

**AGENDA MANAGEMENT SHEET**

**Name of Committee** Corporate Services and Community Safety Overview and Scrutiny Committee

**Date of Committee** 16 September 2009

**Report Title** Update on Debt Recovery incorporating the 2008/09 Annual Report

**Summary** An update on the large over 42 days debts outstanding including a look at the debt recovery performance during 2008/09

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No.

**Would the recommended decision be contrary to the Budget and Policy Framework?**

**Background papers** None

**CONSULTATION ALREADY UNDERTAKEN:-** Details to be specified

- Other Committees
- Local Member(s)
- Other Elected Members  Cllr Appleton, Cllr Gittus, Cllr Davis, Cllr Moss – for comment
- Cabinet Member  Cllr Heatley – for information
- Chief Executive
- Legal  Sarah Duxbury – for comment
- Finance  David Clarke – reporting officer
- Other Chief Officers  David Carter – reporting officer
- District Councils
- Health Authority

Police

Other Bodies/Individuals

**FINAL DECISION**            **YES**

**SUGGESTED NEXT STEPS:**

Details to be specified

Further consideration by  
this Committee

To Council

To Cabinet

To an O & S Committee

To an Area Committee

Further Consultation

## Corporate Services and Community Safety Overview and Scrutiny Committee - 16 September 2009

### Update on Debt Recovery incorporating the 2008/09 Annual Report

### Joint Report of the Strategic Director, Resources and the Strategic Director, Customers, Workforce and Governance

#### Recommendation

Members are asked to note the report and comment on the progress since November 2008 on debt recovery and the detailed analysis included in the 2008/09 Annual Report attached as Appendix A.

## 1 Background

- 1.1 At the Resources, Performance and Development Overview and Scrutiny Committee meeting on 24<sup>th</sup> April 2007, members requested the continuation of regular reporting on the large outstanding debts of the authority. This report presents a snapshot of these large outstanding debts as at 26 August 2009, providing an update on changes since the last report in November 2008.
- 1.2 In addition, **Appendix A** attached to this report is the Annual Report for 2008/09 analysing in greater detail the annual performance of the Council for the year ending 31<sup>st</sup> March 2009.

## 2 Over 42 Days, Over £30,000 Debt

- 2.1 The County Council's standard payment terms are 21 days. The Audit Commission recommends referral of unpaid invoices for legal action after 42 days. Our experience has been that the first legal letter, sent out by Legal Services shortly after receipt of a referral from a Directorate is effective in recovery of debt. Based on this experience the following provision is included in our Statement of Recognised Practice (part of the Best Practice Guide):

Strategic Directors are required to:

*'Refer all debts not paid within 42 days for legal action. If a debt is not referred for legal action at 42 days, Strategic Directors must be able to justify the reason for not doing so.'*

2.2 Members will recall the report in November 2008 gave a list of the over 42 days debt greater than £30,000. An update of this list is given in Table 1, below. The debts previously reported to members in November are highlighted in bold. Members should note that the table includes disputed as well as undisputed debts and therefore no adverse inference should be drawn as to the conduct or financial standing of any organisation listed.

<b>Table 1: Outstanding Over 42 days, Over £30,000 debt</b>					
<b>Directorate</b>	<b>Invoice No</b>	<b>Debtor Name</b>	<b>Value of Invoice £</b>	<b>Outstanding Amount £</b>	<b>Invoice Date</b>
EE	<b>00166068</b>	<b>Color Estates Ltd</b>	<b>£80,602</b>	<b>£60,602</b>	<b>05/09/2007</b>
CYPF	<b>00184299</b>	<b>Hilltop Developments (UK) Ltd</b>	<b>£38,468</b>	<b>£38,468</b>	<b>01/07/2008</b>
AHCS	<b>00186311</b>	<b>Warwickshire Primary Care Trust</b>	<b>£65,607</b>	<b>£65,607</b>	<b>12/08/2008</b>
Res	<b>00186405</b>	<b>Warwickshire Community &amp; Voluntary Action</b>	<b>£36,618</b>	<b>£36,618</b>	<b>13/08/2008</b>
AHCS	00190137	Warwickshire Primary Care Trust	£30,904	£30,904	17/10/2008
CYPF	00192934	WCC The Polesworth School	£50,085	£50,085	27/11/2008
CYPF	00193028	Taylor Wimpey (UK) Ltd	£37,620	£37,620	01/12/2008
CYPF	00193501	Barratt Homes (Mercia)	£99,948	£99,948	08/12/2008
CYPF	00193505	Barratt Homes (Mercia)	£329,343	£329,343	08/12/2008
CYPF	00195504	Warwickshire Primary Care Trust	£59,563	£59,563	14/01/2009
AHCS	00198041	Warwickshire Primary Care Trust	£210,157	£210,157	12/02/2009
AHCS	00199159	Warwickshire Primary Care Trust	£312,840	£312,840	27/02/2009
EE	00200079	George Wimpey (West Midlands) Ltd	£101,057	£101,057	05/03/2009
EE	00200082	George Wimpey (West Midlands) Ltd	£1,034,724	£1,034,724	05/03/2009
AHCS	00201373	Warwickshire Primary Care Trust	£57,533	£55,560	24/03/2009
AHCS	00201381	Warwickshire Primary Care Trust	£33,914	£33,914	24/03/2009
AHCS	00201382	Warwickshire Primary Care Trust	£35,741	£35,741	24/03/2009
Res	00201627	Warwickshire Primary Care Trust	£40,000	£40,000	26/03/2009
AHCS	00201775	Warwickshire Primary Care Trust	£59,769	£59,769	31/03/2009
CWG	00201898	George Wimpey (North Midlands) Ltd	£51,735	£51,735	01/04/2009
CYPF	00202934	Barratt Homes (Mercia)	£90,205	£90,205	28/04/2009
CYPF	00202936	Barratt Homes (Mercia)	£73,263	£73,263	28/04/2009
AHCS	00203826	Warwickshire Primary Care Trust	£57,605	£57,605	12/05/2009
EE	00204009	Key Property Investments (No 2) Ltd	£123,464	£61,732	15/05/2009
CYPF	00204758	Aspects Developments Ltd	£57,297	£57,297	02/06/2009
CYPF	00204760	Aspects Developments Ltd	£57,297	£57,297	02/06/2009
EE	00205241	Redrow Homes (South Midlands) Ltd	£61,760	£61,760	09/06/2009
AHCS	00205645	Warwickshire Primary Care Trust	£57,374	£57,374	16/06/2009
			<b>Total</b>	<b>£3,260,788</b>	

2.3 The total of outstanding over 42 days, over £30,000 debt is £3.261 million. This is £1.753 million more than the level reported to this Committee in November 2008. A summary table of the level of debts cleared from the list in the previous report in November is included in Table 2 below:

<b>Table 2: Over 42 days, over £30,000 debt cleared</b>		
<b>Debtor</b>	<b>No. of Invoices</b>	<b>Value of Invoices £</b>
Warwickshire Primary Care Trust	9	600,647
Other	7	706,386
<b>Total</b>	<b>16</b>	<b>1,307,033</b>

- 2.4 Only 4 debts remain from the previous list reported in November. Members will be pleased to note that the outstanding debt from Warwick District Council relating to outstanding planning search fees between 2004/05 and 2006/07 has now been removed from this list. A payment of £107,000 was received in full and final settlement of the amount outstanding. The remaining debt was cancelled.
- 2.5 Warwickshire PCT has 12 invoices on the list, totalling £1,021,007. All bar one of these debts is new to the list.
- 2.6 The bulk of the remaining invoices, both in number (14) and value (£2,155,051), relate to developer contributions to capital schemes. This is the first time capital debtors have been highlighted as a specific issue in terms of debt recovery. A similar picture is reflected in the 2008/09 Annual Report. The increase in debt outstanding reflects the impact of the economic recession on the ability of developers to make agreed contributions to infrastructure works on new developments. On all of these debts discussions are ongoing with the developer and have been for a number of months now. In some cases, these negotiations are being undertaken jointly by the directorate and Law and Governance. For section 106 agreements, the security for debts is the land that is being developed but this security might not be enforceable immediately (e.g. if it is necessary to wait for market conditions to improve) or at all (e.g. if the land has been sold to individual homeowners). For section 278 agreements, bonds provide surety against insolvency or inability to pay but not against a developer who successfully disputes liability. In the case of both types of agreement, interest is payable on the debts.

DAVID CLARKE  
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27 August 2009

## Debt Recovery in 2008/09

### 1 Introduction

- 1.1 The County Council's Debt Recovery Best Practice Guide requires regular reports to members on the County Council's annual debt recovery performance. This Committee has considered progress reports on debt recovery annually from May 2002 through to last years report in June 2008. This report continues that requirement and evaluates the County Council's debt recovery performance for 2008/09.
- 1.2 Management of debt recovery performance focuses on minimising the value of debts over 42 days old. This report:
- Provides figures indicating performance in relation to 'over-42 days' debts;
  - Sets these figures in the context of the value of invoices raised, also providing trends and comparisons;
  - Provides figures on debts written off and the cost of debt recovery;
  - Provides a commentary on debt recovery performance.

### 2 Value of 'over 42 days' debts

2.1 The table below shows:

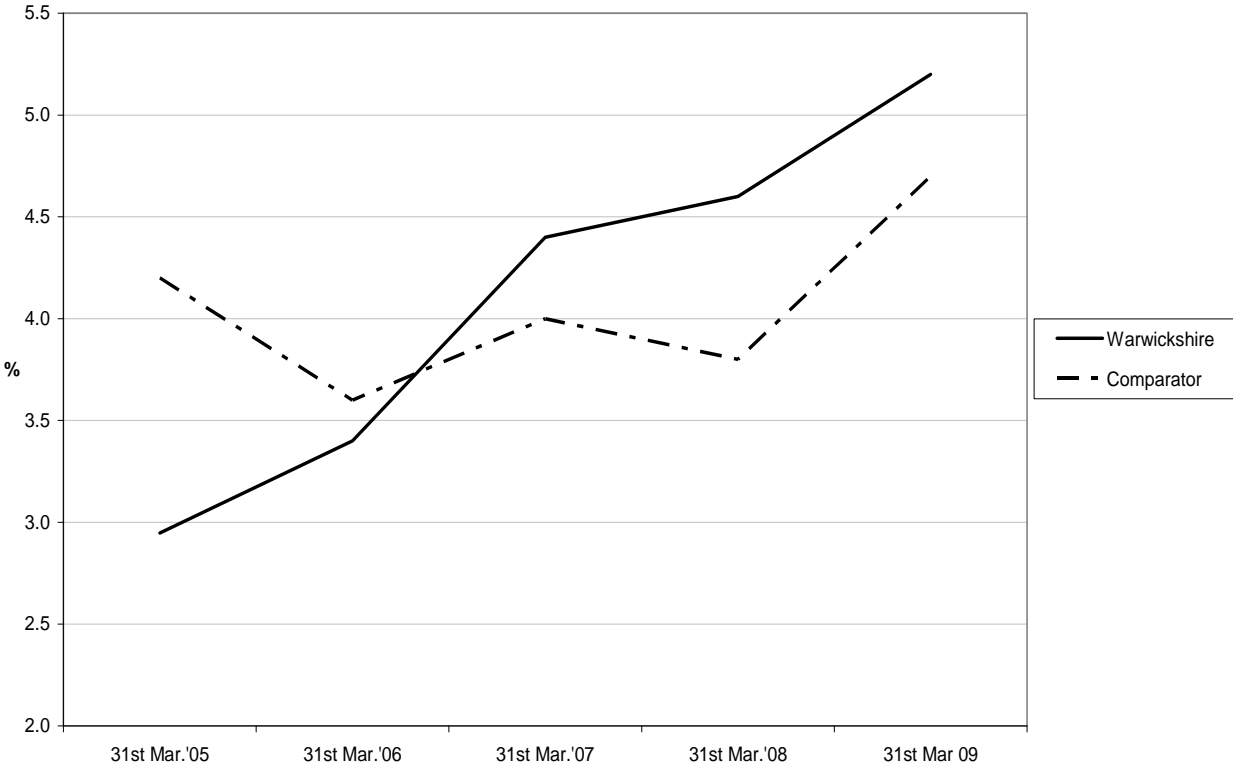
- **A:** the total value of 'over 42 days' debt at 31<sup>st</sup> March in the last five years;
- **B:** the total value of invoices issued in the last five years; and
- **C:** the value of 'over 42 days' debt as a percentage of the total raised in each year.

		2004/05	2005/06	2006/07	2007/08	2008/09
<b>A</b>	<b>'Over-42 days' debt (£m)</b>	1.7	2.4	2.8	3.0	4.9
<b>B</b>	<b>Invoices issued in year (£m)</b>	55.9	70.6	63.5	64.3	92.7
<b>C</b>	<b>'Over-42 days' debts as a percentage of the value of invoices raised (%)</b>	3.0	3.4	4.4	4.6	5.2

2.2 Any assessment of debt recovery performance needs to take account of the increasing value of invoices raised. There has been a substantial increase in the value of invoices raised in 2008/09. This is due to the increase in income that the authority has generated over the last year through Rugby Western Relief Road and from the Police Authority and Probation. Also, virtually all work for schools now comes through Property directly and then is invoiced back to schools, vastly increasing the value of invoices we raise. We therefore focus on the value of outstanding debts as a proportion of the value of invoices raised in the year (line C above). Since 2002/03 this target has been set at 4.0%.

2.3 The authority has been exchanging performance information (on the basis of 'value of 'over 42 days' debt as a percentage of annual value of invoices raised') since March 2000. Figure 1 overleaf compares the performance of Warwickshire as a whole with this comparator authority over the last five years:

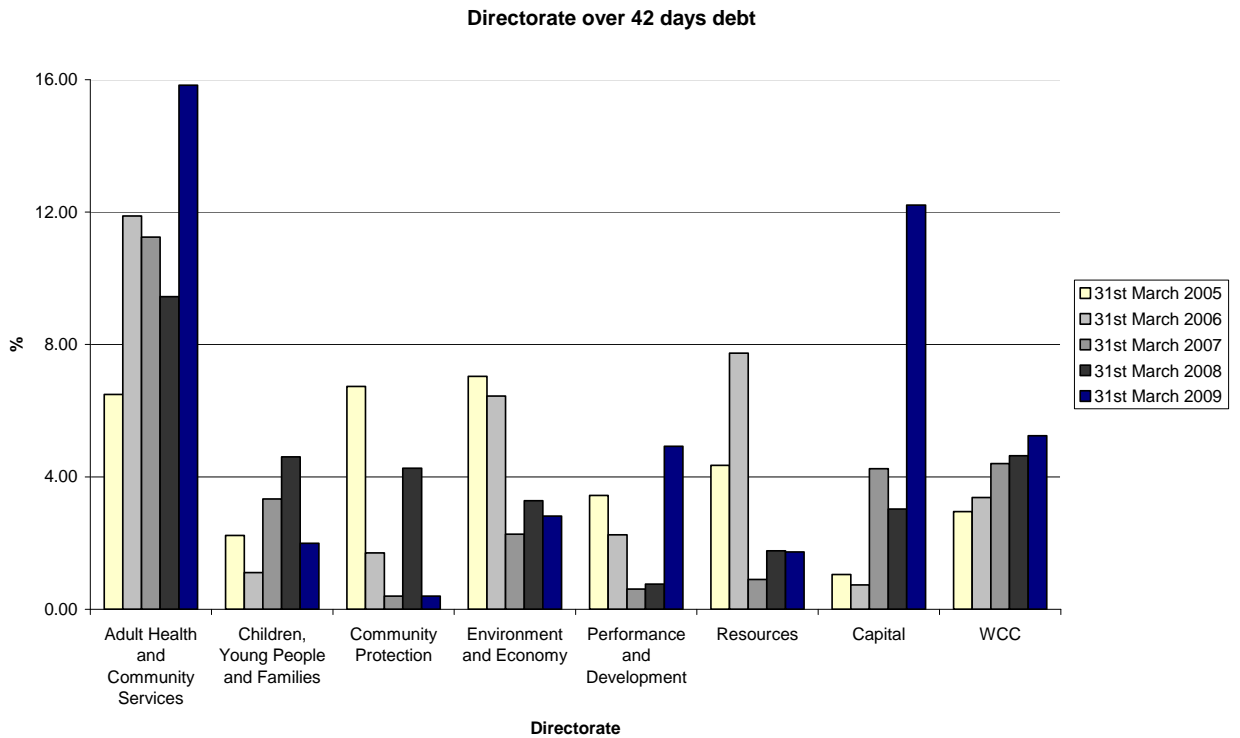
**Figure 1: Over-42 days debts as a percentage of annual invoices raised for Warwickshire and comparator authority**



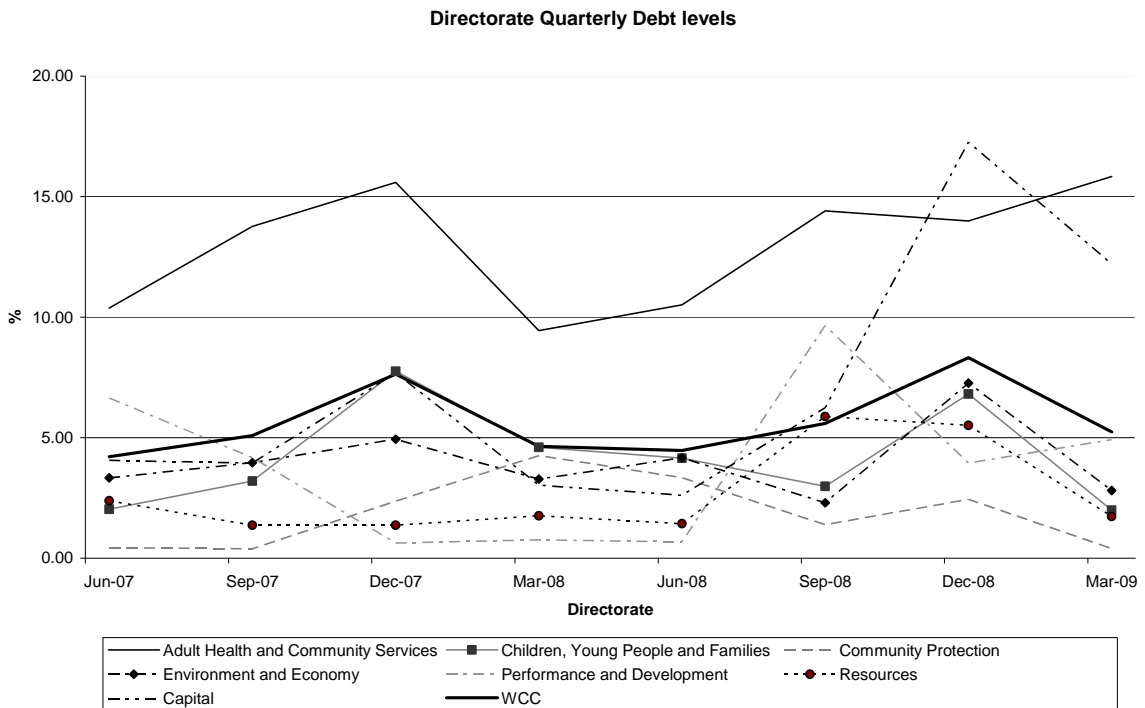
**3 Value of 'over 42 days' debts – performance by individual Directorates**

3.1 The performance of individual directorates since 31<sup>st</sup> March 2005 is indicated in figures 2 and 3 overleaf. Figure 2 summarises the annual position for each Directorate, whilst Figure 3 shows a more detailed analysis of each Directorate's performance with time. It should be borne in mind that the nature of the debts collected by different Directorates varies and some categories of debts are harder to collect than others. The directorates are shown under the old structure (and names) to reflect the position for 2008/09. Future reports will show the current structure of the authority.

**Figure 2: Over-42 days debts as a percentage of annual invoices raised for Directorates and Warwickshire as a whole: annual summary**



**Figure 3: Over-42 days debts as a percentage of annual invoices raised for Directorates and Warwickshire as a whole: quarterly breakdown**





## **4 Commentary on Performance**

- 4.1 The overall performance for Warwickshire County Council (WCC) for 2008/09 was 5.2%. This is above the 4% target and was worse than last year (4.6%).
- 4.2 The comparator authority's performance over the same period was 4.7%. However, although WCC have a higher percentage of over 42 days debt outstanding the increase from the previous year is much less dramatic than for the comparator authority. The reason behind the comparator authority's downturn in performance is much the same as WCC with the economic recession having had a significant impact on debtors' ability to pay.
- 4.3 Adult, Health and Community Services (AHCS) were the only directorate that were consistently above the 4% target during 2008/09 although as noted earlier, the debts collected by this Directorate are likely to be different in nature than those collected by other Directorates. In particular, AHCS was hit especially hard by a few, relatively large, outstanding debts. These large debts related to Warwickshire PCT.
- 4.4 There was a significant change during the year in relation to capital debts. These are debts owed to the Council by property developers, usually financial contributions due under section 106 agreements or reimbursement for road works due under section 278 agreements. The impact of the recession has hit the property developers hard and many are struggling to pay or are disputing their liability (or both). On all of these debts discussions are ongoing with the developer. In some cases, these negotiations are being undertaken jointly by the directorate and Law and Governance. For section 106 agreements, the security for debts is the land that is being developed but this security might not be enforceable immediately (e.g. if it is necessary to wait for market conditions to improve) or at all (e.g. if the land has been sold to individual homeowners). For section 278 agreements, bonds provide surety against insolvency or inability to pay but not against a developer who successfully disputes liability. In the case of both types of agreement, interest is payable on the debts.
- 4.5 At the end of 2008/09, the Performance and Development directorate (now Customers, Workforce and Governance) were the only other directorate to finish the year above the 4% target. These were a number of large debts where payment had been promised before the end of the year but unfortunately did not materialise in time for the end of the year. These debts have now been cleared.

## **5 Debts Written Off**

- 5.1 When this Committee previously considered debt recovery it was agreed that subsequent reports would provide some detail of the amounts of debt written off. This is provided in the table below.

	31 <sup>st</sup> March 2008			31 <sup>st</sup> March 2009		
	(1) No. of write-offs	(2) Value of write-offs  £'000	(3) Value of write-offs as % of Invoices raised in year	(4) No. of write-offs	(5) Value of write-offs  £'000	(6) Value of write-offs as % of invoices raised in year
AHCS	237	210.5	1.91%	49	11.3	0.08%
CYPF	120	12.8	0.05%	48	12.6	0.05%
Community Protection	65	4.4	0.15%	-	-	-
E&E	92	16.2	0.10%	91	14.3	0.07%
P&D	3	2.5	0.10%	1	1.0	0.01%
Resources	13	3.3	0.09%	4	0.9	0.01%
<b>TOTAL</b>	<b>530</b>	<b>249.7</b>	<b>0.39%</b>	<b>193</b>	<b>40.1</b>	<b>0.04%</b>

5.2 The figures in columns (3) and (6) above demonstrate that the value of write-offs is, less than half of one per cent, very small compared with the annual value of debts raised. The level of write offs in 2007/8 was due to approximately £200,000 of Warwickshire Primary Care Trust debt that was written off and the figure of 0.04% in 2008/2009 reflects the normal level of write-offs.

## 6 Debts not included in figures above

6.1 As mentioned earlier in the report, the figures above relate only to invoices raised on the authority's main Ash debtors system. Substantial debt falls outside these figures because the debts are raised on other systems. In each case procedures are in place to ensure that debts are recovered but performance management of these debts is not necessarily on the same basis as it is for the Ash debts. Performance in relation to these debts is indicated in the following paragraphs.

### Social Services – Residential Care

	31 <sup>st</sup> March 2008	31 <sup>st</sup> March 2009	Variation
Total 'over 56 days' debt	£2.646m	£3.368m	£0.722m
Total income collected in year	£16.249m	£15.965	-£0.284m
'Over 56 days' debt as % of total income collected	16.28%	21.09%	4.81%

Part of the £3.368 million 'over 56 days' debt for Residential Care is secured debt and this is indicated below:

- £1.650 million is secured by legal charge on property. This compares to £1.085 million at 31<sup>st</sup> March 2008.
- £0.208 million relates to deceased persons, which are awaiting action by the estate. This compares to £0.039 million as at 31<sup>st</sup> March 2008.

This leaves unsecured debts of £1.510 million compared with £1.522 million at 31<sup>st</sup> March 2008.

## **Social Services – Domiciliary Care**

	<b>31<sup>st</sup> March 2008</b>	<b>31<sup>st</sup> March 2009</b>	<b>Variation</b>
Total 'over 56 days' debt	£0.165m	£0.257m	£0.092m
Total income collected in year	£4.034m	£4.384m	£0.350m
'Over 56 days' debt as % of total income collected	4.1%	5.86%	1.76%

The increase in charges for domiciliary care last year, resulting in £4.821 million in charges being raised in 2008/2009 compared to £4.176 million in 2007/2008, may be having an impact on debt recovery. However, this will require further data over time to see if a trend is occurring or if the rise is linked to the economic recession.

## **6.2 Property – Rent Management**

	<b>31<sup>st</sup> March 2008</b>	<b>31<sup>st</sup> March 2009</b>	<b>Variation</b>
Total 'over 42 days' debt	£0.158m	£0.132m	-£0.026m
Total amount invoiced in year	£2.549m	£2.894m	£0.345m
'Over 42 days' debt as % of total amount invoiced	6.2%	4.6%	-1.6%

## **6.3 Library & Information Service – Outstanding Book Invoices**

During 2007/08 the Library invoicing system was upgraded. This has resulted in a more detailed monitoring approach to the collection of debts. For example, debts over £10 are now followed up by invoice where previously the threshold used to be £40. Also CD and DVD debts are now consolidated into the system where previously they were held separately. Therefore whilst the information is shown in a consistent format it should be noted that the 2007/08 figures relate to the second half of the financial year only. It will not be until the next Annual Report that a full comparison will be possible.

	<b>31<sup>st</sup> March 2008 (part year)</b>	<b>31<sup>st</sup> March 2009</b>	<b>Variation</b>
Total 'over 42 days' debt	£0.031m	£0.057m	£0.025m
Total amount invoiced in year	£0.166m	£0.297m	£0.131m
'Over 42 days' debt as % of total amount invoiced	18.8%	19.1%	0.3%

## **7 Comments from Community & Environment Legal Services, Law & Governance**

- 7.1 Most Directorates refer unpaid debts to Legal Services promptly, have credit control systems in place and provide background information to support the debt. It is still the case generally that the earlier the debt is referred the sooner it is paid. Only a very small number of debts need to be pursued through the County Court.
- 7.2 Directorates referred 171 debts to Law & Governance in the year 2008 - 2009. The number of referrals was once again down in comparison to referrals for 2007 - 2008. This could be due to the fact that some Directorates are no longer referring smaller value debts under £500 and that more debts are being paid at the pre-referral stage. A total of 84 debts were paid off in full following referral, approximately 58% when compared against the number of referrals for the year. (If the value of the debt recovered rather than the number of debts is considered, the amount recovered is £455,026.00, which is approximately 66%).
- 7.3 A number of problematic debt matters were referred in the year 2008 - 2009 initially for advice. Of these 26 debts (totaling £21,848.26) resulted in cancellation of the invoices as they were raised incorrectly and 37 debts (totaling £80468.95) were written off as irrecoverable (The cancelled and written off debts have been deducted from the referral figure when preparing statistics.)
- 7.4 The referral figure also includes 70 Community Care and Residential debts, which are not on the ASH debtors system. The majority of these were referred for monitoring where the residential or community care service is ongoing or for advice on recovery in cases where the service has ended.

## **8 Cost of Debt Recovery**

- 8.1 The 2008/09 staffing costs of administering debt recovery are estimated at approximately £150,000 per year. The estimated loss of interest incurred during 2008/09 in failing to recover all Ash debts within 42 days is £11,000.