

WIRRAL COUNCIL

AUDIT AND RISK MANAGEMENT COMMITTEE

4 NOVEMBER 2008

REPORT OF THE DIRECTOR OF FINANCE

ADULT SOCIAL SERVICES - PIDA DISCLOSURE

1. EXECUTIVE SUMMARY

- 1.1. Following the meeting of this Committee on 30 September 2008 when the Audit Commission presented the above report, I requested Internal Audit to conduct an audit to investigate allegations made against Council staff regarding the proper handling of this matter.
- 1.2. At the request of Members of this Committee it was also necessary to evaluate the following during the course of the audit:
 - 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.
 - Whether Whistleblowing procedures in operation within the Adult Social Services Department were effective and had been complied with for this particular case.

2. SUMMARY CONCLUSIONS

- 2.1. No evidence was identified to support allegations of inappropriate behaviour by any member of staff employed by Wirral Council in connection with this case.
- 2.2. A number of issues were identified within the system in operation for maintaining an Accreditation List for supported living providers and these are currently being addressed by the Department. However there is 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.
- 2.3. Evidence suggests that the Whistleblowing Policy and procedures implemented by the Adult Social Services Department comply with the corporate policy and best practice in general.

- 2.4 For this particular case however it is unclear whether at the outset this should have been dealt with as a Grievance or a Whistleblowing and there is clearly conflicting evidence available to support both of these options. What is clear is that at the outset management should have established the exact nature of the issues identified and the way in which they were to be investigated and that this should have been agreed by both parties at that time. There is no evidence to suggest that this happened.

3. **BACKGROUND**

- 3.1. A number of concerns were brought to the attention of the Audit Commission in October 2007 under the Public Interest Disclosure Act 1998 (PIDA). These concerns related to aspects of the provision of services in the following areas:

- Arrangements for the commissioning and monitoring of contracts for Supported Living and Supported People services.
- Application of the Department of Health Fairer Charging policy.

- 3.2. The Audit Commission undertook a review of the arrangements for commissioning and monitoring contracts, and for charging service users, to ensure that appropriate arrangements were in place to ensure value for money and compliance with relevant guidance regarding adequate safeguard controls.

- 3.3. A report was prepared by the Audit Commission identifying a number of recommendations to improve existing arrangements within Adult Social Services which was presented to this Committee on 30 September 2008.

4. **INTERNAL AUDIT WORK UNDERTAKEN**

- 4.1. The objectives of the audit were to:

- (a) Investigate allegations made by a member of the public at the Audit and Risk Management Committee meeting on 30 September 2008 concerning the activities of employees of the Council involved in the supported living case involving a family member.
- (b) Evaluate the efficiency and effectiveness of the system and procedures utilised by the Adult Social Services Department to include a named supported living provider on the Accreditation List.
- (c) Evaluate the Whistleblowing policy and procedures in operation within the Adult Social Services Department for effectiveness and compliance in this particular case.

4.2. The audit work undertaken involved interviewing the following individuals concerned with this case and reviewing and evaluating all of the relevant documentation and working papers available for this particular case:

- The person responsible for making the allegations regarding the activities of Council employees,
- The person responsible for the Whistleblowing,
- The relevant Heads of Service,
- Individual managers and officers responsible for systems, policies and procedures in operation within Adult Social Services.

4.3 Due to the deadline identified for the production of this report it has not been possible to interview every officer of the Council involved with this particular case, nor examine every piece of a substantial amount of paperwork. However meetings have taken place with a significant number of relevant officers including all of the 'key' individuals identified and all of the crucial documents have been examined and evaluated.

5. FINDINGS AND CONCLUSIONS

5.1. Allegations of Impropriety

5.1.1. The allegations made by the member of the public concerning the activities of members of staff employed by Wirral Council were investigated and no evidence identified to substantiate any issues of impropriety involving any employee of the Council either past or present. In fact many of the issues presented to the auditors, and referred to at the previous meeting of this Committee relate to the activities of the named supported living provider and its employees. Some of these issues have become known to officers of the Council during their involvement with this case and some questions have been asked regarding the activities of this provider. Not all of these questions appear to have been acted upon by the Department, however, there is no evidence to suggest that any officers of the Council deliberately acted against the best interests of the client or in fact at any time 'colluded' with the named supported living provider in an improper manner.

5.1.2. The issues relating to the activities of the named supported living provider have been reported to the Police by the client and they have conducted a separate investigation and determined not to proceed with a case for reasons not disclosed to the auditors.

5.2. Accreditation List

- 5.2.1. The systems and procedures in place within the Adult Social Services Department for the compilation and maintenance of an Accreditation List for providers of supported living were actually reviewed in detail by the Internal Audit Section in March 2008 and a report prepared for the Head of Service (Appendix 1.a). This report identified that the whilst the system in operation complied with good practice the overall opinion on the effectiveness and efficiency of the control environment was that it was 'less than satisfactory' primarily on account of their being seven high priority weaknesses identified in the system of control. Those recommendations required to address weaknesses were identified in the report for management and an appropriate timescale for implementation agreed. five of these recommendations are summarised in the PIDA report prepared by the Audit Commission and presented to this Committee on 30 September 2008.
- 5.2.2. Follow-up work conducted during this review to assess progress made by the Department towards implementing these recommendations indicates that of the seven recommendations required to improve systems of control three have been fully implemented and four remain outstanding despite the deadline having passed, although it was observed that progress has been made in some areas (Appendix 1.b). I am advised by management that the revised target date for completion of these is 28 November 2008.
- 5.2.3. The Accreditation List became operational in December 2006 when a number of supported living providers were assessed by the Adult Social Services Department utilising a detailed scoring matrix that included an evaluation of various criteria and culminated in an overall assessment score. The named supported living provider was one of thirty six providers that attained the required score at this time and was subsequently added to the list. Adult Social Services currently has sixteen individuals placed with this provider representing 6% of the total placements across all of the supported living providers.
- 5.2.4. It is acknowledged by the Adult Social Services Department that prior to the compilation of the Accreditation Listing in 2006, systems in operation to manage the utilisation of supported living providers were not as robust as they are now and that any control issues previously in evidence have now been addressed. The introduction of an Accreditation List has significantly improved control over this system and removed many of the weaknesses that were in evidence. However, a number of issues do still remain and will only be fully addressed when all of the outstanding recommendations from the Internal Audit and Audit Commission reports are fully implemented.

5.3. Whistleblowing Policy

- 5.3.1. Evidence indicates that the Adult Social Services Department has fully implemented the Whistleblowing Policy which complies with current best practice. A procedure has been developed within the Department to communicate the details to all managers and members of staff via regular team briefings, notices, emails and utilisation of the intranet.
- 5.3.2. For this particular case however, there is some confusion regarding whether the case was indeed a Whistleblowing or not. The Department has indicated that when issues were first raised by the individual that they were of a 'Grievance' nature and were dealt with under the Council policy and procedure for this, and documentation provided by the department supports this. The Department believed that because the case was a grievance and was being dealt with as such, implementing Whistleblowing procedure was not appropriate. It is their 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. However, evidence has been provided to the auditors by the individual which includes correspondence from the Council referring to the individual's Whistleblowing case that appears to dispute this. The individual is clearly of the opinion that during the course of the investigation of the grievance he requested that the case be identified and investigated as a Whistleblowing, but management disputes this and has provided evidence to support this. It has not been possible to reach a definitive conclusion on this due to the protracted nature of this case, the conflicting evidence provided and the timescale involved. What is clear however is that management should have established at the outset the exact nature of the issues reported and the way in which they were to be investigated and that this should have been agreed by both parties.
- 5.3.3. What is beyond dispute is that the individual responsible for the actual 'Whistleblowing' is a former employee of the Adult Social Services Department who had been actively involved with the case in question. This individual had expressed concerns to management on a number of occasions regarding systems in operation within the Department and the handling of this case. Evidence obtained indicates that these concerns were investigated by managers although not to the satisfaction of the individual as a formal grievance was raised in September 2006. The grievance process was operational for a prolonged period of time without resolution and consequently progressed to the stage of the Council procedure which involved a report being presented to the Appeals Sub Committee for hearing by Members in May 2007. At the second hearing in July 2007 and without any conclusion being reached the individual withdrew the grievance.

- 5.3.4. An agreement was subsequently reached with the Council to end the individuals employment on 4 April 2008, on account of their being irrecoverable differences. A 'compromise agreement' that included a confidentiality clause was prepared and agreed by the Individual, the Adult Social Services Department, Legal and Member Services and Human Resources. The Head of Human Resources stated that this type of agreement, whilst not being commonplace, has been utilised by the Council on a number of occasions in certain circumstances where irrecoverable differences are in evidence. On this occasion both parties signed the document agreeing to the terms and conditions included within the agreement. The individuals post was subsequently deleted by the Department following a restructure earlier this year.
- 5.3.5. Sufficient evidence was obtained during the audit to suggest that in general the Council Whistleblowing Policy and procedures have been implemented effectively by the Adult Social Services Department and that any case brought to the attention of those designated officers identified in the Whistleblowing policy would be investigated in accordance with this. However, it should be noted that since the policy was implemented the Department has not had a single Whistleblowing case to investigate and so it is not possible to evaluate actual compliance with the policy and procedure by officers of the Department.
- 5.4. During the audit a request was received to review issues relating to the charging policy. However due to the timescale involved it has not been possible to complete this element of the work. A subsequent audit will be undertaken of this and reported to a future meeting of this Committee.

6. **RECOMMENDATIONS**

- 6.1. An Action Plan has been prepared that identifies the following recommendations required to address the control issues identified and to improve systems in operation. This will be included in a report to be prepared for management of the Adult Social Services Department following this Committee meeting (Appendix 2):
- (a) Immediately review the procedures in operation within the Department for evaluating the performance of supported living providers on an ongoing basis, to ensure that provision is made for the inclusion of the views and opinions of officers of the Council undertaking work in these areas regarding the effectiveness of individual providers.
 - (b) Immediately implement all of the outstanding recommendations identified in the Audit Commission and Internal Audit reports dated March, August and October 2008 respectively.

- (c) Immediately review the procedures in operation within the Department for evaluating reported issues of this nature and determining the most appropriate actions to be taken to investigate them, and assess the adequacy and effectiveness of these arrangements.

7. FINANCIAL AND STAFFING IMPLICATIONS

- 7.1. There are none arising from this report.

8. LOCAL MEMBER SUPPORT IMPLICATIONS

- 8.1. There are no local Member support implications.

9. LOCAL AGENDA 21 STATEMENT

- 9.1. There are no local agenda 21 implications.

10. PLANNING IMPLICATIONS

- 10.1. There are no planning implications.

11. EQUAL OPPORTUNITIES IMPLICATIONS

- 11.1. There are no equal opportunities implications.

12. COMMUNITY SAFETY IMPLICATIONS

- 12.1. There are no community safety implications.

13. HUMAN RIGHTS IMPLICATIONS

- 13.1. There are no human rights implications.

14. BACKGROUND PAPERS

- 14.1. Audit Commission – Adult Social Services Follow Up of PIDA Disclosure - August 2008
- 14.2. Internal Audit Report and Follow Up on Accreditation List for Independent Living Providers (Appendix 1a & 1b).
- 14.3. Internal Audit Action Plan (Appendix 2).

15. RECOMMENDATION

- 15.1. That the report be noted.

IAN COLEMAN
DIRECTOR OF FINANCE