



Adults and Safeguarding Committee

Monday 13 March 2023

Title	Adult Social Care Debt Management & Recovery Policy
Report of	Councillor Paul Edwards - Chair of the Adults and Safeguarding Committee
Wards	All
Status	Public
Urgent	No
Key	Yes
Enclosures	Appendix A – EqIA Appendix B – Summary results of the ASC Debt Management and Recovery Consultation Appendix C – ASC Debt Management and Recovery Policy
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Summary

Councils are permitted under section 14 of the Care Act 2014 to charge for the costs they incur in meeting care and support needs under the Act. The Care Act 2014 states that a financial assessment of the person's resources must be undertaken to determine what they can afford to contribute towards the cost of their care. The financial assessment determines the person's ability to pay; that is, whether they will be required to pay all, part of, or nothing towards the cost of care and support.

As set out in the Council's debt management policy – "The Council has a statutory and fiduciary responsibility to protect public funds for the benefit of all who live and work in the borough." Whilst the majority of social care charges are paid on time, the Council has a duty to ensure that all revenue owed to the council is collected promptly and effectively.

The Adult Social Care (ASC) debt policy is established in conjunction with the Council's overarching debt management policy. The purpose of the policy is to set out a clear, consistent and proportionate approach to the collection and recovery of Adult Social Care debt. The policy has been subject to a public consultation. The feedback is summarised below with full consultation findings, equalities impact assessment and the final policy attached.

This report asks the Adults and Safeguarding Committee to approve the adult social care debt management and recovery policy.

Officers Recommendations

- 1. That the Adults and Safeguarding Committee considers and approves the Adult Social Care Debt Management and Recovery Policy (Appendix C).**
- 2. That the Adults and Safeguarding Committee consider and note the results of the public consultation and equalities impact assessment (Appendix A and B).**

1. Why this report is needed.

- 1.1 The Care Act 2014 introduced a legal framework for the recovery of any debts that may have accrued as a result of the Council meeting a person's eligible care and support needs.
- 1.2 The recovery of debts from those who are receiving care and support is a sensitive issue given the nature of the individuals in need of care and support, and the Council's responsibility to meet eligible care and support needs as set out within the Care Act.
- 1.3 The ASC Debt Management and Recovery Policy sets out best practice and includes guidance to ensure that Barnet Council has a transparent, consistent, and proportionate approach to recovery of monies owed to the council, which takes into consideration the needs and circumstances of the individual and does not cause hardship because of any recovery actions.
- 1.4 The policy sets out how adult social care debt will be managed, ensuring staff and individuals who draw on care and support are clear on the approach to debt recovery.
- 1.5 The report includes a summary of the 14-week consultation process that was undertaken regarding the proposed policy, along with an equalities impact assessment.

2. Reasons for recommendations

- 2.1 The policy will support the Council to achieve the following objectives and provide a clear and transparent approach for residents.
- 2.2 To ensure that the ASC debt recovery policy is effective, transparent and proportionate and that practice follows guidelines as defined within the Care Act 2014 and that internal procedures are aligned to this.
- 2.3 To ensure the Council achieves value for money in its debt collection arrangements and to enable individuals to be aware of the processes involved when collecting unpaid debt.

- 2.4 To prevent debt and arrears; by prompt notification of charges, billing, and collection of money due with affordable repayment plans and early intervention when a customer is in arrears.
- 2.5 To ensure people in genuine financial difficulty are supported to claim any benefits they are entitled to and are given fair opportunity to pay any amounts they are liable for.
- 2.6 To ensure the Council supports vulnerable people to manage their financial affairs effectively, including the payment of debt.

3. Alternative options considered and not recommended.

- 3.1 The only other option was to continue to use the council's overarching debt policy. However, given the amount of care contribution debt owed to the council, it was determined that the development and publication of an additional and specific ASC debt policy would be beneficial to ensure a consistent, transparent and fair approach to recovery of monies owed to the council.

4. Post decision implementation

- 4.1 The policy will be published on the council's website along with other ASC policies. Officers will proceed with appropriate debt management and recovery actions following the ASC Debt Management and recovery policy.

5. Implications of decision

5.1 Corporate Priorities and Performance

- 5.1.1 The adoption of the ASC Debt Management and Recovery Policy will support the achievement of the corporate plan theme of being an engaged and effective Council that is financially responsible.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 The implementation of the policy will provide an effective framework for the council to collect debts owed, increasing income due and reducing the need for inflated bad debt provisions.

5.3 Legal and constitutional references

- 5.3.1 According to the Council's Constitution, Article 7, policies are approved by Theme Committees, and then reported to Policy and Resources Committee for noting. The terms of reference of the Adults and Safeguarding Committee including the following responsibilities:
 - Responsibility for all matters relating to vulnerable adults, adult social care and leisure services.

- Work with partners on the Health and Well Being Board to ensure that social care, interventions are effectively and seamlessly joined up with public health and healthcare and promote the Health and Well Being Strategy and its associated sub strategies.
- To submit to the Policy and Resources Committee proposals relating to the Committee's budget (including fees and charges) for the following year in accordance with the budget timetable.
- To make recommendations to Policy and Resources Committee on issues relating to the budget for the Committee, including virements or underspends and overspends on the budget. No decisions which result in amendments to the agreed budget may be made by the Committee unless and until the amendment has been agreed by Policy and Resources Committee.
- To receive reports on relevant performance information under the remit of the Committee.

5.3.2 Sections 14 and 17 of the Care Act 2014 provide a single legal framework for charging in relation to care and support provided by Local Authorities.

5.3.3 A financial assessment must be carried out to determine how much (if any) financial support a person or carer may be entitled to from the Local Authority.

5.3.4 All financial assessments must be completed following the detailed guidance set out in The Care and Support (Charging and Assessment of Resources) Regulations 2014.

5.3.5 The council's local charging policies for Fairer Contributions, are used to assess contributions towards the cost of care.

5.3.6 The policy refers to an assessment of capacity at the time of assessment and the Statutory Guidance (the Care and Support Guidance) provides that local authorities should work with someone who has the legal authority to make financial decisions on behalf of a person who lacks capacity. If there is no such person, then an approach to the Court of Protection is required. The Court can act to appoint a Deputy or grant a lasting Power of Attorney in respect of the person's financial and property affairs.

5.4 Social Value

5.4.1 The Public Services (Social Value) Act 2012 requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits.

5.5 Risk Management

5.5.1 Whilst majority of the income due is paid on time, the Council has a duty to ensure that all revenue owed to the council is collected promptly and effectively as the council has a duty of care to all taxpayers. If the council does not manage care contributions and collection effectively, it will need to increase its bad debt provision year on year.

5.5.2 All risks associated with the implementation of this policy will be managed in accordance with the council's risk management framework.

5.6 Equalities and Diversity

- 5.6.1 Equality and diversity issues are a mandatory consideration in the decision making of the council.
- 5.6.2 Equality and diversity issues are a mandatory consideration in the decision-making of the council. The Equality Act 2010 and the Public-Sector Equality Duty require elected Members to satisfy themselves that equality considerations are integrated into day-to-day business and that all proposals emerging from the business planning process have taken into consideration the impact, if any, on any protected group and what mitigating factors can be put in place.
- 5.6.3 A public authority must, in the exercise of its functions, have due regard to the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
 - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
 - Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard.
 - Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
 - Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
 - Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
 - The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 5.6.4 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- Tackle prejudice and
 - Promote understanding.
- 5.6.5 Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act. The relevant protected characteristics are:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation
- Marriage and Civil partnership

5.6.6 The council has conducted an equalities impact assessment (EQIA) to ensure that where current and future individuals are impacted, proper measures are considered to minimise the effect as far as possible.

5.6.7 The EQIA found that the proposal could have a minor negative impact on older people, people with disabilities and women. This is because these groups are overrepresented in the group of people who draw on adult social care compared to the general population. There should be no negative impact on service delivery but there could be some minor impact on customer satisfaction.

5.7 Corporate Parenting

5.7.1 In line with Children and Social Work Act 2017, the council has a duty to consider Corporate Parenting Principles in decision-making across the council. There are no direct implications arising from this report.

5.8 Consultation and Engagement

5.8.1 The consultation on the Adult Social Care Debt Recovery Policy began on 1 October 2022 and concluded 31 January 2023.

5.8.2 The general consultation consisted of an online questionnaire published on engage Barnet together with a summary consultation document which provided background information.

5.8.3 Paper copies and an easy-read version of the consultation were also made available on request.

5.8.4 The consultation was widely promoted via the council's residents' magazine (Barnet First delivered to all households), the council resident's newsletter, the council's website, local press, Twitter, and Facebook.

5.8.5 Two focus groups were also setup and residents were invited to take part, however, due to lack of interest, this was later cancelled.

- 5.8.6 A total of 104 questionnaires were completed and 15 written responses submitted.
- 5.8.7 The summary feedback from the consultation is summarised below. An Appendix including all feedback is also attached.
- 5.8.8 Views on the overall satisfaction with the debt recovery process, this was for individuals who have experience with the existing debt recovery process.
- 5.8.8.1 Only 6 responded to this question, with 98 skipping to the next question. 2 respondents were satisfied with the process, 1 respondent was dissatisfied, 1 respondent was neither dissatisfied nor dissatisfied and 2 respondents were not sure.
- 5.8.9 Proposal 1: Councils approach to invoicing and communication, our approach to collecting charges and what happens if payments are not met.
- 5.8.9.1 Only 2 responded to this question with unsure, 102 skipping to next question.
- 5.8.10 Proposal 2: Our approach to direct debits as a preferred method for payment.
- 5.8.10.1 There were 89 responses to this question, with 15 skipping to the next question. Overall, more respondents supported direct debits as the means to pay care charges than not. 21% strongly supported the proposal, 19% tended to support, 17% neither supported nor opposed, 20% tended to oppose, 11% strongly opposed and 9% were not sure.
- 5.8.11 Proposal 3: Nominated person and request for Power of Attorney documents, where the individual wants a nominated person to manage finances on their behalf.
- 5.8.11.1 Only 88 responded to this question with 16 skipping to next question. Overall, a majority of responses supported the proposal. 25% strongly supported the proposal, 36% tended to support, 18% neither supported nor opposed, 10% tended to oppose, 6% strongly opposed and 5% were not sure.
- 5.8.12 Proposal 4: Where a nominated person fails to make three consecutive invoice payments, the Council will address the invoices back to the person drawing on care and support.
- 5.8.12.1 Only 85 responded to this question with 19 skipping to next question. Overall, a majority supported this proposal, 31% strongly supported the proposal, 34% tended to support, 14% neither supported nor opposed, 13% tended to oppose, 8% strongly opposed and 5% were not sure.
- 5.8.13 Proposal 5: When a person with Appointeeship/Deputyship or Power of Attorney fails to keep up with payments, the Council will lodge a complaint with the Department of Work and Pensions and/or Court of Protection.
- 5.8.13.1 Only 48 responded to this question with 56 skipping to next question. Overall, there was majority support for this proposal, 23% strongly supported the proposal, 31% tended to support, 19% neither supported nor opposed, 15% tended to oppose, 15% strongly opposed and 13% were not sure.
- 5.8.14 Proposal 6: Legal Proceedings and Enforcement

5.8.14.1 Only 48 responded to this question with 56 skipping to next question. Responses were mixed towards this proposal, 17% strongly supported the proposal, 27% tended to support, 17% neither supported nor opposed, 23% tended to oppose, 10% strongly opposed and 6% were not sure.

5.9 Environment Impact

5.9.1 None in the context of this report

6. Background papers

6.1 None.