

# **Adult Social Services - Follow up of PIDA Disclosure**

**Wirral Metropolitan Borough Council**

**Audit 2007/08**

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## Introduction

- 1 A number of concerns were brought to our attention in October 2007 under the Public Interest Disclosure Act 1998 (PIDA). The concerns were in respect of aspects of the Council's provision of services within Adult Social Services and Supporting People. We explained to the person raising these issues that a number of the issues fell outside our remit as external auditors. In these instances advice was given to raise the matters with other appropriate agencies. There were two areas which we considered were relevant to our responsibilities. These involved the Council's procedures in respect of:
  - arrangements for the commissioning and monitoring of contracts for Supported Living and Supported People services, to ensure the Council is receiving value for money; and
  - application of the Department of Health's Fairer Charging policy.

## Background

- 2 The Council provides non residential care services to older and vulnerable people under statute for Supported Living and Domiciliary care. These services are managed by the Council's Department for Adult Social Services. The Council's contract arrangements for Supporting People are the responsibility of the Regeneration Department.
- 3 Concerns were raised with us that certain groups of service users have not been charged in accordance with the Fairer Charging Guidance issued by the Department of Health in 1997. Starting in 2003, the Council set up a Working Group to review its charging policy against the Department of Health's guidance. The review involved a survey of 300 service users to assess their response to proposed changes. In August 2005, the Group concluded that the existing policy did meet the criteria of the Fairer Charging guidance but was complicated and difficult to explain to service users. The Group made recommendations to change the charging policy which would simplify the methodology and raise additional income for the Council. The recommendations were implemented during 2007.
- 4 The Council undertook an accreditation of service providers for Supported Living in 2005. This involved issuing an advertisement inviting providers to apply. A desk top evaluation process was then followed by interviews.

## Audit approach

- 5 Our work initially focussed on interviews with the Heads of Service within Adult Social Services for Finance & Performance and Commissioning, Health & Well-Being. These meetings identified other officers who could provide more detailed information and further meetings were held with officers from the Contract Management Unit, Supporting People and the Adult Protection Unit. The fieldwork was mostly completed in January - March 2008.

- 6 The objectives of the review were to:
- carry out an overview of the Council's arrangements for commissioning and monitoring contracts to ensure appropriate arrangements are in place for the Council to secure VFM; and
  - perform a brief review of the Council's arrangements for charging service users to ensure adequate safeguards and controls are in place to comply with Fairer Charging guidance and protect service users from the threat of financial abuse.

## **Main conclusions**

### **Commissioning and monitoring of contracts**

- 7 The contract arrangements for Supporting People and Domiciliary Care meet good practice in many respects. However, the contract arrangements for Supporting Living need to be progressed further if they are to ensure the Council is getting good VFM. In particular the following areas need to be addressed:
- The contract monitoring arrangements for Supporting Living need to be formalised and embedded, as is the case with Supporting People and Domiciliary Care.
  - The Department needs to complete the contract process in respect of Supporting Living as currently only 12 contracts have been signed and returned in respect of 30 accredited providers.
  - It is unclear how service providers not on the current list of accredited providers are aware that they can apply to go on the list and be evaluated.
- 8 The contracts for Domiciliary Care services are open ended. They do not specify a termination date. The Council have not yet formally determined if these services are to be advertised again allowing new providers to bid at lower costs. To provide ongoing VFM, the Council needs to ensure the service is subject to tendering on an agreed periodic basis.

### **Application of the fairer charging policy**

- 9 The Council was slow in fully applying the Fairer charging guidance which was issued in September 2003. The Council's Fairer charging policy was not applied in full until 2007.
- 10 One of the allegations raised under PIDA was that there was a 'Special Charging policy' applied by the Social Services Department, dating back to 1999, that covered Supported Living service users with Learning Disabilities. The allegation made was that the policy had not been approved by Committee and was 'excessive and unlawful'. Our review has confirmed that a charging policy was applied at some Supported Living establishments. It is not clear from discussions with officers the extent to which the charging policy was in place or whether it was approved by Members.

- 11 During its review of its charging policy, the Social Services Department informed service users that where charges under Fairer Charging would be lower than the original charges, compensation would be awarded from April 2003. No such compensation has yet been given. When Fairer Charging was introduced, officers and Members agreed a prioritised programme for the review of different service groups, with Learning Disabilities later in the review programme. A Learning Disabilities review team is to be formed in August 2008. Based on individual financial assessments, the team will review for each service user the level of charges to be made under fairer charging and the level of financial contributions to be made by service users. Officers have confirmed that service users will be reimbursed where it becomes clear they have contributed more than was due under Fairer Charging. This review is planned to be completed by March 2009.
- 12 The Council now has in place a number of procedures which reduce the risk of potential financial abuse of service users not being identified and suitably addressed. For example, the Adult Protection Unit investigate any complaints and allegations of financial abuse received from service users or their representatives.
- 13 However, there remains a substantial risk that users receiving services from one of the Council's Supported Living providers are being charged unfairly. The provider concerned have not arranged for the completion of financial assessment forms for service users and as a result the Council is not in a position to know whether the aggregate of charges levied on service users by the Council and contributions required by the provider are in compliance with the guidance of Fairer Charging. It is not clear who is currently ensuring that these service users are receiving adequate protection from the risk of financial abuse.
- 14 This situation has existed for several years. The Council needs to ensure, as a matter of urgency, that appropriate safeguards are in place to protect service users from the risk of any potential financial abuse. This could include the Council assuming responsibility for the completion of financial assessments for specific service users.

## Recommendations

- 15 The report has highlighted some areas where arrangements can be strengthened. Our recommendations to address these issues are:

<b><i>Recommendations</i></b>
<i>R1 Complete the outstanding matters in respect of the Supported Living contracting process, including the completion of contracts by current providers.</i>
<i>R2 Clarify plans for the subsequent re-tendering of the Domiciliary Care Contract.</i>
<i>R3 Formalise and embed contract monitoring arrangements for Supported Living contracts.</i>

*R4 Complete outstanding financial assessment reviews for service users with Learning Disabilities, ensuring required financial compensation is provided.*

*R5 Ensure appropriate safeguards are applied to protect vulnerable service users from the risk of any potential financial abuse.*

## Detailed Findings

### Contract commissioning

#### Supported Living

- 16 The Council have followed good practice in the procurement process for Supported Living providers in a number of areas. Advertisements in the local paper and the Community Care Journal invited providers to apply. Letters were also sent to current providers. All providers were then subject to a desk top evaluation with providers expected to be registered with CSCI or Supporting People.
- 17 When it is necessary to place new service users with a provider, the Care manager will recommend how needs are to be best met by considering service users preference, cost and service providers capacity. A selection committee will consider the recommendation and decide on the provider to be used from the accreditation list. We understand that service providers can apply to go on the accreditation list on an ongoing basis. However, it is unclear how the Council have communicated this to potential providers.
- 18 There are a number of areas where there is scope for improvement:
  - There is one current provider caring for one service user who is located outside the borough who has not been accredited. We understand that an application is in the process of being compiled.
  - Although 30 accredited providers are used by the Council, only 12 contracts have been signed and returned by providers.

#### Supported People

- 19 The arrangements for the commissioning of Supporting People contracts comply with the Department for Communities and Local Government (CLG) guidance and achieve good procurement practice in many respects. All current providers were required to be evaluated against an accreditation process specified by CLG framework over the period 2003 -2007. A desktop evaluation followed receipt of completed questionnaires. Only one of the current 74 providers has not been accredited. The Council is trying to support this provider to meet accreditation criteria. It is unclear whether the Council should have informed the CLG about this provider.
- 20 Three specialist services went to a full tendering process. Central Procurement were involved in the process. These services were advertised in the European Journal and the local press. All current contracts have been signed.



## **Domiciliary Care**

- 21 The commissioning for Domiciliary Care has followed good procurement practice in most respects. A full tendering exercise was completed in 2005. Invitations to tender for the work were done by advertising in the local press and Community Care journal. A desk top evaluation was carried on tender packs. Stage two of the evaluation process involved interviews and presentations by the providers. The contracts were divided into five areas with services for primary, secondary and tertiary within each area. Three specialist services were tendered on a Wirral area basis. There were eight main providers and three specialist providers.
- 22 All contracts have been signed by the providers.
- 23 The contracts have been compiled on the assumption that they are for a five year period. However, the contracts do not specify the length of contract. Officers commented that the flexibility offered by the contracts has been of benefit to the Council and that value for money has been achieved through the development of mature and long term business relationships. Whilst this may have been the case, the Council will need to put the work out to tender on an agreed periodic basis if it to be able to evidence that it is continuing to achieve the best value for money.

## **Contract monitoring**

### **Supported Living**

- 24 No formal arrangements have been established for the contract monitoring of Supported Living providers. Invoices from Supporting Living providers are checked to Care Plans by Adult Social Services Budgetary Control. However, reliance is placed on Care managers to report issues to Contract management or Budgetary Control if the provider has not complied with the care plan or there are any problems with the delivery of care plans. There are no arrangements at present for feedback from service users where there is dissatisfaction with services or where quality standards have not been met. We understand that draft proposals for contract monitoring are currently being progressed which may include the appointment of a supporting Living Development Officer who has terms of reference to feedback on the quality of service provided.

### **Supported People**

- 25 The contract monitoring arrangements for Supporting People appear comprehensive and follow CLG guidance where appropriate. The checks applied to all charges raised by service providers are adequate.

- 26 Monitoring of the performance of the Supporting People contracts is done by reporting of two key performance indicators to the CLG on a quarterly basis. For the block contracts providing for services for those service users who are expected to improve over a two year period, the PI reports the number of people who have been moved on in a planned way. Where service users are not expected to improve, officers monitor a PI measuring the numbers of service users maintained by the service. Two officers visit service users and issue a standard report to the Commissioning manager.
- 27 A value for money review is being undertaken by the officer representing Probation on the Care Strategy Group. This involves:
- assessing number of hours for each type of service;
  - review of on costs; and
  - level of reported surplus.
- 28 The VFM exercise which started 12 months ago has now evaluated all Supported People block contracts. The results of this review found that of the sixteen providers only one did not identify good VFM. A reduction in the contract was negotiated for this provider. At the time of our review, the VFM reviews for Learning Disabilities and Older People were in progress, with the Mental Health review yet to commence.
- 29 The block contract services are issued with a payment schedule at the start of each financial year instructing providers of monthly payments to be made.
- 30 Interface files are submitted monthly by subsidy contract providers which report any changes to the contracts. These changes are checked by Supporting People Payments and Admin team to Housing Benefit records. Payment and Admin staff check all high cost service users and a 10 per cent check of all other lower unit cost services.

### **Domiciliary Care**

- 31 The arrangements for contract monitoring are adequate. Contracts with service providers are monitored by visits to each Agency every 12 months by the Contracts officer. Service user questionnaires are completed either prior or during visits and cover approximately 10 per cent of all service users. The Council plans to implement an e monitoring system whereby carers attendance hours is booked onto the Council's SWIFT system via phones held by the service users.
- 32 Monthly invoices are generated initially from the Council's SWIFT system from service users care plans. Variations to the plan are annotated by the provider. Invoices are checked by the brokerage unit to SWIFT data and passed to management accounts for payment.

## Fairer Charging

- 33** Charges for residential care are set by the national policy, Charging for Residential Care Guidelines (CRAG). The Department of Health issued Fairer Charging Guidance for non-residential care in September 2003. The guidance specifies that charges are discretionary but that when charges are made they must comply with the guidance. The general principle for charging should be that charges reflect people's ability to pay. Other key principles are:
- people's ability to pay should reflect their personal, disability related expenses;
  - people whose only source of income is Income Support or Pension Credit should not be asked to pay charges; and
  - people with high income or substantial savings should be asked to pay the full cost of their care.
- 34** The principles of Fairer Charging will not be met if service users are charged by both the Council and the service provider.
- 35** A working group was set up to review the current charging policy line in the light of the Fairer Charging guidance as part of the budget options for 2006-07. The Group concluded that the existing policy was fully compliant with the guidance but was complicated to calculate and explain to service users.
- 36** The Fairer Charging policy currently applied by the Council is achieved by applying the following principles:
- Financial assessment forms are completed by the service user or visits are made to their homes.
  - People who have disposable income which is above 25 per cent of the lower level of Income Support are asked to pay 60 per cent of their disposable income toward their care.
  - Savings of £13,250 are disregarded. Savings between £13,250 and £25,000 are taken account of including £1 for every £250 above the lower limit as income. People with more than £25,000 will be charged the maximum for the service they receive.
- 37** The principles of this guidance were considered by the Council's Fairer Charging Working Group who met in August 2005 to recommend changes to the charging policy. The policy was not implemented until 2007. The Council have since agreed to review charging annually.
- 38** There are a number of safeguards which reduce the risk of service users being charged unfairly:
- Financial assessments are carried out for all Supported Living, Domiciliary Care and Supported People service users. An exercise by the Financial Assessment officer early in 2007 checked that financial assessments have been completed for all service users, with the exception of those service users cared for by Salisbury Independent Living where completed forms have not been returned.

- The accreditation process for supported living providers involved interviewing providers to find out whether providers charged service users.
- The Council employed a supported Living Development Officer and assistant who maintained contact with service users and could identify cases where unfair charges were applied. However, this post has been vacant since May 2007.
- The Adult Protection Unit provides all service users, their family or advocates with the opportunity to complain in cases of alleged financial abuse. The service provides an independent investigation with findings of all investigations reported to DASS management team.

39 One of the allegations raised under PIDA was that there was a 'Special Charging' policy applied by the Social Services Department, dating back to 1999, that covered Supported Living service users with Learning Disabilities. The allegation made was that the policy had not been approved by Committee and was 'excessive and unlawful'. We understand from discussions with officers that a charging policy was applied at some Supported Living establishments. It is not clear from discussions the extent to which the charging policy was in place or whether it was approved by Members. We understand that the charging policy was due to discrepancies between different housing units and how service users were charged. We have been advised by Council officers that these charges are no longer applied and that the Fairer Charging policy was fully applied in the summer of 2006.

40 During its review of its charging policy, the Social Services Department informed service users that where charges under Fairer Charging would be lower than the original charges, compensation would be awarded from April 2003. No such compensation has yet been given. When Fairer Charging was introduced, officers and Members agreed a prioritised programme for the review of different service groups, with Learning Disabilities later in the review programme. A Learning Disabilities review team is to be formed in August 2008. Based on individual financial assessments, the team will review for each service user the level of charges to be made under fairer charging and the level of financial contributions to be made by service users. Officers have confirmed that service users will be reimbursed where it becomes clear they have contributed more than was due under Fairer Charging. This review is planned to be completed by March 2009.

- 41 There remains a substantial risk that users receiving services from one of the Council's service providers are being charged unfairly. The provider concerned has not arranged for the completion of financial assessment forms for service users, as requested by the Council. Forms have been issued to service users and officers have contacted the provider's local manager. However, despite follow up, no completed forms have been returned. Quarterly statements have recently been sent out charging service users the full cost of services. The Council does not always know the actual contributions that the provider requires service users to contribute for services they provide. Consequently, the Council is not in a position to know whether the aggregate of charges levied on service users by the Council and contributions required by the provider are in compliance with the guidance of Fairer Charging. It is not clear who is currently ensuring that these service users are receiving adequate protection from the risk of financial abuse.
- 42 This situation has existed for several years. The PIDA submission referred to concerns in relation to the organisation being raised as early as 2001. The Council needs to ensure, as a matter of urgency, that appropriate safeguards are in place to protect service users from the risk of any potential financial abuse. This could include the Council assuming responsibility for the completion of financial assessments for specific service users.

## Appendix 1 – Action Plan

Page no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
	R1 Complete the outstanding matters in respect of the Supported Living contracting process, including the completion of contracts by current providers.	2	Gerry Flanagan Commissioning Manager	Yes	ALD Review Team established August 2008 to review all SL arrangements. Seconded experienced Contracts Manager into Team to undertake this work.	March 2009
	R2 Clarify plans for the subsequent re-tendering of the Domiciliary Care Contract.	2	Gerry Flanagan Commissioning Manager	Yes	Review VFM appraisal of existing contracting arrangements. Report to SLT/Scrutiny Committee.	January 2009
	R3 Formalise and embed contract monitoring arrangements for Supported Living contracts.	2	Gerry Flanagan Commissioning Manager	Yes	Expressed in Contracts Unit Team Plan and specified in refreshed SL Contracts.	January 2009
	R4 Complete outstanding financial assessment reviews for service users with Learning Disabilities, ensuring required financial compensation is provided.	3	Diane Davidson Service Manager Personal Finance	Yes	To be completed alongside review of services referred to in (R1).	March 2009
	R5 Ensure appropriate safeguards are applied to protect vulnerable service users from the risk of any potential financial abuse.	3	Diane Davidson Service Manager Personal Finance	Yes	Audit of personal finances, involving appropriate advocacy services.	March 2009