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Agenda Item: 7.

## **Performance and Audit Committee**

**Date of Meeting: 13 March 2024.**

**Subject: Orkney Islands Council Internal Audit of Direct Payments.**

### **1. Purpose**

1.1. To present, for information, the internal audit report completed for Orkney Islands Council, on procedures and controls relating to Direct Payments within Orkney Health and Care.

### **2. Recommendations**

The Performance and Audit Committee is invited to note:

2.1. That the Council's Internal Audit has undertaken an audit of procedures and controls relating to Direct Payments.

2.2. The findings of the internal audit report, attached as Appendix 1 to this report, reviewing the procedures and controls in place relating to Direct Payments, which were scrutinised by the Council's Monitoring and Audit Committee on 8 February 2024.

### **3. Background**

3.1. The Social Care (Self-directed Support) (Scotland) Act 2013, which came into effect from 1 April 2014, provides people with a range of options in respect of the delivery of their social care, empowering them to decide how much ongoing control and responsibility they want over their support arrangements.

3.2. The views of the service user, or their Power of Attorney or legal guardian, carers, assessor and relevant agencies are brought together to negotiate, agree and record desired outcomes and produce a plan to work towards these outcomes.

3.3. The objective of this audit was to review procedures and processes in place around the making of direct payments as part of the self-directed support within social care services.

## 4. Audit Findings

4.1. The audit provides limited assurance over the procedures and controls relating to direct payments.

4.2. The internal audit report, attached as Appendix 1 to this report, includes six medium priority recommendations regarding the information recorded on the PARIS System, annual reviews, agreement letters and the functionality of the PARIS System. There are two low priority recommendations regarding website information and primacy of outcomes. There are no high priority recommendations made as a result of this audit.

## 5. Contribution to quality

Please indicate which of the Orkney Community Plan 2023 to 2030 visions are supported in this report adding Yes or No to the relevant area(s):

<b>Resilience:</b> To support and promote our strong communities.	Yes.
<b>Enterprise:</b> To tackle crosscutting issues such as digital connectivity, transport, housing and fuel poverty.	Yes.
<b>Equality:</b> To encourage services to provide equal opportunities for everyone.	Yes.
<b>Fairness:</b> To make sure socio-economic and social factors are balanced.	Yes.
<b>Innovation:</b> To overcome issues more effectively through partnership working.	Yes.
<b>Leadership:</b> To involve partners such as community councils, community groups, voluntary groups and individuals in the process.	Yes.
<b>Sustainability:</b> To make sure economic and environmental factors are balanced.	Yes.

## 6. Resource and financial implications

6.1. There are no resource or financial implications associated directly with this report.

## 7. Risk and equality implications

7.1. Under Section 50A(4) of the Local Government (Scotland) Act 1973, the public should be excluded from the meeting in respect of any discussion relating to Appendix 2 to this report. Appendix 2 contains exempt information as defined in paragraphs 3, 4 and 8 of Part 1 of Schedule 7A of the Act.

## 8. Direction required

Please indicate if this report requires a direction to be passed to:

NHS Orkney.	No.
Orkney Islands Council.	No.

## 9. Escalation required

Please indicate if this report requires escalated to:

NHS Orkney.	No.
Orkney Islands Council.	No.

## 10. Authors and contact information

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## 11. Supporting documents

11.1. Appendix 1: Internal Audit Report - Direct Payments.

11.2. Appendix 2: Internal Audit Report – Direct Payments Confidential Annex.



## Internal Audit

### Audit Report

### Direct Payments

Draft issue date: 12 December 2023

Final issue date: 17 January 2024

<b>Distribution list:</b>	<b>Chief Officer Integration Joint Board Chief Finance Officer Integration Joint Board Head of Health and Community Care Service Manager (Adult and Learning Disability Social Work) OHASC Finance Officer</b>
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## Audit Opinion

Based on our findings in this review we have given the following audit opinion.

### Limited

**There are significant weaknesses in the framework of governance, risk management and control such that it could be or become inadequate and ineffective.**

A key to our audit opinions and level of recommendations is shown at the end of this report.

## Executive Summary

This audit reviewed various operational policies and procedures in place around the Self-Directed Support system including identification of desired outcomes, authorisation and monitoring of the provision of support, review of direct payment expenditure, and review of the impact on the service user of the support provided.

Our review suggests that whilst controls are in place and operating there are a number of issues around the recording and evidence of the operation of the controls, in particular in respect of the user input into the PARIS system, and its impact on the quality of data subsequently made available to management for decision making.

Several areas of good practice were identified during the audit including:

- There are policy documents and eligibility guidance available in respect of the Self-Directed Support Process which includes details of the legislation and guidance to practitioners on the Scottish Government's strategy in this area, and reflects the emphasis on the delivering outcomes.
- The guidance for service users, representatives, family and carers on the relevant webpages in the OIC website is written in a clear and concise way.
- The PARIS system allows records from diverse teams dealing with the service user to be collated in one place.
- Proposed upgrades to the PARIS system would allow closer integration with the financial systems.
- The weekly Resource Management Meetings (RMMs) allow the service to be agile in responding to urgent requests for support for service users.
- The inclusion of the Finance Officer in the RMMs provides an awareness of the financial impact of the support packages supplied.

The report includes 8 recommendations which have arisen from the audit. The number and priority of the recommendations are set out in the table below. The priority headings assist management in assessing the significance of the issues raised.

Responsible officers will be required to update progress on the agreed actions via Pentana Risk.

Total	High	Medium	Low
8	0	6	2

The assistance provided by officers contacted during this audit is gratefully acknowledged.

## Introduction

Social Care services provide personal care and other practical assistance to improve the quality of people's lives and support them to live as independently as possible.

The Social Care (Self-directed Support) (Scotland) Act 2013 which came into effect from 1 April 2014, provides people with a range of options in respect of the delivery of their social care, empowering them to decide how much ongoing control and responsibility they want over their support arrangements. The Act places a duty on Local Authorities (LA) to offer four options in respect of how they receive their social care support as follows:

1. The Supported Person, or 'service user' receives a direct payment and uses it to arrange their own support.
2. The service user decides on the support they want, and support is arranged on their behalf by the LA or a third party.
3. After discussion with the service user, the LA decides on and arranges support.
4. The service user uses a mixture of 1, 2 and 3 above to arrange their care and support.

The views of the service user, or their Power of Attorney holder or legal guardian, carers, assessor and relevant agencies are brought together to negotiate, agree and record desired outcomes and produce a plan to work towards these outcomes, which should be regularly reviewed.

The Local Authority has the freedom to decide how to provide self-directed support and set their own locally agreed eligibility criteria. The amount of money allocated for support should be sufficient to meet the needs and agreed outcomes resulting from the assessment.

The objective of this audit was to review the procedures and processes in place around the making of direct payments as part of the self-directed support within social care services, focussing on the period from 1 April 2022 to 30 June 2023.

This review was conducted in conformance with the Public Sector Internal Audit Standards.

## Audit Scope

The scope of the audit included a review of the following:

1. There are appropriate policies and procedures in place for staff regarding self-directed support which includes local eligibility criteria.
2. Assessments are carried out for all adult and children's services' clients considering the self-directed support route which involves the client and establishes desired outcomes.
3. There is an adequate support plan in place for all self-directed support clients and there are appropriate authorisation procedures for the provision of support.
4. Adequate systems are developed for the calculation of the indicative budget and clients are informed of their indicative budgets.
5. There is evidence on file of the financial support agreed by the Council in order to meet the support of a person and evidence is held on file supporting any partial or unfunded decisions.
6. There is clear guidance provided to the person eligible for Self Directed Support assistance in relation to what the money can and cannot be used for and if unsure advises that contact should be made with the Council for advice prior to committing any expenditure.
7. Evidence is submitted to the Council identifying how self-directed support has been used, together with supporting receipts and paid invoices.
8. The Council reviews the evidence to determine whether support has been purchased in accordance with the agreed support plan. Where identified that this is not the case the reasons are obtained and arrangements made to reclaim any payments which have not been used in accordance with the relevant support plan.
9. There is evidence of sufficient monitoring of support plans, together with period review in order to assess whether the level of support is appropriate.
10. There are arrangements in place to ensure that risks associated with direct payments and option 2 service provision are properly assessed and managed with adequate monitoring and review.
11. A formal letter of agreement is in place for all service users who have chosen the Direct Payment option.
12. There are adequate arrangements in place to ensure financial assessments are carried out for all service users.

# Audit Findings

## 1.0 Policy and Procedures

- 1.1. The Self-directed Support Guidelines and Process document was last updated in 2020 based on the standards and guidance from the Association of Directors of Social Work (ADSW) issued in 2014. Revised standards and guidance are due to be issued by the ASDW in early 2024 and it is anticipated that the Guidelines and Process document will be updated accordingly.
- 1.2. Self-directed support and the eligibility criteria now form an integral part of the professional training for social workers. In the event of any changes to the guidance or eligibility criteria, catch up training would be organised as appropriate.
- 1.3. The eligibility criteria set out in the current Guidelines and Process document do not reflect the extension, in April 2019, of the original eligibility categories issued by COSLA and the Scottish Government in 2009 to all adults in respect of free personal care.
- 1.4. The criteria for eligibility is published on the Council website for Direct Payments and the Self-Directed Support does not specifically mention older people who need community care services, who are the main users of the self-directed support / direct payments service. In addition, the Council website on Community Care does not include links to either the Direct Payment page or the self-directed support page. There are no links between the Direct Payment page and the self-directed support page.
- 1.5. The wording of the eligibility criteria on the Council website should be updated to specifically mention older people, and links between relevant pages on the website should be updated and added to allow users to easily navigate from one page to an associated page.

### Recommendation 1

## 2.0 Assessments

- 2.1. When assessments are undertaken, the relevant forms are added to the PARIS system, but full completion of the individual parts of the forms is limited. Although the focus of the discussions of the parties in the assessment is intended to be on desired outcomes, and the plan of care aimed at achieving these outcomes, the section of the assessment form designed to draw out the desired outcomes is often incomplete.
- 2.2. Whilst the range of options chosen by service users suggest that officers are promoting the full range of options available, sample testing indicated several occasions where there was little evidence available on the individual PARIS files that each of the options had been discussed.
- 2.3. Where the service user lacks capacity, the name of the person representing them in the discussion should be recorded on the electronic form, but this is not always done.
- 2.4. Senior management should ensure staff capture the 'desired outcomes' focus of the discussions by completion of the relevant section within the assessment form on PARIS For new cases, and on review of existing cases, the relevant section on the review of options available on the assessment form on PARIS should be completed. Where the service user lacks capacity, the name of the person involved with discussing the option and



the date of the discussion should be recorded within the PARIS file, as a substitute for the written signature as evidence of discussion.

## **Recommendation 2**

- 2.5. The majority of self-directed support is provided to service users who are elderly or have a disability. Testing identified one recipient of a direct payment who was under 18. This individual had an assessment on file which identified the desired outcomes and the resource required to achieve this, and also contained the appropriate authorisation for the resulting direct payment.
- 2.6. The criteria used for 'eligibility for assessment' are published on the Council website, and are in line with the guidance on the National Standard Eligibility Criteria applying to adults.
- 2.7. Assessments for support are also offered to carers who meet the eligibility criteria set out on the Council website. The support supplied generally takes the form of additional personal care hours for the service user and is subject to the standard controls around authorisation and administration.
- 2.8. There have been no applications for direct payments which have been refused, although, within the sample, one application for an increase in direct payments was overtaken by a subsequent case review and was not ultimately implemented.
- 2.9. As noted at 2.1 above, the degree to which various parts of the assessment forms held on PARIS are completed is variable, however reviewing the comments made on the assessment forms indicate that where a service user desires it, reasonable steps are taken to facilitate their dignity and participation in the life of the community.

## **No recommendation**

- 2.10. Although there are records and lists of service users choosing Options 1 to 3, which are reviewed as part of monitoring processes, there are no such lists for Option 4. In addition, there is no overall record kept of the number of people choosing each option under self-directed support, with the result that senior management do not have oversight of the total numbers of individuals under each Option, and would not be able to readily identify if individuals were being steered towards a particular option rather than offered all options as required.

**See Recommendation 7 below**

## **3.0 Support plans and authorisation**

- 3.1. Each team has its own notes, assessments and referrals filed on the PARIS system in respect of a service user, however there is no overall summary of the support package offered to an individual. This makes oversight of the current support package and how this has been amended over time difficult.

**See Recommendation 7 below**

- 3.2. Proposed support packages are submitted to the Resource Management Meeting (RMM) for discussion and authorisation. Although redacted extracts of the minutes from this meeting which show authorisation for a package should be added to the PARIS file as evidence, this is not being consistently done.

- 3.3. Under the current system of controls, where a service user requires a care package in excess of the appropriate upper weekly limit, £1,117 for Adult Social Works and £2,359 for All Ages Learning Care, an Extended Package of Care (EPOC) request should be made. This request requires authorisation by the Chief Officer, Orkney Health and Social Care Partnership and the S95 Officer in addition to the standard authorisation by the RMM noted above.
- 3.4. During the audit, an issue in respect of this EPOC procedure was identified in respect of one of the cases sampled. To protect the identity of the relevant service user, the details of this matter are covered by the Confidential Annex. Following further review work, it appears that this may have been an isolated incident.
- 3.5. Evidence of appropriate authorisation of new and amended support packages should be recorded consistently on PARIS files.

### **Recommendation 3**

## **4.0 Budgets**

- 4.1. Budgets are determined on an equivalency basis, i.e. with regard to the hours of support required to achieve the desired outcome regardless of the supplier. The service user is not provided with an individual monetary budget, except under Options 1 or 4, or for payments to carers requesting support, where an equivalent number of care hours is authorised and expressed as a monetary amount to be made available.
- 4.2. Financial and IT systems are in place to support the allocation and monitoring of individual budgets. Testing matching payments to support plan details showed that these controls are substantially satisfied, with a success rate of over 97.5%. In the event of a projected shortfall, service users can apply to be re-assessed, and their budgets amended.

### **No Recommendation**

## **5.0 Expenditure: Guidance**

- 5.1. Historically guidance has been available via information leaflets given to service users, but these leaflets need to be updated so at present are not being issued. As a result there is currently no clear guidance issued at local level in relation to what the money can be used for, although the letter of agreement sets out the expectation, in line with the statutory legislation, that direct payments are to be used to purchase services to meet the care needs.
- 5.2. The current work on updating information packs, including guidance on eligible expenditure should be completed, and information packs issued to service users prior to the discussion around and selection of a support Option.

### **Recommendation 4**

## **6.0 Expenditure: Requirement for Supporting Evidence**

- 6.1. Service users are required to keep evidence of how payments have been used and submit returns annually. This requirement is set out in the agreement letter / contract which is signed by or on behalf of service users receiving direct payments.
- 6.2. Testing showed that 2 individuals of the 16 sampled in total did not have a signed letter of agreement on file.

6.3. Where signed letters of agreement are missing, a revised letter of agreement should be issued at the next change in or review of the support package, and filed.

## **Recommendation 5**

### **7.0 Expenditure: Monitoring**

- 7.1. Invoices received from providers in respect of Option 2 provision to service users are reviewed and approved by the Principal Social Worker for Adult Services before payment.
- 7.2. Recipients of direct payments are issued with a reporting form annually in December which they complete with the payments they have made. They return the completed form together with the bank statements for the direct payment accounts, which are then reviewed by the Finance Officer. Annual monitoring commenced under the recommendation of the external auditor; formerly quarterly reviews were in place.
- 7.3. The reporting allows the position of the bank account to be checked immediately prior to the payments in advance for the quarter ended 31 March, and identifies any underspends which mean that a payment for the last quarter of the financial year is not required.
- 7.4. Testing of the review undertaken in the period of study showed that 3 individuals of the 10 sampled did not have a monitoring statement of expenditure in place, as a result of failure to return the reporting form. The decision had been taken to defer review of their expenditure to the following year.
- 7.5. There is a risk that reduced scrutiny of expenditure could lead to a failure to detect misuse of these funds, and could also adversely impact on the detection of underspends, resulting in expenditure being incurred on direct payments which are not required.
- 7.6. The following year review of expenditure has now been undertaken for all recipients of direct payments and in all but three cases reporting forms and supporting evidence have been supplied, allowing a comprehensive review of the payments to be undertaken. The outstanding information is being actively pursued to ensure 100% coverage for this review.
- 7.7. The review at least of expenditure in respect of direct payments should be maintained in line with prior external audit recommendations as at least annually. Additional resource over present levels may be required to ensure this is feasible for all Option 1 service users.

## **Recommendation 6**

### **8.0 Monitoring and reviews**

- 8.1. A system has been established for client plans to be reviewed annually in line with statutory requirements including a review of the extent to which outcomes are being realised. Any updates are recorded in the reassessments.
- 8.2. Where a new support plan is put in place, the name of the service user and the date of their annual review is added by an administrator to a Word document which lists outstanding reviews to be done.
- 8.3. However, testing of a sample of individuals who had been in receipt of a support package for more than 12 months showed that only 20% had received a review within 12 months of the original assessment. 24% of the sample received a review more than 4 years from the previous assessment, or had not yet received a review. The importance of and necessity

for review is recognised by senior management but the delivery is curtailed due to a lack of established staff capacity.

- 8.4. Although regular reviews are being undertaken where support packages are complex or rapidly changing, where the situation appears stable, there can be considerable gaps between reviews. There is a risk that if the service user or their carer is not requesting further assistance, there may be either increasing needs, or over provision being unrecognised.
- 8.5. A request should be made to add functionality to the PARIS database to generate reports and allow senior management to extract relevant data useful for oversight, such as:
- total numbers selecting each Option, and
  - details of the current care package, and
  - reminders of outstanding reviews.

#### **Recommendation 7**

- 8.4. Reviews are also carried out when requested by the service user or carer. This allows another opportunity for discussion of desired outcomes and the preferred option to achieve these.
- 8.5. The focus of the written comments on the reviews tends to be more directed towards the current support needs rather than assessing the impact of the existing direct payment on service user outcomes.
- 8.6. Reviews should reinforce the primacy of outcomes for the supported person including responses to the questions – To what extent are the service user or carers' personal outcomes being met under the current self-directed support? If they are not being met, what is required to allow them to be met?

#### **Recommendation 8**

### **9.0 FINANCIAL ASSESSMENTS**

- 9.1. Historically financial assessments would be carried out where support might be means tested. Since the support provided is no longer means tested, no financial assessments are carried out. Most of the support provided is personal services care which cannot be charged for. They may choose to pay for their care at a higher rate than funded, or pay for more hours than funded by 'topping up' the payments.

#### **No Recommendation**

## Action Plan

Recommendation	Priority	Management Comments	Responsible Officer	Agreed Completion Date
<p>1. Update wording of the eligibility criteria on the Council website to specifically mention older people.</p> <p>Update and add links between relevant webpages to allow users to track through from one page to an associated page.</p>	Low	<p>Agreed – Social Work Scotland are currently reviewing the Self-Directed Support standards, The Service Manager was invited to be part of the core group in developing the standards. These will be passed over to the Scottish Government at the end of March 2024 and the Service Manager has planned to update the Council website once the new standards are finalised and published.</p>	<p>Service Manager (Adult &amp; Learning Disability Social Work)</p>	<p>30 September 2024</p>
<p>2. Senior management should ensure staff capture the 'desired outcomes' focus of the discussions by completion of the relevant section within the assessment form on PARIS For new cases, and on review of existing cases, the relevant section on the review of options available on the assessment form on PARIS should be completed. Where the service user lacks capacity, the name of the person involved with discussing the option and the date of the discussion should be recorded within the PARIS file, as a substitute for the written signature as evidence of discussion.</p>	Medium	<p>Senior management to remind staff of the need to record these aspects of discussions with service users, their representatives or carers.</p>		<p>Completed</p>

<p>3. Evidence of authorisation of new and amended support packages should be recorded consistently on PARIS files.</p>	<p>Medium</p>	<p>It is agreed that in this instance evidence of the authorisation of the amendment to the support package was not recorded as required by the Exceptional Packages of Care (EPOC) process. A system of control will be put in place to ensure that EPOCs will not be amended unless correct authorisation processes have been followed or in exceptional instances of emergency, formal authorisation is required to be documented in the short term.</p>	<p>Head of Health and Community Care</p>	<p>31 December 2024</p>
<p>4. The current work on updating information packs, including guidance on eligible expenditure, should be completed, and information packs issued to all service users prior to the discussion around and selection of a support their agreement to a support Option.</p>	<p>Medium</p>	<p>Agreed, the updating of the information packs will be completed and issued to service users. This is subject to the issuing of the Self-Directed Support standards from Scottish Government as noted at Recommendation 1 above.</p>	<p>Service Manager (Adult &amp; Learning Disability Social Work)</p>	<p>30 September 2024</p>
<p>5. Where signed letters of agreement are missing, a revised letter of agreement should be issued at the next change in or review of the support package, and filed.</p>	<p>Medium</p>	<p>There are now signed letters of agreement on file for the two individuals identified where these were not on file. The process has been updated so that direct payments will not take place unless there is a signed agreement held on file.</p>	<p>.</p>	<p>Completed</p>
<p>6. The annual review of expenditure in respect of direct payments should be maintained in line with prior external audit recommendations as at least annually. Additional resource over present levels may be required to ensure this is feasible for all Option 1 service users.</p>	<p>Medium</p>	<p>The Annual Review has been reinstated and has now substantially been carried out for the current financial year.</p>	<p>.</p>	<p>Completed</p>

<p>7. A request should be made to add functionality to the PARIS database to generate reports and allow senior management to extract relevant data useful for oversight, such as:</p> <ul style="list-style-type: none"> <li>• total numbers selecting each Option, and</li> <li>• details of the current care package, and</li> <li>• reminders of outstanding reviews.</li> </ul>	<p>Medium</p>	<p>The desirability of these measures are agreed, and this request will be put forward to the PARIS development board. However, the decision on implementation and the priority allocated to these requests rest with this Board.</p>	<p>Head of Health and Community Care</p>	<p>31 December 2024</p>
<p>8. Reviews should reinforce the primacy of outcomes for the supported person and carer including responses to the questions – To what extent are the service users personal outcomes being met under the current self-directed support? If they are not being met, what is required to allow them to be met?</p>	<p>Low</p>	<p>Agreed. The need for the primacy of outcomes will be emphasised to officers carrying out reviews</p>	<p>Service Manager (Adult &amp; Learning Disability Social Work)</p>	<p>30 June 2024</p>

# Key to Opinion and Priorities

## Audit Opinion

Opinion	Definition
<b>Substantial</b>	The framework of governance, risk management and control were found to be comprehensive and effective.
<b>Adequate</b>	Some improvements are required to enhance the effectiveness of the framework of governance, risk management and control.
<b>Limited</b>	There are significant weaknesses in the framework of governance, risk management and control such that it could be or become inadequate and ineffective.
<b>Unsatisfactory</b>	There are fundamental weaknesses in the framework of governance, risk management and control such that it is inadequate and ineffective or is likely to fail.

## Recommendations

Priority	Definition	Action Required
<b>High</b>	Significant weakness in governance, risk management and control that if unresolved exposes the organisation to an unacceptable level of residual risk.	Remedial action must be taken urgently and within an agreed timescale.
<b>Medium</b>	Weakness in governance, risk management and control that if unresolved exposes the organisation to a significant level of residual risk.	Remedial action should be taken at the earliest opportunity and within an agreed timescale.
<b>Low</b>	Scope for improvement in governance, risk management and control.	Remedial action should be prioritised and undertaken within an agreed timescale.