

**Proposed Decision to be taken by the  
Portfolio Holder for Adult Social Care  
on or after 22 February 2013**

**Irrecoverable Debts**

**Recommendation**

That the Portfolio Holder for Adult Social Carer approves that the six debts, accruing to £20,749.19 as detailed in Appendix A, are written-off as irrecoverable.

**1.0 Introduction**

1.1 Warwickshire County Council is currently pursuing a number of outstanding adult social care debts and, in the case of the 6 debtors listed at Appendix A, it is considered uneconomical to pursue them further. It is therefore proposed that these debts totalling £20,749.19 be written-off.

1.2 The cost of writing-off would be set against the provision for bad debts that the County Council sets aside each year.

1.3 Where a debt has been incurred by a customer or their representative, all reasonable means are used to recover the debt. However, the statutory duty of care towards people assessed as needing services remains, in spite of any debt.

Attempts are made, including contact with the customer/representative to ascertain any extenuating circumstances for the accrual of a debt. Instalment plans are agreed and reviewed regularly.

Sustained efforts over the years have been partially successful in recovering outstanding sums. However these amounts are now proposed for write-off on the grounds described in each case.

1.4 In the case of a deceased customer, we request copies of final bank statements, funeral bills and any other supporting documentation which can prove there are no monies to pay outstanding charges. Where we are unsure of a person's finances, we write to the Probate Registry to see if Probate has been granted.

The information collected at the time of the financial assessment gives details of any property, savings or bonds that a person has so we usually know at the start of a package if a customer has any savings and so we rarely have concerns if there is no money at the time of death as the information provided at the relevant time satisfies us that the person has no money left.

Independent verification is sought where someone asks to pay a debt by instalments, when they are offering minimal payments.

## **2.0 Summary**

- 2.1 Every endeavour is made to prevent debt arising appropriate action is taken to recover outstanding monies due to the County Council. This includes issuing Court proceedings where necessary and negotiating with customers to pay by instalments. It is only as a last resort that a request for a write-off is made.

The financial arrangements and agreements are discussed with the customer and/or their family or representative at the start to ensure roles and responsibilities for customers and their families are understood.

- 2.2 Work is regularly undertaken to update and review internal procedures and guidance, e.g. 3<sup>rd</sup> party top-ups and Individual Placement Agreements. Alongside, we arrange services and work with customers and their families to discuss financial issues and ensure that contractual agreements are entered into in a timely way.

All processes are reviewed and improved wherever possible to keep debt levels to a minimum. However it has to be accepted that there are circumstances whereby some debt becomes irrecoverable.

## **3.0 List of Cases**

- 3.1 Mr A went into Residential accommodation in July 2010 and remained there until June 2011 at which point he moved back home.

Payments were made by standing order; however some payments were missed which resulted in arrears. Mr A's granddaughter made contact in August 2011 as she was trying to assist with the finances, but it was evident that Mr A was struggling living back in the community.

Mr A died in September 2011 leaving arrears of £2,801.22. Copies of the funeral statement and bank statement have been provided confirming that Mr A's sister picked up some of the cost of the funeral and there are no funds available to settle the debt.

- 3.2 Mr B entered Residential accommodation in March 2011. Prior to this he was living alone and was in receipt of a home care package.

Mr B was receiving a lot of support for personal issues which affected his behaviour and because of his personal problems financial commitments were overlooked. As a result of this a number of debts accrued.

An independent agency began assisting with the finances, and payments for the on-going charges are being received, however arrears of £2,281.06 remain outstanding. His advocate has provided evidence that there are no funds available or in prospect to clear the arrears.

- 3.3 Mrs C went into Residential accommodation in November 2008. A payment was allocated incorrectly which resulted in a refund being made to Mrs C when the health authority took over funding.

Contact was made with Mrs C's daughter in order to resolve the issue as she began assisting with finances. Despite attempts to arrange an instalment agreement these were unsuccessful. It has since been confirmed that Mrs C passed away in February

2012 and a disputed balance of £2,753.13 remains outstanding with no funds remaining in the estate.

- 3.4 Mrs D went into a Nursing Home in December 2004. She was referred to an independent agency for an appointee in early 2005 as she was unable to deal with her financial affairs.

As the matter was complicated the case was passed to a firm of solicitors who informed us that they were unable to gain access to Mrs D's funds, however an application to act as Receiver was made to the Office of the Public Guardian.

Mrs D died in June 2008 leaving a balance of £16,167.00 outstanding. The solicitors continued to pursue an issue with an American pension company as it believed further monies were due to the estate. It was established that Mrs D was charged as though an income pension was being received, but as this was not the case the account was reassessed leaving a reduced balance of £8,182.69 outstanding. In September 2011 the solicitors confirmed the Executors were happy for the estate to be settled. The solicitors confirmed the estate held the amount of £4,600.96 and they forwarded a payment of the same. This left a balance of £3,383.57 outstanding. There are no further funds to clear the balance.

- 3.5 Mr E went into a Residential Home in July 2008. Charges were applied up until March 2011 when the health authority commenced funding of the placement.

As Mr E had a property which he did not wish to sell, a Deferred Payment Agreement was required to defer his charges, but he did not enter into this agreement, and there was no third party who agreed to pay the top-up charges. A charge was placed against Mr E's property which secured the debt on the main account. However this did not secure the top-up amount. Throughout, payment of benefits were being received and these continued to be made until the death of Mr E in July 2011 at which time a total amount of £72,220.66 remained outstanding.

Mr E's property has not been sold as his son moved into it due to his own family circumstances and has no intention of selling it. Following negotiations with the son, a payment of £67,000 was received leaving a balance outstanding on the third party account of £5,220.66. It could be argued that the third party charges were not enforceable in any event. However the son has accepted partial responsibility for these but is unable to clear the balance as the money he used to pay the charges was financed by him personally. In all the circumstances officers considered that it was in the Authority's interests to accept the figure agreed with the son, rather than waiting indefinitely for the property to be sold. This means that it is not viable to collect the balance.

- 3.6 Mrs F was in a Nursing Home from May 2007 until August 2012 when she died. Her son and daughter held joint Power of Attorney. There were many problems in trying to collect the financial information as the son and daughter were not clear of the benefits received. There was also an issue relating to bonds and shares in Mrs F's name.

Arrears accrued while the issue of finances was being resolved; however a payment plan was agreed for on-going charges and arrears. The family were aware of an insurance policy which would be cashed upon Mrs F's death. This transpired to be of very little value.

Following the death of Mrs F, details of assets and liabilities were provided which confirmed there were no funds to clear the outstanding balance of £4,309.55.

**Appendices:**

Appendix A – Summary of debts

	<b>Name</b>	<b>Contact Information</b>
Report Author	Paul Walsh	01926 742531
Head of Service	John Betts	01926 412441
Strategic Director	Wendy Fabbro	01926 742967
Portfolio Holder	Cllr Mrs Izzi Seccombe	01295 680668

<b>Appendix A</b>		
<b>Account Number</b>		
	£2,801.22	Mrs A
	£2,281.06	Mrs B
	£2,753.13	Mrs C
	£3,383.57	Mr D
	£5,220.66	Mr E
	£4,309.55	Mrs F
<b>Total</b>	£20,749.19	