

WIRRAL COUNCIL

CABINET : 6 NOVEMBER 2008

REPORT OF THE DIRECTOR OF ADULT SOCIAL SERVICES

FOLLOW UP OF DISCLOSURE UNDER PUBLIC INTEREST DISCLOSURE ACT 1998 (PIDA).

1. EXECUTIVE SUMMARY

- 1.1 *This report addresses the concerns expressed by members at the Audit and Risk Management Committee on 30th September. It outlines work that is ongoing within the Department of Adult Social Services including those issues agreed with the Audit Commission in the form of an action plan.*

2 BACKGROUND AND PIDA REPORT

- 2.1 In October 2007 the Audit Commission's attention was drawn to a number of concerns regarding aspects of the Council's provision of services within Adult Social Services and Supporting People. A number of concerns fell outside the remit of the Audit Commission; however two matters were investigated in respect of:
- (a) 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
 - (b) application of the Department of Health's Fairer Charging policy
- 2.2 The concerns, raised in October 2007 directly with the Audit Commission were investigated by them in the period up to March 2008. Their investigation was conducted under the Public Interest Disclosure Act 1998.
- 2.3 The investigation was welcomed as was the report from the Audit Commission in which a number of matters for attention were highlighted.
- 2.4 As a matter of process, the Department of Adult Social Services agreed an action plan with the Audit Commission. This action plan addressed the specific areas of concern and was included when the report was presented to the Audit and Risk Management Committee in September.
- 2.5 When the Audit Commission report was presented to Audit and Risk Management Committee, members raised a number of concerns and sought additional information and assurances with regard to a number of matters.

3 AUDIT COMMISSION REPORT AND ACTION PLAN

- 3.1 The Audit Commission Report highlighted a number of specific areas where attention was required. These were set out as an agreed action plan in Appendix 1 to their report.
- 3.2 This action plan has been further reviewed and the timescale for completion of all work brought forward.
- 3.3 It should be noted that where individuals have already been reviewed and reassessment and Fairer Charging Policy applied, it would be unwise to undertake a further reassessment until March 2009. This is the date upon which benefit rates change and annual reassessments take place.

4. AUDIT AND RISK MANAGEMENT COMMITTEE 30TH SEPTEMBER

- 4.1 On 30th September, in considering the Audit Commission report, members resolved three actions:
 - (1) That the Audit Commission Report 'Adult Social Services – follow up of PIDA disclosure' be referred to Cabinet and to the Social Care, Health and Inclusion Scrutiny Committee, for consideration.
This report responds to that resolution, with additional consideration being given by a further additional Audit and Risk Management Committee.
 - (2) That the Action Plan contained within the PIDA report, be redrafted to ensure earlier compliance with the recommendations contained within it.
This has been addressed and all completion dates brought forward.
 - (3) That the officers be requested to investigate whether a charging policy had been in place, dating back to 1999 and, if so, whether or not it had been approved by Members.
This report addresses that matter in detail.

5 FAIRER CHARGING POLICY

- 5.1 In 1997 the Department of Health issued details of "Fairer Charging". These were augmented by the publication of Fairer Charging Guidance for non residential care in September 2003. The guidance is clear, charges for services are discretionary. However, where applied by a local authority, they must comply with the guidance.
- 5.2 Wirral was slow to adopt the Fairer Charging policy; however, reports on progress were made to the then "Select" Committee in April 2002 and March 2003. With regard to the specific issues raised by the Audit Commission report, in a report to Cabinet on 20th March 2003, it was reported that:

"1.8 – Where service users receive support through Supporting People and are eligible to pay a charge, it is the Fairer Charging guidance that is to determine the charge". Discussions are taking place with colleagues in the Supporting People Team to achieve this.

- 5.3 However, as highlighted in the Audit Commission report, comprehensive introduction of Fairer Charging took an extended period with a further report to Cabinet in December 2005, when it was agreed to:
- "4.1. – "Apply fairer charges for adults with a learning disability who received day care or Supported Living services".*
- 5.4 The specific concerns within the Audit Commission report and addressed by action point R4 relate to the possibility that people may have been overcharged through this late application of Fairer Charging and seeks assurance that any over-payments will be reimbursed.
- 5.5 Assessments to date (October 2008) have been undertaken on 351 people. This includes 29 people who, because of their status (Section 117 Mental Health Act) pay no charges.
Of these 351 people, further work is underway in 8 cases, where it appears the individual was assessed under the wrong policy. "Charging for Residential Care Guidelines", rather than "Fairer Charging" being applied. Where higher incorrect charges were levied, reimbursement will be made.
The remaining assessments will be completed as soon as possible.
- 5.6 Special Charging Policy
The report includes a concern that without authority, a charging policy was implemented, in some settings. It is this element that has been referred to as a "special charging policy".
- 5.7 In most situations, where people are living in Supported Living the service costs are 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.
- 5.8 It is around the "Daily Living Costs" that concerns have been highlighted. These were addressed internally by the Department of Adult Social Services in 2006. This with the full application of Fairer Charging apply to all from 2006. However, leading up to the introduction and application of Fairer Charging, local arrangements were made to collect Daily Living Costs.
- 5.9 Whilst work to address concerns with independent providers continues, one anomaly at Balls Road, the only Supported Living accommodation owned by the Council was uncovered in September 2008, as a part of the ongoing review and reassessment of all arrangements. This arrangement dates back some time and relates to 5 people and services collected for

Daily Living Costs. Work continues to ensure that Fairer Charging is applied and reimbursements made if appropriate.

5.10 Daily Living Costs – Independent Sector

Whilst individuals who live in Supported Living tenancies, can and do determine how much they pay into a communal fund to cover “Daily Living Arrangements” it is evident that further measures are required to ensure these contributions are both fair and reasonable.

5.11 Arrangements for Daily Living costs will always rightly be an area for discretion although it would be good practice to issue guidelines to be followed. It is in this area of Daily Living Costs where it is believed the term “Special Charging Policy” was born. It was not a policy and, as suggested, must remain a matter for discretion. This will be introduced as part of an improved and more rigorous contract monitoring process.

5.12 Progress in these areas will be reported as part of the follow up action, agreed with the Audit Commission.

6 SPECIFIC CONCERNS ABOUT AN INDIVIDUAL PROVIDER

6.1 In the Audit Commission report, concerns are expressed that a provider is obstructing the application of Fairer Charging. That provider currently offers support to 25 people, 16 of whom are funded by the Department of Adult Social Services.

6.2 Normal processes to ensure financial assessments are completed have, to date, been slow. The Department of Adult Social Services, with legal advice is now pursuing other processes to ensure compliance, with regard to the remaining, to a maximum of 11, financial assessments.

7 CONTRACTING FOR SERVICES AND SAFEGUARDING VULNERABLE PEOPLE

7.1 Progress has been made with the accreditation exercise and currently 30 of the 36 providers in Wirral are accredited with contracts signed. Completion of this work has been brought forward to end of November 2008.

7.2 A robust safeguarding policy and procedure are in place in Wirral. A number of concerns relating to Supported Living have, over the years, been investigated under this procedure and have included Police investigations where appropriate.

7.3 The Audit Commission report is critical of contract monitoring arrangements and these are being tightened – see action R3. It should be noted that that one important provider ceased operations in 2007, as a direct result of action taken because DASS concerns about practice.

7.4 A further review of contracting for Domiciliary Care is already agreed as part of the Action Plan.

8 CONCLUSIONS

8.1 The Audit Commission report, addressed a range of concerns, focused around Supported Living. Whilst these issues were already being addressed, they have provided further focus for system improvements. A number of matters are still being addressed; these include an additional 'Internal Audit' being undertaken by the Director of Resources. This will be reported separately. The requirement for robust contract arrangements, with all providers, conforming to standards and requirements, remains at the centre of ongoing work and progress will be reported to members in line with the amended action report.

9 FINANCIAL AND STAFFING IMPLICATIONS

9.1 There could be some financial implications arising from this report if charged fees have to be reimbursed.

10 EQUAL OPPORTUNITIES IMPLICATIONS

10.1 There are none arising directly from this report.

116. COMMUNITY SAFETY IMPLICATIONS

11.1 There are none arising directly from this report.

12. LOCAL AGENDA 21 IMPLICATIONS

12.1 There are none arising directly from this report.

13. PLANNING IMPLICATIONS

138.1 There are none arising from this report.

14 ANTI POVERTY IMPLICATIONS

149.1 There are none arising from this report.

15 SOCIAL INCLUSION IMPLICATIONS

15.1 There are none arising from this report.

16. LOCAL MEMBERS SUPPORT IMPLICATIONS

16.1 There are no specific implications for any Member or Ward.

17. BACKGROUND PAPERS

- 17.1 Audit Commission – Adult social Services, follow up of PIDA Disclosure
- 17.1 Cabinet Reports;
Implementing the Fairer Charging policies for Home Care and other non-residential Social Services – 20th March 2003
Budget Proposals – Charging Policy – 1st December 2005.

18. RECOMMENDATIONS

- 18.1 Members are asked to note details in the report and make further comments.
- 18.2 A further report, be made to Audit and Risk Management Committee in January 2009, detailing actions taken, to adhere to the amended Action Plan.

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tel. 3650
29th October 2008