

ADULT SOCIAL SERVICES AND PUBLIC HEALTH POLICY OVERVIEW AND SCRUTINY COMMITTEE

Informal Member Group on Client Debt

Monday 11 July 2011, 1.00 pm

PRESENT: Mr R B Brookbank, Mr J M Cubitt and Mr C P Smith.

IN ATTENDANCE: Miss M Goldsmith (Finance Business Partner), Ms M Vickery (Interim Income & Assessment Manager) and Miss T A Grayell (Democratic Services Officer)

Members were supplied with a pack which included:

- A copy of the report on debt made to ASSAPHPOSC on 7 July
- Fact sheets of trend information
- Facts sheet covering charging and policy
- Scenarios which give example cases
- Debt recovery procedures and policy

Miss Goldsmith and Ms Vickery guided Members through the information presented and answered questions.

Points of explanation, in response to Members' comments and questions

Recovering debt will not offset budget cuts. As soon as an invoice is raised, the revenue budget assumes payment will be forthcoming, so when the invoice is paid, the revenue budget does not show any immediate impact.

However, provision is made to cover bad debt, as it is assumed that there will be debts which will not be recoverable. This sum is reviewed each month. Any recovery of debt means that the bad debt provision can be reduced.

Invoices are issued on a four-weekly cycle, in line with the pattern of benefits payments.

One challenge is the lack of incentive for a family to sell a house when a client goes into residential care. Families see no benefit in selling, as the proceeds will go to the KCC to pay for care. KCC cannot force sale.

Unsecured debt - Once a client is deceased, the authority will pursue the executor however is statute barred from taking court action if no payment has been made during the last 6 years.

KCC charges interest on a debt from the day following the date of a client's death or 56 days if the client has access to a deferred payment.

Should a property decline in value then, there is a risk that the value of the property may not cover the debt. In this situation KCC would reassesses the value of the property within the financial assessment.

KCC has very little leverage to control how a client's benefits are used. It has limited success in arranging for the benefits received by a client to be paid direct to KCC (third party deductions). The Welfare Reform Bill suggests that with effect from April 2012, local authorities will have access to the information held by the DWP, which will help improve partnership working which could have a positive impact in terms of accessing third party deductions.

If KCC suspects that a client is subject to financial abuse then that will be challenged as part of the Adult Protection procedures. Legally the client is responsible for the debt not the alleged financial abuser. Often a client doesn't know anything is wrong with payment, and is relying on their family to handle their financial affairs honestly.

Once a client has died, KCC can then pursue the executor of the estate. The key issue is to recover debt at the earliest possible opportunity. KCC completes a probate search prior to writing off any monies owed by a deceased client.

A challenge is to balance the value of the debt with the cost of pursuing it. Public perception is important; if KCC is seen not to pursue non-payers, this sets a precedent for others to avoid paying. KCC needs to be seen to prosecute high-profile cases, and demonstrate its successes.

It is difficult to write off a debt while a client still receiving care and KCC can't withdraw care as it has a statutory duty to provide it.

KCC offers the services of a Client Financial Affairs Officer for a client who has no one to help them manage their finances. If a client is mentally capable KCC can't force them to hand over control, but if they are mentally incapable, KCC can then access the finances via the Court of Protection.

Finance & Benefit Officers pursue debts accrued within the initial 8 week period of a client being financially assessed because it is less distressing for a client if they are able to deal initially with the one contact in Finance.

Placing Debt Recovery Officers (DROs) close to Case Management staff (since the re-organisation of the debt management function in Oct 2009) means the DRO role is improved because they are in close communication with each other.

Levels of debt have not changed drastically in the last few years, and the new debt management process has staved off any dramatic rise that could have come with the economic downturn.

Debt is monitored monthly, monitored by DMT regularly, and is reported to every meeting of the POSC, so has as high a profile as possible.

Levels of debt have increased in West Kent but decreased in East Kent, and West has a higher level of debt than East. This might be because East has more people receiving benefits, so it is easier for them to cover care costs. *Seek some more info on this aspect in the next POSC report.*

Types of client receiving KCC care change over the years. Many now have occupational pensions, which was not a factor a few years ago. However, in future this trends will reverse as occupational pensions end.

The complexity of debt management is due to the wide range of individuals' circumstances; every case is different

Conclusions

Members concluded that the IMG did not need to meet again, as it had had comprehensive and clear written explanations of the debt recovery procedures, policy and trends.

It would report back to the POSC setting out its findings, as follows:-

- 1) a policy change by DWP to allow local authorities direct access to a client's benefits, when a client receives care, would greatly help avoid the accumulation of debt at this time. This would reduce the risk to the KCC and reduce the resources currently used to pursue debt. KCC needs to start lobbying for this. Ask the Cabinet Member GG to raise this initially with DWP. *POSC could also make a recommendation to Cabinet to support this?*
- 2) KCC should consider passing debt cases to specialist external legal advisors once the cases go beyond the expertise of internal legal services.
- 3) Members were concerned that the current debt recovery team set-up should be maintained, in terms of numbers of FTEs and location in districts, even if it is to be managed centrally. The current co-locality of Debt Recovery Officers and Case Managers is helpful.

Include this note, once agreed by IMG Members, with the POSC papers for 20 September.