

WIRRAL COUNCIL

AUDIT AND RISK MANAGEMENT COMMITTEE:
28 SEPTEMBER 2010

REPORT OF THE DIRECTOR OF ADULT SOCIAL SERVICES

**PROGRESS REPORT ON REIMBURSEMENT IN RELATION TO PUBLIC
INTEREST DISCLOSURE ACT 1998 (PIDA)**

Executive Summary

The purpose of this report is to update members of the Audit and Risk Management committee on progress in implementing reimbursement to certain residents and former residents of Bermuda Road, Curlew Way and Edgehill Road following the agreement of Cabinet to the recommendations of this Committee.

An update on the project to reimburse the 16 individuals provides the following progress: relatives of the 4 deceased people have received reimbursements; one person with capacity has received theirs; all other repayments have been affected by the intervention of the Office of the Public Guardian.

This item falls within the Social Care and Inclusion portfolio.

1 Background

- 1.1 This paper provides a progress report on the work undertaken to proceed with reimbursing sixteen individuals who were identified as eligible for a payment following a decision by Cabinet on 14 January 2010. Twelve of these people who currently use services are still alive and four people are now deceased.
- 1.2 Each of the twelve individuals have been provided with an advocate, ten with Wirral Mind, one with Mencap and one with Advocacy in Wirral.

2 Reimbursement Task Force

- 2.1 A task force meeting has been held regularly since February 2010 in order to the review progress with advocates on individual cases and discuss any issues. The meetings have been attended by advocates, Weightmans Solicitors and Council staff, including individuals from finance, welfare benefits and operational areas.
- 2.2 Reimbursement has been paid to one of the twelve individuals in July 2010.

3 Office of the Public Guardian

- 3.1 A letter was received in May from the Office of the Public Guardian. They had been made aware of the reimbursements and they had safeguarding concerns in relation to substantial sums of money being paid to vulnerable adults who may not have the capacity to make their own decisions. If this were the case they advised that it would be appropriate for applications to be made to the Court of Protection.
- 3.2 Since then the department has liaised with the Compliance and Regulation Unit of the Office of the Public Guardian to agree the actions we should be taking. They advised to complete capacity assessments on all individuals and where they do not have capacity an application should be made to the Court of Protection. If they do have capacity then the reimbursement can go ahead to the individual.
- 3.3 Initial capacity assessments have been completed for nine individuals. For eight of them the indication was that they did not have the capacity to make decisions around financial matters. Referrals to their GP have been arranged for a formal capacity assessment which is a requirement by the Court of Protection when applications are made.
- 3.4 We are currently awaiting the outcome of the initial assessment for three people.
- 3.5 The department will make the applications to the Court where there is not an appropriate person able or willing to do so, such as a family member.
- 3.6 Establishing and dealing with the requirements of the Public Guardian have delayed progress in making reimbursement payments. The one payment which has been made was to someone who did have capacity.

4 Contact with the individuals and their relatives

- 4.1 Independent advocates have been working closely with the individuals and their families since February 2010 to determine how they may wish to utilise their reimbursement. Most of the preparatory work in relation to understanding the wishes of the individuals and their families has now been completed.
- 4.2 Update letters have been sent to relatives in August which includes details of the requirements from the Office of the Public Guardian.

5 Progress on the four deceased

- 5.1 Next of kin have been identified for each of the four deceased and reimbursement payments have been made for all of them.
- 5.2 Identification and verification of next of kin has been managed in line with legal advice.

6 Future Progress

- 6.1 Progress on completing the work to reimburse the remaining 11 individuals will now be dependent on the progress of the applications to the Court of Protection.

7 Financial Implications

- 7.1 The total cost of reimbursement is £243,460. To date £62,695 has been paid. At Cabinet on 14 January 2010 it was agreed to provide the sum of £243,000 to meet the cost of the reimbursements

8 Staffing Implications

- 8.1 There are none.

9 Equal Opportunities Implications/Health Impact Assessment

- 9.1 This issue has concerned the fairness of the Council's charges to a group of people with learning disabilities.

10 Community Safety Implications

- 10.1 There are none.

11 Local Agenda 21 Implications

- 11.1 There are none.

12 Planning Implications

- 12.1 There are none.

13 Anti Poverty Implications

- 13.1 Part of the concern with previous practice was the impact on individuals with capital resources.

14 Social Inclusion Implications

- 14.1 The objective of supported living schemes is to enable disadvantaged individuals to have more independence and integration in the community.

15 Local Member Support Implications

- 15.1 The houses concerned are in Moreton Ward.

16 Health Implications

16.1 None as a result of this report.

17 Background Papers

17.1 Previous reports to Committee and Cabinet

17.2 Letter received from the Office of the Public Guardian

18 Recommendations

That;

(1) The report be noted.

(2) Final details of reimbursements to individuals be reported to a further meeting of this committee.

JOHN WEBB

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Date 13.9.10