

Debt Management and Recovery Procedure

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Procedure Checklist

Procedure name:	Debt Management and Recovery Procedure for Residential and Nursing Home Service Users
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1.0 PROCEDURE

The purpose of this document is to set out consistent and effective processes for the collection, recovery and enforcement of residential and nursing home charges owed to the Southern Health and Social Care Trust.

Effective financial management is critical to the Trust's ability to fund the range and level of services delivered. The best method of debt collection is prevention – ensuring that debt does not arise in the first instance and this procedure covers both prevention and recovery.

The collection of debts and income to the Trust is managed in two parts. The SHSCT Debt Management Team located within the Trust manages debt associated with residential charges while the Accounts Receivable Shared Service (ARSS) centre located within the Business Services Organisation (BSO) manages Non-Financial Assessments debts and income due to the Trust.

This Procedure is specific to the debt management and recovery of the Trust's commissioned care and residential/nursing services and describes the approach the Trust will take in carrying out this function.

Trust officers will bear in mind the following principles when approaching the recovery of debts:

- Liaison with client/client representative to ensure the collection of all money due; quickly, efficiently and economically.
- Prevention of debt and arrears; by prompt billing and collection of money due, affordable repayment plans and early intervention when a service user is in arrears.
- Ensuring the principles protecting the rights of vulnerable service users is fundamental to all actions taken. Where there are issues of financial mismanagement or exploitation, appropriate investigations are carried out under the Trust's Adult Safeguarding Policy.
- Adherence to a legislation to enable legal enforcement (where necessary) to recover debts.
- Compliance with the Trust's Standing Financial Instructions and Standing Orders.

2.0 LEGAL BASIS FOR CHARGING

This document provides a framework to enable legal enforcement to be undertaken to recover debts where appropriate.

The main powers and responsibilities that HSC Trusts have to charge for residential and nursing care placements are described in the following legislation:

- Health & Personal Social Services (Northern Ireland) Order 1972.
- The Health & Personal Social Services (Assessment of Resources) Regulations (Northern Ireland) 1993.

The Health and Personal Social Services (Northern Ireland) Order 1972 requires that a person is charged for personal social services provided in residential care or nursing home accommodation arranged by a HSC Trust.

The Health and Personal Social Services (Assessment of Resources) Regulations (Northern Ireland) 1993 (the 1993 Regulations) sets out the form of the financial assessment used to determine how much an individual is required to contribute toward the cost of personal social services provided in a residential care or nursing home. While the Department's charging for Residential Accommodation Guide 2009 (CRAG) explains the application of the regulations, it is emphasised that the 1993 Regulations are the only authoritative statement of the law.

A financial assessment will commence following an assessment of the service user's health and social care needs. Thereafter the client/client representative will receive a monthly invoice for the assessed contribution charge.

3.0 INVOICING & AGE OF DEBT

BSO Accounts Receivable Shared Services Centre (SSAR) is responsible for despatching residential care invoices on a monthly basis within 5 working days from the end of the month.

SSAR produce an Age of Debt report each month providing a profile of the debt owed to the trust by individual client spilt as follows:

- < 30 Days
- 31-60 Days
- 61-90 Days
- > 90 Days

In addition to Age of Debt Report the SHSCT debt management team use the following systems to effectively manage their caseload:

- E-financials – this a finance based system which holds the details of the client's Name, address, debt and all transactions i.e. invoices or payments on accounts
- ABACUS– This is the system used by Financial Assessments. This system contains client's details, Next Of Kin details, their financial information, including their assessed contribution to their monthly invoices. On this system we can ascertain the client's financial means, including any income they are in receipt of and any action/notes from the mobile assessor who completed the file

4.0 PAYMENT TERMS

Invoices are due for payment to Health & Social Care Northern Ireland (HSCNI) immediately upon receipt of invoice.

Any variation from the standard terms of immediate payment must be agreed and authorised by the SHSCT Debt Management Team.

5.0 WAYS TO PAY

Service users can make payment to the Trust by the following means:

- **Direct Debit** – A direct debit mandate will be sent on request, this has to be filled in, and the original returned. Payments by direct debit will be deducted on a four-weekly basis.
- **Debit or credit card** – Payment can be made over the telephone or via a secure on-line portal using a credit or debit card. - <https://payments.hscni.net/>
- **Bank Transfer or Cheque Payment**

In addition payments can be made at the Cashiers Office at either DHH or CAH.

6.0 RECOVERY ACTION FOR UNPAID CHARGES

The Trust recognises that prompt recovery action is a key element for managing debt and maximising income and includes the following key attributes:

- regularly monitor the level and age of debt
- set clear targets for the recovery of debt
- follow the recovery procedures in this policy
- set priorities for specific areas of debt and assess recovery methods to ensure maximum recovery
- review irrecoverable and debts over six months old on a regular basis

6.1 Financial Assessments - 75 Day Process

The Financial Assessments team are also located within the SHSCT and provide internal support to the Debt Management function. The FA team establish initial contact with clients/family representatives to complete the client assessment and determine the contribution due to the Trust and are therefore strategically placed to promote the use of DD as primary method for settlement of debts and ensure all new clients understand the need to settle their invoices by the due date. The FA team undertake to complete the 75 day process which includes a review of debtor account and if required making contact with the client/client representatives to ensure initial invoices are paid promptly.

6.2 Monthly Statements

The Business Services Organisation (BSO) Accounts Receivable Shared Services Centre (ARSS) will issue monthly statements to the service user or their representative on behalf of the SHSCT .

6.3 Client/Client Representative Engagement

Review by Debt management team - If the service user does not pay their assessed contribution either in full or in part and the invoice remains unpaid the team will engage in wider communications with the client/client representative.

The debt management team will undertake to resolve any queries/disputes on the account. Should a query/dispute arise as a result of the application/interpretation of the CRAG Guidelines the file will be referred back to the Financial Assessor responsible for the completion of the client's financial assessment.

The Department of Legal Services (DLS) may also be asked to provide advice to the Financial Assessments and/or the Debt Team in carrying out their day-to-day operation

The relevant department will then inform the client/client representative of the outcome of the query/dispute and complete any corrective action required. The file will then be referred back to the debt management team to progress.

Any dispute that cannot be resolved within the specified time period or is proving difficult to resolve will be brought to the attention of the Debt Manager and escalated where applicable to Senior Finance Manager.

6.4 Payment by instalments

There are times when the best result for credit control is to agree a repayment plan. The debt management team are permitted to agree a repayment plan over a maximum period of 12 months. Should the value and age of debt require an extended repayment period proof of outgoings and income should be requested in order to determine if the amount being offered is reasonable in the circumstances.

When an agreement is reached with a client, or NOK, regarding a repayment plan they will be issued a DD mandate and acceptance of liability for signature. (See Appendix 1)

When the DD mandate is returned a payment by instalments template should be completed. (See Appendix 2)

6.5 Court Action

Court action will only be considered after all other reasonable avenues have been exhausted.

6.5.1 Small Claims Court

The SHSCT debt management team will refer cases to Small Claims Court (SCC) which have an outstanding balance of up to £5,000. These cases are processed through the small claims online portal.

6.5.2 Directorate of Legal Services (DLS)

The Debt management function in SHSCT is supported externally by the (DLS) under a service level agreement

The SHSCT debt management team determine which cases are referred to DLS for further action. They will take into consideration reasons for non-payment, value of debt (usually > £5,000) and age of debt.

DLS will attempt to liaise further with client/client representatives in order to reach settlement before progressing legal proceedings. The department's expertise is critical for progressing debt recovery through the various legal channels, engaging counsel and representing the Trust at County/High Court proceedings.

Credit Control hold a meeting with the solicitor assigned to the Southern Trust cases approximately every 6 weeks.

6.5.3 Interest Charges

Interest Claimed in Court proceedings (statutory interest): The Court allows simple interest to be applied to outstanding debt claims at a flat rate of 8%. Interest runs from payment due date until judgement is given by the court.

6.5.4 International Debt Collection Service

An external company is used for the provision of a Regional Debt Collection Service for Northern Ireland Health and Social Care Invoices overdue. Referrals to this Debt Collection Service will typically (but not exclusively) originate from clients with assets in the European Union.

The Credit Policy applied to these referrals will be as set out in the individual contracts and specification documentation

7.0 ENFORCEMENT

If the Trust obtains judgement from the court confirming that the debt is lawfully payable, and the client still fails to pay the Trust, the matter will normally be referred to the Enforcement of Judgements Office (EJO)

It is advised that in most cases searches should be carried out regarding bankruptcy and the Enforcement of Judgements Office (EJO) to discover the debtors' circumstances and the likelihood of recovery.

A judgement is enforceable for 6 years.

The Trust must obtain an original copy of the court order / decree and then can enforce these through the Enforcement of Judgements Office.

The following enforcement options are available to the EJO:

- Attachment of Earnings Order
- Instalment Order
- Order Charging Land
- Seizure Order
- Order Appointing Receiver
- Attachment of Debt Order
- Insolvency(Bankrupt) action
- Enforced sale of assets

Certificate of Unenforceability:

When the EJO decides that the judgement cannot be enforced within a reasonable timescale, or there are no assets, it will issue this certificate. In this case, the debt may be referred for write-off. On occasion, files will remain open with a view to ascertaining if the debtor's means improve.

8. MANAGEMENT OF CLIENT FUNDS – POINTS OF CONTACT

8.1 Social Security Appointee

An appointee is responsible for dealing with the clients' social security affairs and Inland Revenue tax credit affairs. Any monies received on their behalf must be used in the interest of the clients and/or their dependants e.g. paying their fees for a nursing home.

In general this role is undertaken by family member or named next of kin

When an appointee fails to undertake this duty, the Trust will report the appointee to the Social Security Agency with a request for benefits to be suspended. Appointee-ship will then be reviewed with the option to find a more suitable recipient.

The Trust seeks to act as corporate appointee for any client who is incapable only when the client does not have a suitable family member/representative to manage their affairs or where the client representative is not acting in the best interests of the client i.e. in

cases where Trust care fees remain unpaid for an extended period of time and/or where there is concern around misappropriation of funds.

The Trust will take this action with the intention to limit the scale of the arrears and protect the service user's best interests. Cases may also be referred to the PSNI counter-fraud unit where fraud is suspected.

8.2 Power of Attorney, Enduring Power of Attorney, Controllers and Others

An enduring power of attorney (EPA) is a document that appoints someone ('an attorney') to help manage your property, money and financial affairs. The person appointed will be able to help you make decisions or make decisions on your behalf if, for example, you have an accident or become ill and cannot make a certain decision at the time it needs to be made (you 'lack mental capacity').

While you still have mental capacity you can allow the person appointed to use an EPA to help manage your finances. If you lose mental capacity your appointee must register the EPA to start or continue using it.

8.3 Duty to notify Office of Care & Protection (OCP)

If the client has capacity we communicate directly with them re their proposals to make payment.

Where a board or authorised HSC Trust is satisfied that a person is incapable, by reason of mental disorder, of managing his/her property & affairs and that arrangement on their behalf has neither been made nor is being made, it has a duty to notify the Office of Care & Protection of these matters by way of an Article 107 referral.

The OCP will generally appoint a controller to manage the day to day management of the patient's affairs. The controller may be a relative, friend or professional advisor or solicitor. In the absence of any of the above OCP may appoint an officer of the Official Solicitors Office.

Article 116 of the Mental Health (NI) Order 1986 permits a Health & Social Care Trust to hold and manage money on behalf of a person incapable by reason of mental disorder of managing and administering her/his property and who lives in a 'Trust managed facility'. The power does not apply where a controller has already been appointed.

8.4 REFERRAL TO ADULT SAFEGUARDING TEAM

In some arrears cases, concerns may arise that the individual acting as financial agent and responsible for paying the charges on behalf of the service user is not administering the finances appropriately. All cases where there is suspected misuse or misappropriation of service users funds, should be referred to the Trust's Adult Safeguarding Team for investigation.

9.0 DEBT WRITE OFF

Only in exceptional circumstances will Financial Assessment debt be written off. In cases where a dispute fails to be resolved the Debt Manager will ensure that all recovery procedures have been exhausted.

The Debt Manager will refer cases for write off consideration to the Trust Debt Panel, backed up by any relevant documentation or details of the steps taken and any potential future costs to recover the debt.

The Debt Panel is attended by the Head of Financial Services, Corporate Financial Accountant & Fraud Liaison Officer and the Debt Manager. The objective of this meeting is to review cases and obtain advice/guidance on how to proceed taking account of factors which would render the case uneconomical to pursue. If the case cannot be taken forward the panel will agree to forward the case to the Director of Finance with a recommendation for write off in line with the HSC delegated limit.

All proposed debt write off above £10,000 must be notified to the Department of Health in line with DOH delegated limit. (Circular Reference: HSC (F) 52-2016)

10.0 Monitoring of Debt

The Debt Manager prepares a suite of monthly key performance indicators for review by the Financial Service Accountant and the Head of Financial Services.

APPENDICES

1	DD mandate and acceptance of liability for signature
2	Repayment Plan - Payment by instalments template