

MIDDLESBROUGH COUNCIL

Report of:	Director of Adult Social Care and Health Integration
Submitted to:	Audit Committee
Date:	12 December 2024
Title:	Direct Payments
Report for:	Information
Status:	Public
Council Plan priority:	Safe and resilient communities

Executive summary

This report outlines the findings from the most recent Direct Payment Audit Report and the actions management have or will be taking to implement the recommendations. There are 4 findings shown below that require quick resolve by management and have produced a finding of Limited Assurance.

- Recommendation 1: Annual review of direct payment provision by Social Care staff
- Recommendation 2: Monitoring of direct payment spend by the Adult Social Care Finance Team
- Recommendation 3: The Council does not record the prevalence of family members employed as personal assistants.
- Recommendation 4: DP applicants are not informed of the legal requirements relating to misspending DP funds.

With the exception of recommendation 1 which is due to be fully implemented by May 2025 (see attached audit report) recommendations 2 has been fully implemented and signed off by Veritau, with recommendations 3 & 4 fully implemented and subject to approval by Veritau.

It should be noted that the Direct Payment Audit was requested by the Service and whilst a number of improvements have been made, a more comprehensive review was requested. The purpose of this review was to ensure that any further opportunities to improve the process were identified and responded to in a timely way. Whilst 3 out of the 4 recommendations have already been implemented, a comprehensive plan is in place to respond to recommendation 1 which the service are well underway with.

1. Purpose

- 1.1 The purpose of this report is to set out the findings of a recently finalised investigation by the Council's Internal Audit service, Veritau, into the arrangements for Direct Payments and to describe the management action plan in response to the audit recommendations.
- 1.2 The audit took place following a request by management within Adult Social Care for Internal Audit to assess arrangements for Direct Payments

2. Recommendations

2.1 That the Audit Committee

- Notes the content of the internal audit report appended to this report.
- Notes the action taken to date and underway to address the concerns raised in that report.

3. Background and relevant information

- 3.1 Direct payments are local health and social care payments for people who have been assessed as needing help from social services and who would prefer to arrange and pay for their own care and support rather than to receive services directly from the local authority. The aim of direct payments is to allow the service user greater choice and control through the flexibility of being able to purchase their own care package. The Care Act (2014) mandated direct payments for the first time in April 2015.
- 3.2 The Council's direct payments guidance defines direct payments and under what conditions direct payments can be made. In the year 2023/24, £9,690,242.40 were made to adults and carers and £318,735.83 were made to children. At the start of the audit, December 2023, there were 832 active customers currently in receipt of direct payments; 555 adults on a managed account, and 217 adults who have their direct payment made directly into their account. There are also 59 children who receive direct payments.
- 3.3 The audit was requested by management within Adult Social Care as concerns had emerged around adherence to established policy. Its intention was to assess the extent to which assurance could be provided to management that procedures and controls within the system would ensure that:
 - Up to date guidance notes are available for customers wishing to apply for direct payments, and also for Council staff involved in administering the scheme.
 - Payments are made to customers accurately in line with an agreed timetable.
 - Direct payment accounts are monitored, reviewed, and reconciled on a reasonable basis, and in line with Council Policy.
- 3.4 The audit reviewed the period December 2022 to December 2023.

3.5 The audit determined that while there are effective processes in place for some elements of the process, there are 4 findings that require early resolve by management as collectively they have produced a finding of Limited Assurance. The attached audit report clearly outlines the actions that will be taken to deliver the recommendations, in summary these are shown below:

- **Recommendation 1: Annual review of direct payment provision by Social Care staff:** Initial 6 months review and annual reviews thereafter are not consistently undertaken within the statutory timescale. The combination of high demand and staff vacancies has resulted in delays in reviewing; this is a common problem for Local Authorities but does represent a failure to comply with statutory timescales.
 - **Action:** Plans are in place to utilise temporary staff, funded by Flexible Use of Capital Receipts, with the intention of eradicating the backlog. A further plan has been agreed in the actions to facilitate future compliance with timescales along with further dip sampling to provide assurance of compliance for management. The reviews in question are routine scheduled meetings; in the event however that an individual's care needs change suddenly, the individual or their carer can request an "unscheduled" review. These unscheduled reviews in response to changing need have taken place throughout the period of the review and continue to do so as a normal element of adult social care practice – this serves to reduce, but not eradicate, the risk associated with a backlog of routine reviews. The date of full implementation will be May 2025.
- **Recommendation 2: Monitoring of direct payment spend by the Adult Social Care Finance Team:** Similar to recommendation one, this recommendation identifies that current resources means that during the review period reviews of the financial situation of Direct Payments users are not completed consistently in line with established timescales.
 - **Action:** Recommendation has been fully implemented and signed off as complete by Veritau on 5 December 2024.
- **Recommendation 3: The Council does not record the prevalence of family members employed as personal assistants:** DP guidance states that individual Direct Payments users should not employ individuals living in the same household unless there are exceptional circumstances to justify this. Internal Audit observed that Middlesbrough Council did not have a central record of DP packages where a household member is the personal assistant – Internal Audit also observed that in other areas there has been reason to believe that there is a particular risk of fraud where the personal assistant is a relative from then same household.
 - **Action:** Implemented – pending audit sign off.
- **Recommendation 4: DP applicants are not informed of the legal requirements relating to misspending DP funds:** This recommendation highlights that at the establishment of a DP "package" we have not been sufficiently clear in explaining to individuals the potential for legal action to be taken to recover money in certain situations.
 - **Action:** Implemented – pending audit sign off.

4. Other potential alternative(s) and why these have not been recommended

4.1 The recommendations outlined are required in order to comply with the Care Act 2014; on this basis alternatives have not been recommended.

Impact(s) of the recommended decision(s)

4.2 Completion of the identified recommendations will ensure Direct Payments compliance with the Care Act 2014.

Topic	Impact
Financial (including procurement and Social Value)	For context, the 23/24 Adult's net budget for direct payments was £8.101m with an outturn of £8.037m. In 2024/25, Adult Social Care has had £1.277m additional resources approved from Flexible Use of Capital Receipts approved for transformation. During December 2024, an application is to be made to re-purpose £0.161m of this resource to fund the additional agency staff required to undertake the outstanding reviews. Implementing the recommendations identified in the Audit report will minimise the financial and reputational risk to the Council resulting from direct payments.
Legal	The Council is required to offer a Direct Payments scheme that is compliant with the Care Act 2014.
Risk	Internal Audit have issued a "Limited Assurance" judgement in relation to Direct Payments; the risks identified in failing to comply with the required review period; providing insufficient information for service users about the consequences of fraud and the lack of a central record of relatives employed as personal assistants will be addressed by the management action plan.
Human Rights, Public Sector Equality Duty and Community Cohesion	There are no human rights, equality or data protection issues arising as a result of the recommendations in this report.
Climate Change / Environmental	There are no Climate Change / Environmental issues arising as a result of the recommendations in this report.
Children and Young People Cared for by the Authority and Care Leavers	There are no issues relating to Children and Young People cared for by the authority and care leavers arising as a result of the recommendations in this report.
Data Protection	There are no issues related to data protection or GDPR arising as a result of the recommendations in this report.

Appendices

1	Direct Payments - Internal Audit Final Report dated 27th November 2024
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Background papers

Body	Report title	Date
None		

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