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Agenda Item: 6

## **Integration Joint Board – Audit Committee**

Date of Meeting: 10 March 2021.

Subject: Orkney Islands Council (OIC) Internal Audit of Care Contribution Charging.

### **1. Summary**

1.1. An Internal Audit was completed for OIC in January 2021 on procedures and controls relating to Care Contribution Charging.

### **2. Purpose**

2.1. To present OIC Internal Audit of Care Contribution Charging report.

### **3. Recommendations**

The Audit Committee is invited to note:

3.1. That the Council's Internal Audit has undertaken an audit of the procedures and controls relating to Care Contribution Charging.

3.2. That the Internal Audit report, attached to this report, was scrutinised by the Council's Monitoring and Audit Committee on 4 February 2021.

3.3. The findings of the Internal Audit Report – Care Contribution Charging, attached as Appendix 1, to this report.

### **4. Background**

4.1. This audit was carried out in response to a request from Orkney Health and Care following an incorrect invoice being issued for care contribution charges relating to a charge on property.

4.2. The regulations for adult care charging in Scotland are complex and apply in different ways to different people depending on their personal circumstances.

4.3. The objective of this audit was to review the processes and controls in place relative to care contribution charging and to review the events which led to the issue of the incorrect invoice.

## 5. Audit Findings

5.1. The audit provides adequate assurance that the processes and procedures relating to care contribution charging are well controlled and managed.

5.2. Areas of good practice are highlighted within the Executive Summary of the internal audit report, attached as Appendix 1 to this report.

5.3. The Internal Audit report includes five medium and three low priority recommendations within the action plan. There are no high-level recommendations made as a result of this audit.

## 6. Contribution to quality

Please indicate which of the Orkney Community Plan 2019 to 2022 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.	No.
<b>Enterprise:</b> To tackle crosscutting issues such as digital connectivity, transport, housing and fuel poverty.	No.
<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.	No.
<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.	No.
<b>Sustainability:</b> To make sure economic and environmental factors are balanced.	No.

## 7. Resource implications and identified source of funding

7.1. The Internal Audit report on procedures and controls relating to Care Contribution Charging makes a number of recommendations that if implemented should improve control and governance of care contribution charges and may also contribute to improved management of scarce budget resources.

## 8. Risk and Equality assessment

8.1. There are no risk or equality implications associated with this report.

## 9. Direction Required

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

NHS Orkney.	No.
Orkney Islands Council.	No.
Both NHS Orkney and Orkney Islands Council.	No.

## 10. Escalation Required

Please indicate if this report requires escalated to:

NHS Orkney.	No.
Orkney Islands Council.	No.
Both NHS Orkney and Orkney Islands Council.	No.

## 11. Authors

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## 13. Supporting document

13.1. Appendix 1: Internal Audit Report – Care Contribution Charging.



## Internal Audit

### Audit report

### Care Contribution Charging

Draft issue date: 02/12/2020

Final issue date: 13/01/2021

<b>Distribution list:</b>	<b>Chief Finance Officer IJB</b> <b>Interim Head of Health and Community Care</b> <b>Interim Chief Officer IJB</b>
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## Audit Opinion

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

**Adequate**

**Some improvements are required to enhance the effectiveness of the framework of governance, risk management and control.**

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

## Executive Summary

This audit was carried out in response to Orkney Health and Care (OHAC) informing Internal Audit that a member of the public had been issued an invoice, for care contribution charges relating to a charge on property of approximately £14,000. This amount was not due to the Council owing to the particular circumstances of the care user.

The cause of the error was due to an incorrect date of permanency being applied for that care user. The matter was compounded by information on the original invoice being minimal.

Our audit opinion was formed after considering both the individual events to this instance and the results of our review of other high value billings tested.

Where the report refers to OHAC, this applies to delegated functions that have been passed to the integration authority.

Our audit found areas of good practice including accurate calculation based on the parameters provided, verification of the financial data and completeness of billing where the number of invoices raised are reconciled to occupancy levels at each of the three residential care homes run by the Council.

We have concluded that this matter is an isolated instance, however controls should be improved to avoid the potential for a reoccurrence.

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	5	3

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

## Introduction

The regulations in respect of adult care charging in Scotland are complex and apply in different ways to different people depending on their personal circumstances. The following criteria is relevant to the matter reviewed.

For permanent stays in local authority managed adult homes, the authority must charge the full cost of providing the accommodation. Where the local authority is satisfied that a resident is unable to pay the full cost, a financial assessment must be completed on the care user's ability to pay.

If a care user owns their own home, how it is treated in their financial assessment will depend on the circumstances of that care user. The home may be included, disregarded for a period of time, or disregarded completely.

If a care user enters a care home permanently, the value of the home is disregarded for 12 weeks. The purpose of the 12-week disregard is to allow time to sell the property. If the care user sells the property before the 12 weeks have passed, the disregard will stop when the property is sold.

If a care user enters a care home as a temporary resident and the stay then becomes permanent, the value of the property will be disregarded for 12 weeks from the date the stay becomes permanent.

Following the 12-week disregard period a charging order will be placed on the property. Alternatively, the care user may be able to enter into a deferred payment agreement with the Council if they have not managed to sell their property, or if they do not want to sell their property.

## Audit Scope

The objectives of this audit were to review historical billings and controls in place to gain assurance that:

- There have been no other similar instances of errors of billings to care contribution charges over the recent past of such magnitude.
- Controls are effective to prevent this type of error taking place again.
- Processes of identifying residencies as being permanent or temporary are adequate.

## Audit Findings

### 1.0 Policy and Procedures.

- 1.1 The error in billing, in the matter reported to us, was due to an incorrect permanency date being applied. The permanency date used for billing was 3 January 2020 whereas the relative of the care user was advised that the date of permanency was 25 June 2020.
- 1.2 The cause of an incorrect permanency date for this care user being applied was due to human error where an Officer, when attempting to helpfully respond to a request for information, mistakenly took and reported a respite (or temporary) booking date on the case management software system (PARIS), as a date of permanency.
- 1.3 Although a human error was made in this instance, our review has identified areas where controls should be introduced into the process to avoid similar reoccurrence in future.
- 1.4 The practice, in this situation, was that the permanency date was set when the relative was informed by phone call that a room designated for permanent use, had been allocated to the care user by the Allocation of Resource Committee (ARC).
- 1.5 In the instance reviewed the care user was admitted to an emergency respite bed on 5 December 2019; added to the waiting list for a permanent bed on 23 December 2019; allocated a permanent bed on 16 June 2020 and had a permanency date assessed of 25 June 2020.
- 1.6 Although our audit does not extend to a review of the actual care provided, we are advised that during the period between 5 December 2019 to 25 June 2020 the patient was receiving care in a local residential care facility, *albeit in a respite bed.*"
- 1.7 Our review of correspondence has identified that, when attempting to establish a definitive permanency date, three separate and incorrect dates were provided to the relevant Officer for financial assessment and billing purposes, these being 3 January 2020; 18 June 2020 and 26 June 2020. Each of these dates were different to the date which was agreed with a relative of the care patient of 25 June 2020.
- 1.8 Our review has therefore identified that there can be confusion over the exact date of permanency for respective care users. A potential reason for the difference between the 26 June 2020 and 25 June 2020 may be the difference between the time that the care user was advised by phone call of the permanency date and notes written up on PARIS.
- 1.9 Permanency dates are recorded on PARIS within freeform text comments. It is recommended that a register of exact permanency dates is maintained, if possible, by field entry within PARIS.

### Recommendation 1

- 1.10 In this instance there was a nine-day period between the date that a "permanent bed" date was allocated to the care user and the date the relative was contacted by phone to advise of the stay becoming permanent. In this instance the designated care worker to this care user was redeployed to the COVID-19 hub.
- 1.11 Scottish Government's Health and Social Care Integration Directorate's revised guidance on charging for residential accommodation (CRAG), dated April 2019, states, at 1077 "*knowing whether they [care users] are permanent or temporary will matter a great deal to residents and carers. Hence decisions about the status of admission should be made, agreed and shared openly with them – or others on their behalf, if appropriate, and put in writing.*"

1.12 Although the care workers may need to discuss and agree with users or their representatives the exact date the person can be taken into care, it is recommended that permanency dates are put into writing and sent by letter, not only by phone. The letter should contain the definitive permanency date.

### **Recommendation 2**

1.13 It is best practice for there to be a separation of roles between those who have a relationship with clients (care users) and the administration of billing.

1.14 In order to ensure completeness and timeous notification it is recommended that all letters are sent by central administration staff and not those who manage the care provided.

### **Recommendation 3**

1.15 In the instance reviewed there was a 203 day period between the date the care user was admitted to a respite bed, or a 185 day period between the date the patient was added to the "bed blocking list", and the permanency date being set of 25 June 2020. The care user was provided with care in a "respite" bed, which we understand is located in a smaller room compared to a "permanent" bed.

1.16 The periods detailed at 1.15 are significantly outwith those provided to us within process notes that state:

*"OIC operate a trial period of 42 days (up to a maximum of 56 days) and then must be assessed as a permanent resident as to their ability to pay. After the 56 days maximum trial period unless a person is deemed to be a long-term respite care user (agreed by ARC) any property they have would also come into the charging assessment at this point".*

1.17 CRAG guidance also states, at 1077, "*admissions to residential accommodation should be deemed temporary or permanent depending solely on the needs and circumstances of individual service users. As such, local authorities' or users' resources should play no part in the decision*".

1.18 Our review of this instance has therefore identified an apparent divergence from CRAG guidance, which states that the stay should be deemed temporary or permanent based solely on the care needs of the user, whereas in this instance the permanency date was not set until after the ARC group allocated a permanent room and the user's relatives advised of the allocation.

1.19 This practice, in financial terms, may be quite favourable to the care user, with reduced income received by the Council to contribute towards costs. The financial impact is independent of the care that can be provided.

1.20 Although it is not possible to quantify how often permanency dates are set in this manner, our review demonstrates this may have a significant financial affect, especially in an era of limited budgets.

1.21 In a sample of 9 current care users across the three residential adult care homes operated by the Council, two of the permanency dates on the list provided to us were wrong by 12 months and 20 months respectfully. One record had a permanency date shown where the care user has not been classified as permanent. The permanency date for a further 3 care users could not be confirmed. For a further care user within the sample there was a 153-day period between the date the ARC group allocated a permanent bed and the permanency date set for the care user. We are advised that the delay was caused by COVID-19.



1.22 It is therefore recommended that the process of setting permanency dates is set out in policy and process notes and presented to relevant committee for approval.

#### **Recommendation 4**

1.23 Other than the exceptions detailed at 1.21 permanency dates within the selection made were being set within an eight-week period. However, this instance has highlighted that there may be exceptions to this timeframe. There should be regular review of exceptions to the norm, with a focus on where permanency dates are not determined within 8 weeks.

#### **Recommendation 5**

### **2.0 Review of high value invoices and credit notes**

2.1 There have been 22 care invoices with a value of over £10,000 and 14 credit notes with a value of over £5,000 raised since 1 April 2018. We have reviewed each of these invoices and credit notes.

2.2 No errors, other than the matter being reviewed, were found.

2.3 It is inevitable that there will be a need for high value invoices and credit notes to be raised with regards to care charging, for example, when the Council becomes aware of information not previously known.

2.4 The selection made equates to roughly 1 in 100 invoices or credit notes raised, and a specific range of high values, therefore is not indicative of normal circumstances. However, 7 invoices, for values between £11,097 and £23,879 and totalling £111,311, were as a result of information for financial assessments being received late.

2.5 Within the population of 14 credit notes, 4 were due to charges previously being estimated without current financial assessments.

2.6 A register of financial assessments is maintained within the Service and outstanding financial assessments from the service users' representatives are chased up. When service users' representatives provide the financial assessment can largely be outwith the Council's control.

2.7 Good practice was introduced a few years ago, where for planned admissions, the receiving of completed financial assessments was made a mandatory requirement as part of process of receiving the care user. For emergency admissions this process is not possible.

2.8 We recommend that the Service review whether the good practice, detailed at 2.7 continues to be maintained.

#### **Recommendation 6**

2.9 We have been advised that, in light of this instance, there will be additional information being presented on invoices going forward, including the annual assessed charge calculated and the number of monthly instalments being charged.

2.10 Because the Service have been proactive in addressing narrative provided on invoices, we have not made further recommendation on this point.

### **3.0 Website Information**

3.1 The Council's website pages regarding permanent and respite care charges are considered generally informative and well presented.

3.2 However, at the time of our review, the pages were both marked as "valid until 31 March 2020". Since then the value of capital lower and upper limits have increased from £17,500 and £28,000 to £18,000 and £28,500 respectively.

- 3.3 It is recommended that the Council's website be updated to include up to date information, changes to narratives to reflect the implementation of Frank's law and clarification on how calculations are made.

#### **Recommendation 7**

- 3.4 During our review we observed, for 2019/20 on the website that the full cost of permanent care in the Council run care homes was £1,149 which after deducting free personal care of £177 is a weekly charge of £972 per week. The Council is obliged to calculate the charge on the actual cost of providing the service.
- 3.5 The corresponding maximum charge for respite care was £714.90 which after free personal care is a charge of £457.90. This rate is associated to rates contained within COSLA guidelines for independent care homes. Rates for adult temporary care users are based on those considered reasonable by local authorities.
- 3.6 The actual charge made to care users is calculated after taking into account the financial assessment of their individual circumstances.
- 3.7 It has been several years since rates of contribution towards the cost of providing residential care and temporary care have been reviewed by Committee within the Council.
- 3.8 It is recommended that residential care home charging rates for temporary care are regularly reviewed and considered by Committee.

#### **Recommendation 8**

## Action Plan

Recommendation	Priority	Management Comments	Responsible Officer	Agreed Completion Date
1 A register of exact permanency dates should be maintained.	Medium	This can be added to the data set that is already in existence.	Interim Head of Health and Community Care.	31/1/2021
2 The formal notification of permanency dates should be by letter not only by phone. The letter should contain the definitive permanency date.	Medium	A draft letter is currently under consideration.	Interim head of Health and Community Care.	28/2/2021
3 All letters should be sent by central administration staff and not those who manage the care provided.	Low	Once the letter template is agreed this can be actioned.	Interim head of Health and Community Care.	28/2/2021
4 The process of setting permanency dates should be set out in procedures and conveyed to all ARC stakeholders.	Medium	A flowchart will be devised with engagement such that user's views are taken into account.	Interim head of Health and Community Care.	28/2/2021
5 There should be increased oversight to the time period over which the assessment of temporary or permanency dates are set, with focus on the cases which are outwith the normal 8-week period.	Medium	There will be regular reviews of any exceptions to the norm in this respect. A mechanism to capture these sporadic situations will be devised.	Interim head of Health and Community Care.	31/3/2021
6. The Service should review whether best	Low	A log shall be kept to highlight any care users that have outstanding	Chief Finance Officer (IJB)	31/03/21

practice to obtaining financial assessment data is being maintained.		financial assessments and get clarification from manager as to any delays		
7 The Council's website should be updated in respect of Adult care home charges	Medium	This will become part of the year end processes to ensure that the charges are updated at start of each financial year.	Chief Finance Officer (IJB)	30/04/21
8. Adult respite residential care contribution rates should be regularly reviewed by Committee.	Low	This will be considered dependant on the outcome of the charging policy proposed in February	Chief Finance Officer (IJB)	30/04/21

## 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 high 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.