

## **Committee: Financial Monitoring Task Group**

**Date: 4 April 2019**

Wards: All

### **Subject: Update on Specialist Debt Collection Agency and Debt Factoring**

Lead officer: Caroline Holland, Director of Corporate Services

Lead member: Councillor Mark Allison, Deputy Leader and Cabinet Member for Finance

Contact officer: David Keppler, Head of Revenues and Benefits

#### **Recommendations:**

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1. That the Financial Task Group discusses the contents of the report and provides any comment or update to officers.
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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. This report provides an update and progress of the specialist debt collection agency who are engaged to collect adult social care debt for the council.
- 1.2. The report also provides an update on the current arrangements in place for using external debt collection agencies and the effectiveness and cost of these services. .

## **2 DETAILS**

### **2.1. Specialist Debt Collection Agency**

- 2.2. The council collects a variety of sundry debts or income from residents and businesses for services provided and where the customer fails to pay the invoice the case is passed to the Debt Recovery team to collect. The quarterly Financial Monitoring report includes the Debt Report which details the level of debt and the work being undertake to recover it.
- 2.3. One of the services with the largest level of debt owed is for Adult Social Care. As at the end of December 2018 the level of debt was £4.9 million. This can be a difficult debt to collect and in many instances involves dealing with executors of estates, solicitors, relatives, social workers, client financial affairs team and representatives of clients. In many instances getting agreement to pay for care is difficult and there are disputes regarding responsibility and affordability to pay and financial assessments.
- 2.4. The council often has to initiate legal action to recover this type of debt and we have found that communication and engagement is not easy. The debt recovery team used to have a member of staff that would undertake this legal work but after he left we were unable to recruit to the post. The team have used the Shared Legal Service in some instances. Officers saw a presentation from specialist debt recovery agents who have several other London boroughs

as customers and following discussions with them and agreement of a Service level Agreement it was decided to undertake a year trial using the external company.

- 2.5. The trial commenced in February 2018 and they were initially passed 15 cases to progress with a total debt value of £920,000. Over the remainder of the year they have been passed another 19 cases with a debt value of £941,000.
- 2.6. Council officers are in regular communication with the agents on individual cases, providing further information and discussing collection options. A more formal written update is received for all cases.
- 2.7. A recent meeting was held to review the year's trial with the manager of the debt collection agents. She commented that the quality of referrals sent was good and this was substantiated by the relative low number of cases returned as unable to progress. Discussions were held regarding better reporting of progress and it was agreed that a quarterly traffic light report would be provided indicating the likelihood of full payment being received. At this stage they are unable to provide an estimated timeframe for collection due to the complexities involved in often securing payment.
- 2.8. The tables below show this information. Open and closed cases shows the total number of cases and debt value referred. Closed cases shows the cases either paid or returned or called back as unable to collect. The final table shows the number and value of live cases along with the traffic light analysis of the likelihood of payment.

#### Open and Closed Cases

Row Labels	Count of Matter_No	Sum of Instructed_Debt	Sum of Cleared_Payments
Deceased Debtor	20	£ 1,092,393.81	£ 205,103.66
Live Debtor	14	£ 769,214.91	£ 30.00
<b>Grand Total</b>	<b>34</b>	<b>£ 1,861,608.72</b>	<b>£ 205,133.66</b>

#### Closed Cases

Row Labels	Count of Matter_No	Sum of Instructed_Debt	Sum of Cleared_Payments	Sum of % Recovery
Deceased Debtor	10	£ 392,425.33	£ 153,012.65	39%
Live Debtor	1	£ 85,754.11	£ -	0%
<b>Grand Total</b>	<b>11</b>	<b>£ 478,179.44</b>	<b>£ 153,012.65</b>	<b>32%</b>

Row Labels	Count of Matter_No	Sum of Instructed_Debt	Sum of Cleared_Payments
Amber	7	£ 480,082.42	£ -
Green	12	£ 679,783.03	£ 52,121.01
Red	4	£ 223,563.83	£ -
<b>Grand Total</b>	<b>23</b>	<b>£ 1,383,429.28</b>	<b>£ 52,121.01</b>

Amber	50 - 69% Prospect of Success
Green	70 - 100% Prospect of Success
Red	1 - 49% Prospect of Success

- 2.9. Of the 11 cases closed 4 (32%) have been paid totalling £153,012.
- 2.10. Of the open cases 2 of them have already been paid although the payments will be transferred to the council at the end of March. The table above shows one of £52,121 and there is another one of £67,265. Once these payments have been received we would have had just over £272,000 collected on 6 cases.
- 2.11. Although the debt collection agents are reluctant to give timeframes due to the complexity of collecting this debt they have indicated that they estimate that £325,000 of the 12 cases which have been flagged as green could be paid within the next three to six months.
- 2.12. As detailed in 2.5 above the initial arrangement was for a year. The initiative has been relatively successful as by the end of the March 2019 we would have had £272,000 collected of the £1,861,000 total debt passed to them (14.6%).
- 2.13. Generally the cost of the recovery action is met by the debtor as they are able to charge for undertaking legal action to pursue the debt.
- 2.14. Interest can be charged on the debt once a court judgement is obtained and the interest is paid to the council.
- 2.15. Where the collection agents have not been able to pursue the debt or we have requested cases are not pursued after referral, the council will be liable for any costs that have been incurred. The initial fee for reviewing the case is £150.00 and then as more work is undertaken on the case fees would obviously increase. These cases are likely to be written off if we are unable to pursue or collected via another method if appropriate.
- 2.16. As there has clearly been a benefit in using an external specialist collection agency to pursue adult social care debt a proposal will be put together to undertake a procurement process to engage with an external provider in a formal contract. Discussions will also take place with the Shared Legal Service

to identify any opportunity for them to pursue any cases. This may give opportunity to benchmark performance of the different providers.

2.17. **Debt Factoring**

2.18. At present the council does not sell debt to collection agencies to collect although we do have an existing arrangement where we pay collection agencies a percentage of the debt they collect for us.

2.19. For several years we have used two companies to collect sundry debt and we pay them a percentage of the debt they collect. The types of debt we pass them would include housing benefit overpayments, overpayment of salaries, commercial waste etc.

2.20. One of the companies are paid 15% of the debt they collect and the other is paid dependant on the age of the debt, 10% for debt less than a year, 15% one to two years, 20% two to three years and 40% over three years.

2.21. The amounts collected over previous years after the percentage deduction for collection are detailed below:

Year	Amount
2013/14	£58,000
2014/15	£55,000
2015/16	£54,000
2016/17	£47,000
2017/18	£25,000
2018/19	£18,000

2.22. In January 2019 initial discussions were held with a company that have assisted the revenues and benefits team previously regarding the collection of outstanding housing benefit debt.

2.23. As at the end of December 2018 the level of debt for housing benefit overpayments was £8.047 million. Of this debt £1.9 million is at a stage where there is no payment arrangement in place or other recovery method. For some of this debt we are still actively pursuing using different methods such as data sharing with the DWP, cold calling etc. However, for some we have failed to engage or contact the debtor or establish a method of recovering the debt. The next stage would be to consider passing to a debt collection agent or possible write off depending on the age and value of the debt.

2.24. The company will put together a proposal where they will take this uncollected debt and estimate how much of the debt they believe they will collect and then charge a set fee for collection. If they exceed the target they will then receive an additional percentage of the amount collected.

2.25. They also want to take our written off housing benefit overpayments over the last five years and provide a proposal to try to collect that debt based on payment by performance. In the past five years we have written off approximately £2.5 million.

- 2.26. A meeting is scheduled for 26 March 2019 to review the level of debt to be included within the proposals and to discuss collection methods and any service level agreements to cover performance and interaction with our debtors. We will need to ensure that any collection methods are acceptable to the council and will not adversely affect our reputation. An update will be provided at the meeting.

### **3 ALTERNATIVE OPTIONS**

- 3.1. For the legal work to assist with collecting adult social care work we could consider recruiting an officer to the debt collection team to specialise in this work but this approach would give little resilience and previous attempts to recruit to this role were unsuccessful.
- 3.2. For the housing benefit overpayment debt we could consider an in house option to increase resources to enable regular home visits, cold calling and tracing enquiries in an attempt to collect the debt. There would be a lead in period for recruitment, training etc.

### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1. None for the purpose of this report.

### **5 TIMETABLE**

- 5.1. An agreed way forward with regards to the collection of adult social care debt by a specialist collection agency and a procurement process will be agreed by June 2019.
- 5.2. A formal proposal regarding the housing benefit overpayment debt is expected mid April 2019 and a decision to progress or not will be made then.

### **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 6.1. None for the purpose of this report

### **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. Both adult social care debt and housing benefit overpayments are collected in line with appropriate legislation. The recovery options and methods we use will ensure where possible the most effective collection.
- 7.2. For adult social care we look to encourage payment by direct debit of ongoing charges. Where regular payments are not made we will look to engage with the debtor or debtors representative to secure payments via arrangements. However, where we are unable to engage we will consider legal action depending on individual circumstances.
- 7.3. For housing benefit overpayments we will initially aim to recover by reducing on going benefit to recover overpayments as the most effective method. If this

is not possible we will look at attachment to earnings or state benefits as secured methods of collection.

**8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

8.1. There are no specific human rights, equalities or community cohesion issues arising from 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**

None

**12 BACKGROUND PAPERS**