payments to the old bank account. This appeal was refused.
- 6.6.7 The client passed away in January 2009, leaving no will. The Statement of Financial Circumstances form, on which the financial assessment is based, does not indicate any substantial assets. As there is no estate to pursue, Panel agreed to recommend that the debt be written off.

6.7 Client 7 – £5,604.38 - (deceased)

- 6.7.1 The client had been in permanent nursing care since December 2000 with client contributions, albeit not for the full amount, being paid direct to the home for the period until July 2003. The assessment file indicates that the client was not able to manage their own finances and a relative was acting in this regard, although with no legal authority.
- 6.7.2 Between August 2003 and November 2003, when responsibility for the client transferred to Health, Hampshire County Council took over the collection of the current client contributions and also billed for the earlier shortfall. Current invoices were paid but only a small contribution was made to the earlier debt.
- 6.7.3 In January 2006 the case was referred to a debt collection agency but they were unable to elicit payment from the relative.
- 6.7.4 In June 2009 the nursing home were contacted for an update and informed Revenue Services that the client had died some years ago.
- 6.7.5 Legal advice was that as the relative was not an appointee then there was no legal basis to pursue. As a result the panel agreed to recommend write off of the outstanding debt.

6.8 Home Care Provider A £17,150.91

- 6.8.1 The provider of domiciliary services operated in two areas of the County and was paid under the “block contract” arrangements. For this provider invoices were paid in advance with periodic reconciliations subsequently being undertaken to confirm usage of the block capacity. This arrangement is only agreed in exceptional circumstances for small providers to aid their cash-flow and is only granted after an initial appraisal of their financial standing. As a result it represents an acceptable risk.
- 6.8.2 In October 2008, Adult Services stopped referring clients to this provider. A final reconciliation established that there had been an overpayment covering the period April 2008 to September 2008.
- 6.8.3 Debt recovery procedures were followed but no response was received from the provider. Further investigation revealed that the owner moving abroad where he had subsequently died. The owner’s solicitors were contacted and confirmed that there was no estate.

6.8.4 In the absence of any estate or any other person liable for the debt it is recommended that his debt be written off.

7. Future direction

- 7.1. The impact of the recession will continue to be monitored over the coming year via regular monitoring to the Departmental Management Team. Should the level of debt look to be increasing then consideration will be given to requesting that the target for the expected percentage of debts be revised.
- 7.2. There is still a measure of uncertainty surrounding the legal responsibility of appointees and family/friends who provide support by managing the clients finances. This will probably only be resolved whenever a test case is taken through the courts. Once clarity has been established it may be necessary to review the debt recovery processes to ensure that Hampshire County Council is able to effectively recover the contributions it is due.

8. Recommendations

- 8.1. That the Executive Member approves that eight debts of over £5,000 with a total value of £59,158.56 be written off as irrecoverable.
- 8.2. That the target write off percentages relating for 2010/11 are maintained as their current levels of 0.40% of total actual residential income and 0.50% of total actual non-residential care income.

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	yes
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	yes
Corporate Improvement plan link number (if appropriate):	
Enhancing our quality of place:	no
Corporate Improvement plan link number (if appropriate):	

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

DocumentLocation

None

IMPACT ASSESSMENTS:

1. Equalities Impact Assessment:

1.1. There is no impact arising from this report.

2. Impact on Crime and Disorder:

2.1. There is no impact arising from this report.

3. Climate Change:

a) How does what is being proposed impact on our carbon footprint / energy consumption?

There is no impact arising from this report

b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

There is no impact arising from this report