

AUDIT AND RISK MANAGEMENT COMMITTEE

Tuesday, 4 November 2008

Present: Councillor P Southwood (Chair)
Councillors RL Abbey S Mountney
J Crabtree C Povall

Deputies: Councillors D Mitchell (In place of S Quinn)

Cabinet Member: Councillor S Holbrook

35 DECLARATIONS OF INTEREST

Members were asked to consider whether they had personal or prejudicial interests in connection with any item(s) on this agenda and, if so, to declare them and state what they were.

No such declarations were made.

36 MINUTES

The Chair referred to a number of proposed amendments to the draft minutes of the meeting held on 30 September 2008, which she had previously discussed with other members of the Committee, who had endorsed the proposed changes.

Resolved – That the draft minutes of the meeting held on 30 September 2008 be amended and presented to the next meeting of the Committee for approval.

37 AUDIT COMMISSION SUMMARY REPORT 'ADULT SOCIAL SERVICES - FOLLOW UP OF PIDA DISCLOSURE'

A. REPORT OF THE DIRECTOR OF ADULT SOCIAL SERVICES

Further to minute 20 (30 September 2008), the Director of Adult Social Services sought to address concerns expressed by members in relation to matters contained within the Audit Commission Summary Report 'Adult Social Services – Follow up of PIDA Disclosure', specifically in relation to aspects of the Council's provision of services within Adult Social Services and Supporting People and the application of Fairer Charging.

He reported that the action plan agreed with the Audit Commission had been further reviewed and the timescale for completion of all work had been brought forward. However, the actions contained within the plan were of a high level and, in response to a comment from the Chair, he proposed to formulate a lower level, more specific action plan.

He set out the context of 'Fairer Charging' having regard to details provided by the Department of Health in 1997 and to full guidance being issued in 2003. He accepted

that Wirral had been slow to adopt the Fairer Charging policy, which had been the subject of progress reports to the Social and Health Services Select Committee (minute 94 (22 April 2002) refers) and to the Social Care and Health Select Committee (minute 116 (17 March 2003) refers). In response to comments from members, he commented that extensive consultation had been undertaken and following the presentation of a further report to the Cabinet on 1 December 2005 (minute 361 refers), the full application of Fairer Charging was applied to all from 2006. In response to a further question as to whether the Council was financially disadvantaged by the delay in the implementation of Fairer Charging, the Director commented that it would be a substantial task to ascertain the financial circumstances of service users during the period 2003 – 2006.

He reported that to date, assessments had been undertaken on 351 people and, of those, it appeared that 8 cases had been assessed under the 'Charging for Residential Care Guidelines', rather than 'Fairer Charging' being applied. However, where higher incorrect charges had been levied, re-imburement would be made. The total financial liability at the present time was £78,499.62. In response to a question from a member, the Director was unable to confirm whether any of the 8 cases referred to were in relation to occupants of Bermuda Road, Curlew Way or Edgehill Road Supported Living establishments. In response to members comments, he proposed to provide information direct to members in relation to the location of those people who had been incorrectly assessed.

With regard to concerns expressed by members that, without authority, a 'special charging policy' had been applied, he indicated that the funding arrangements for people in Supported Living were complex, with the service costs being funded from three sources:

- Housing – funded mainly by Housing Benefits
- Support Costs – funded by Supporting People and DASS – sometimes with funding from Health
- Daily Living Costs – met by individuals alone or as a living group.

The Director reported that he understood it to be around the 'Daily Living Costs' that concerns had been highlighted and, whilst work to address concerns with independent providers continued, he indicated that one anomaly had been identified in September 2008 and was being investigated in relation to 5 people living at Balls Road, the only Supported Living accommodation owned by the Council. Although investigations were ongoing, he had evidence in relation to four of the five cases, who were paying differential amounts as a result of being in receipt of differential amounts of Housing Benefit. The arrangement dated back some time and pre-dated Fairer Charging. However, a member expressed the view that the concern highlighted was not around 'daily living costs', but about special charging applied at Bermuda Road, Curlew Way and Edgehill Road.

The Director believed that the term 'special charging policy' had been born in the area of 'daily living costs'. Although archive files from the time were no longer available, officers who had been employed in the Department prior to the introduction of Fairer Charging were clear in their recollection regarding some preparatory work that had been undertaken. However, they had confirmed to the Director that to their knowledge no special charging policy had been agreed or applied by the Council. He proposed to issue guidance in relation to daily living allowances but commented that

it rightly remained an area for discretion. A member referred to paragraph 39 of the Audit Commission Summary Report, which suggested that a charging policy was applied at some Supported Living establishments. The Director commented that having reviewed the available information, it appeared that any charges applied related to assessments under the 'Charging for Residential Care Guidelines', rather than the Fairer Charging policy which was fully applied in 2006.

The Director referred to specific ongoing concerns in relation to an individual provider obstructing the application of Fairer Charging and he indicated that the Department, with legal advice, was now pursuing other processes to secure compliance, with regard to the remaining financial assessments. He reported also upon progress with the accreditation exercise for contracting services and safeguarding vulnerable people and expressed the view that a robust safeguarding policy and procedure were in place in Wirral.

In response to further comments from a member in relation to average charges paid by service users, the Director indicated that approximately a third of people assessed paid no charge, a third paid a percentage of disposable income of approximately £10 per week, whilst a third paid a variable range, up to the full cost of the service. He agreed to provide details of the total annual cost direct to members.

Councillor Mountney indicated to the Committee that he was in receipt of further evidence and requested a brief adjournment in order to consult with the Director of Law, HR and Asset Management and the Deputy Chief Executive.

At 1925 the meeting stood adjourned for 10 minutes.

Following the adjournment, and in response to questions from members, the Director of Law, HR and Asset Management stated that he was not yet in a position to comment upon matters brought to his attention during the adjournment, which required further investigation. However, he was satisfied that Councillor Mountney had acted in an appropriate manner.

B. REPORT OF THE DIRECTOR OF FINANCE

The Director of Finance reported that following the last meeting of the Committee, he had requested Internal Audit to conduct an audit to investigate allegations made regarding the proper handling of this matter. At the request of Members it had also been necessary to evaluate –

- whether the system and procedures utilised to add a named supported living provider to the Adult Social Services Accreditation List were effective and complied with by the Department at all times; and
- whether Whistleblowing procedures in operation within the Adult Social Services Department were effective and had been complied with for this particular case.

During the audit, a request had also been received to review issues in relation to the charging policy. However, due to the timescale involved it had not been possible to complete this element of the work and a further report would be presented to the next meeting of the Committee.

He set out fully the objectives of the audit together with findings and conclusions. No evidence was identified to support allegations of impropriety or inappropriate behaviour by any member of staff employed by Wirral Council in connection with this case and it appeared that many of the issues related to the activities of a named supported living provider and its employees. A number of issues were identified within the system in operation for maintaining an Accreditation List for supported living providers and these were currently being addressed by the Department. However, there was evidence to indicate that all of the relevant policies and procedures were complied with when an assessment was undertaken of the named supported living provider prior to them being added to the list.

The Director commented also that evidence suggested that the Whistleblowing Policy and procedures implemented by the Adult Social Services Department complied with the corporate policy and best practice in general. However, for this particular case, it was unclear whether, from the outset, management had established the exact nature of the issues identified and agreed with the individual whether the case should be investigated as a Grievance or a Whistleblowing. In response to a question from a member, the Director indicated that the Department had dealt with the issue as a grievance and there was no reference in any documentation provided to the case being dealt with as a whistleblowing. It was the Department's opinion that the case only became a whistleblowing when it was reported to the Audit Commission and investigated under the Public Interest Disclosure Act 1998.

A member referred to the compromise agreement that was reached with the Council to end the individual's employment on 4 April 2008, on account of there being irrecoverable differences. The Director confirmed that auditors had sight of the agreement but he was unable to disclose any of its terms because of a confidentiality clause that was prepared and agreed by the Individual, the Adult Social Services Department, Legal and Member Services and Human Resources.

On a motion by Councillor Southwood, seconded by Councillor Abbey, it was –

Resolved (4:0) –

(1) That the report of the Director of Adult Social Services and the amended action plan be noted.

(2) That a further report be presented to the Committee in January 2009, detailing actions taken to adhere to the amended action plan.

(3) That a further, lower level and more specific action plan be produced and referred to the Social Care, Health and Inclusion Overview and Scrutiny Committee.

(4) That the report of the Director of Finance be noted and the recommendations contained within the Internal Audit reports be endorsed, subject to the Adult Social Services Departmental Management Team being notified of all risks identified by the Accredited List Internal Audit report so that consideration can be given to their inclusion in the Corporate or relevant Departmental Risk Register.

(5) That the Director of Law, HR and Asset Management be requested to circulate guidance to all Chief Officers with regard to dealing with grievance and/or whistleblowing issues.
