



FINAL INTERNAL AUDIT REPORT

ADULT SERVICES

REVIEW OF DEFERRED PAYMENTS

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Reviewed by: Head of Audit & Assurance,

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REVIEW OF DEFERRED PAYMENTS AUDIT 2019-20

INTRODUCTION

1. This report sets out the results of our audit of Deferred Payments. The audit was carried out as part of the work specified in the 2019-20 Internal Audit Plan agreed by the Section 151 Officer and Audit Sub-Committee. The controls we expect to see in place are designed to minimise the Council's exposure to a range of risks. Weaknesses in controls that have been highlighted will increase the associated risks and should therefore be addressed by management.
2. The Care Act 2014 requires all local authorities in England to operate a deferred payment scheme from 1st April 2015, as an option for payment of care home fees. Other applicable legislation includes the Mental Capacity Act 2005, where service users may not have the mental capacity to enter into a deferred payment agreement, in which case a legally authorised representative of the service user needs to undertake this on their behalf. The Care and Support (Deferred Payment) Regulations 2014 are also applicable.
3. Local authorities are required to provide a deferred payment scheme for anyone who has been assessed as having eligible needs which should be met through care in a residential/nursing home setting; is ordinarily resident in the London Borough of Bromley or, the Authority has determined that they will or would meet the care needs under Section 19 of the Care Act; has less than £23,250 in assets, excluding the value of their home; their home has not been disregarded and they are able to provide adequate security.
4. A legal charge will be placed on the property in order to recover the monies when the property is sold.

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5. There are two types of deferred payment agreements (DPA); a traditional agreement or a short term loan (STL) , which will last for 3 months, unless extended for a further 3 months upon authorisation. The type and volume of applications are detailed below:

Type	2018/19	2019/20 (to date)
Deferred Payment Agreement Applications Received	21	11
Deferred Payment Agreements Approved	11	3
Short Term Loans Applications Received	10	4
Short Term Loans Approved	3	0

6. We would like to thank all staff contacted during this review for their help and co-operation.

AUDIT SCOPE

7. The original scope of the audit was outlined in the Terms of Reference issued on 15/7/19.
8. The key risks covered within this audit included the following:-
- The eligibility criteria may not be adhered to.
 - Completed deferred payment agreements are not in place.
 - Administrative charges are not made.
 - Legal charges are not placed on the property.

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AUDIT OPINION

9. Our overall audit opinion, number and rating of recommendations are as follows.

AUDIT OPINION	
Reasonable Assurance	(Definitions of the audit assurance level and recommendation ratings can be found in Appendix B)

Number of recommendations by risk rating		
Priority 1	Priority 2	Priority 3
0	4	2

SUMMARY OF FINDINGS

10. Our testing identified the following issues which we would like to draw to management’s attention:-

a) Deferred Payment Policy & Agreement

A copy of the Deferred Payment Policy dated April 2019 was provided to the Auditor. It was found that the policy does not cover or have sufficient detail of the following:-

- Whether the property being used as security is unregistered, as in Sample 20.
- How the service user / representative is under a duty to keep the Local Authority informed and undertakings that should be given to the Local Authority, which may possibly result in further deferred amounts under the agreement.
- The charging for 3 days full cost after the date of the client’s death, as confirmed by Contract and Operations Manager (Exchequer).

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b) Carefirst Records

Audit testing of the client's records showed that where there is a deferred payment in place with the service user/representative it is not recorded consistently on the system.

The Auditor tested to confirm that the DPA appeared under Key Classifications on the front screen for each relevant service user which immediately highlights that a DPA is in place.

It was confirmed by the Carefirst team that classifications can be recorded as a special classification under biography and depending on how the classification is set up it will also appear under key classifications on the front screen. Additional areas for the DPA to be identified are also under the service description and within the service agreement notes.

Issues arose in 9 cases. There is no recording of STL's being in place with service users / representatives on Carefirst.

c) Letters to Service User/Representative

Reviewing the final account letters issued to the service user/representative it was found that they were not clear and in some cases contained errors or differing information.

STL Cases

The letter for Sample 1 details the incorrect dates.

For Sample 7, the final cost letter refers to a different invoice number to the one attached.

d) Delays In Progressing the Deferred Payment Agreements

It was found that there were delays in the processing of the DPA for some of the samples selected for testing.

For Sample 2, the final account letter is dated 6/7/18 and the service user died on 16/2/18. The DPA account has to be settled 90 days from the date of death which expired on 16/5/18, 51 days before the final account letter is dated.

There were delays in respect of Sample 14. The final cost letter was dated 21/10/19 and the client passed away on 7/8/19.

In respect of Samples 16 and 18, delays resulted in complaints being made and compensation being awarded.

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e) Administrative Charges & Interest

The individual interest rates for the relevant period are not detailed within the final account letter, statement or invoice. The service user / representative may be aware of the interest rates at the time of signing the DPA, but the rates may have changed by the time the invoice for the DPA is issued.

The administration charges are not fully detailed or identified clearly within the final account letter or the statement.

The statement layout should also be reviewed to provide further clarity to the administration charges, interest charges and 3 days full cost.

The way in which the information is detailed within the invoices is not clear in relation to the individual calculations and charges as in Sample 2 (701072897).

For Sample 16, the representative was notified on 28/10/19 that the interest had been calculated incorrectly as £110.13 instead of £98.43.

f) Outstanding Monies

It was confirmed by the Operations Manager, Contractor A, that there remain 3 cases where outstanding monies are still due in respect of DPA totalling £139,623.28, at the time of testing. All three cases are included within the Sample selected for testing.

DETAILED FINDINGS / MANAGEMENT ACTION PLAN

11. The findings of this report, together with an assessment of the risk associated with any control weaknesses identified, are detailed in Appendix A. Any recommendations to management are raised and prioritised, together with management's responses and timescales for implementation. Appendix B details the definition of the audit assurance and priority ratings.

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DETAILED FINDINGS AND ACTION PLAN

APPENDIX A

No	Finding	Risk	Recommendation and Priority *Raised in previous Audit	Management Response	Agreed timescale and responsible manager
1	<p><u>Deferred Payment Policy & Agreement</u></p> <p>A copy of the Deferred Payment Policy dated April 2019 was provided to the Auditor.</p> <p>It was found that the policy does not cover or have sufficient detail of the following :-</p> <ul style="list-style-type: none"> • Whether the property being used as security is unregistered • How the service user / representative is under a duty to keep the Local Authority informed and undertakings that should be given to the Local Authority, which may possibly result in further deferred amounts under the 	Staff may be operating to different working practices.	<p>Management should ensure that the Deferred Payment Policy is fully reviewed and the relevant areas highlighted, incorporated within the policy.</p> <p>Any changes should be carried out in conjunction with the Deferred Payment Agreement (DPA).</p> <p style="text-align: center;">Priority 3</p>	The Deferred Payment Policy will be reviewed and any appropriate amendments will be made to ensure the information provided complies with the statutory guidance.	31/03/20 Assistant Director Exchequer Services

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	agreement. <ul style="list-style-type: none"> The charging for 3 days full cost after the date of death. 				
2	<p>Carefirst Records</p> <p>Audit testing showed that it is not recorded consistently on the system where there is a deferred payment in place with the service user/representative.</p> <p>The Auditor tested to confirm that the DPA appeared under Key Classifications on the front screen for each relevant service user which immediately highlights that a DPA is in place.</p> <p>It was confirmed by the</p>	<p>Decisions may be made incorrectly without the full knowledge of the case.</p>	<p>Information pertaining to the DPA and STL's should be easily accessible, readily available and consistently recorded.</p> <p>Any changes in processes should be fully documented.</p> <p>It should be highlighted that STL's are currently in place.</p> <div style="border: 1px solid black; background-color: #90EE90; padding: 2px; display: inline-block; margin-top: 10px;">Priority 3</div>	<p>All current DPA and STL cases will be reviewed to ensure there is a classification recorded on CareFirst.</p>	<p>28/02/20</p> <p>Contractor A, Operational Manager</p>

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	<p>Carefirst team that classifications can be recorded as a special classification under biography and depending on how the classification is set up it will also appear under key classifications on the front screen. Additional areas for the DPA to be identified are also under the service description and within the service agreement notes.</p> <p>The samples below are highlighted to demonstrate where the detail of the DPA was recorded:-</p> <p>For Sample 4 recorded on service agreement notes and under special classifications.</p> <p>Sample 5 not recorded in any of the 4 locations.</p> <p>Sample 6 recorded on</p>				

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	<p>service agreement notes and special classifications. Sample 11 recorded on special classifications only. Samples 12 recorded on special classifications only. Sample 14 recorded on service agreement notes and special classifications. Sample 19 recorded on special classifications and on service agreement notes. Sample 20 recorded on special classifications only. It was noted that for Sample 16 a recent case, the classification appeared on the front screen as well as within the service agreement description possibly indicating a change in process. There is no recording of STL's being in place with</p>				

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	service users / representatives on Carefirst.				
3	<p><u>Letters to Service User/Representative</u> Reviewing the final account letters issued to the service user/representative, it was found that they were not clear and in some cases contained errors or differing information.</p> <p><u>STL Cases</u> The letter for Sample 1 details the incorrect dates. For Sample 7, the final cost letter refers to a different invoice number to the one attached.</p>	Information is not clear and may be misleading.	<p>Letters issued to service users / representatives should be clear and accurate and should be issued without delay.</p> <p style="background-color: yellow; display: inline-block; padding: 2px;">Priority 2</p>	<p>All letters will be reviewed and updated to ensure the information provided is clear.</p> <p>Contractor A have been reminded on the importance of providing accurate information.</p>	<p>28/02/20</p> <p>Contractor A Operational Manager</p>
4	<p><u>Delays In Progressing the Deferred Payment Agreements</u> It was found that there were</p>	Interest may incorrectly accrue on the Deferred Payment balance.	Management should ensure that there are not unnecessary delays in the processing of the DPA's and STL's.	Contractor A have introduced more robust processes to ensure that there are no unnecessary delays in	Completed

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	<p>delays in the processing of the DPA for some of the samples selected for testing. For Sample 2, the final account letter is dated 6/7/18 and the service user died on 16/2/18. The DPA account has to be settled 90 days from the date of death which expired on 16/5/18, 51 days before the final account letter is dated.</p> <p>There were delays in respect of Sample 14. The final cost letter was dated 21/10/19 and the client passed away on 7/8/19.</p> <p>In respect of Samples 16 and 18 delays resulted in complaints being made and compensation being awarded.</p>	<p>Reputation of the Authority is damaged.</p>	<p>Priority 2</p>	<p>processing Deferred Payment Agreements.</p>	
5	<p><u>Administrative Charges & Interest</u></p>	<p>The charges may not be clear and</p>	<p>Management should review the final cost letter and statements to ensure that</p>	<p>The letters and statements will be reviewed and updated</p>	<p>28/02/20 Contractor A,</p>

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No	Finding	Risk	Recommendation and Priority *Raised in previous Audit	Management Response	Agreed timescale and responsible manager
	<p>The individual interest rates for the relevant period are not detailed within the final account letter, statement or invoice. The service user / representative may be aware of the interest rates at the time of signing the DPA but the rates may have changed by the time the invoice for the DPA is issued.</p> <p>The administration charges are not fully detailed or identified clearly within the final account letter or the statement.</p> <p>The statement layout should also be reviewed to provide further clarity to the administration charges, interest charges and 3 days full cost.</p> <p>The way in which the information is detailed within</p>	<p>easily identifiable.</p>	<p>the administration charges, interest and 3 days full cost are open and transparent.</p> <p>Priority 2</p>	<p>to ensure the information provided is clear.</p>	<p>Operational Manager</p>

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	<p>the invoices is not clear in relation to the individual calculations and charges as in Sample 2 (701072897). For Sample 16, the representative was notified on 28/10/19 that the interest had been calculated incorrectly as £110.13 instead of £98.43</p>				
6	<p><u>Outstanding Monies</u></p> <p>It was confirmed by the Operations Manager, Contractor A, that there remain 3 cases where outstanding monies are still due in respect of DPA at the time of testing. All 3 cases are included within the sample. It was found that at the time of testing that for three cases no payment had been made in respect of the</p>	Loss of income to the Authority.	<p>It should be confirmed why there have been delays in recovering these monies under the individual Deferred Payment Agreements.</p> <p>Priority 2</p>	<p>The debts are secured by way of a charge on the property and interest continues to accrue whilst the debt remains unpaid; there is no loss of income.</p> <p>It can take a number of months for probate to be obtained and then for the properties to be sold in order to repay the debt.</p>	Ongoing Contractor A Operational Manager/Contract Monitoring Officer.

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	<p>invoices for the deferred payment agreements. Sample 2 this related to an amount of £71,844.15 and relates to invoice 701072897 dated 6/7/18. The Solicitors contacted the Authority requesting the current balance on 26/8/19, on 30/9/19 and again on 1/10/19. Interest has been accruing and the revised balance as at 02/10/19 was £73,847.13, as detailed on the DPA termination interest calculation sheet dated 2/10/19. It is unclear why there was a delay between August and October 2019. As at 2/12/19 the invoice remains unpaid.</p> <p>For Sample 19, this related to an amount of £34,644.02 Invoice 701112731 dated</p>			<p>Where it is considered that the executor is not proactively seeking a sale, the Council can seek possession in order to sell the property and settle the debt.</p> <p>All debts that are secured by way of a charge are reviewed monthly as part of the service review process.</p>	

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	<p>19/2/19. The latest statement totals £36,421.55 to 10/1/19. It is unclear why there was a delay between February and November 2019.</p> <p>As at 2/12/19 the invoice remains unpaid.</p> <p>Sample 20 relates to invoice 701087460 dated 24/9/18 for £28,794.56 that remains outstanding. Final interest calculation to 27/10/19 and revised total is £29,354.60.</p> <p>As at 2/12/19 the invoice remains unpaid.</p> <p>The total outstanding for all invoices is in excess of £139,623.28, as interest continues to accrue.</p>				

OPINION DEFINITIONS

Assurance Level

Assurance Level	Definition
Substantial Assurance	There is a sound system of control in place to achieve the service or system objectives. Risks are being managed effectively and any issues identified are minor in nature.
Reasonable Assurance	There is generally a sound system of control in place but there are weaknesses which put some of the service or system objectives at risk. Management attention is required.
Limited Assurance	There are significant control weaknesses which put the service or system objectives at risk. If unresolved these may result in error, abuse, loss or reputational damage and therefore require urgent management attention.
No Assurance	There are major weaknesses in the control environment. The service or system is exposed to the risk of significant error, abuse, loss or reputational damage. Immediate action must be taken by management to resolve the issues identified.

Recommendation ratings

Risk rating	Definition
Priority 1	A high priority finding which indicates a fundamental weakness or failure in control which could lead to service or system objectives not being achieved. The Council is exposed to significant risk and management should address the recommendation urgently.
Priority 2	A medium priority finding which indicates a weakness in control that could lead to service or system objectives not being achieved. Timely management action is required to address the recommendation and mitigate the risk.
Priority 3	A low priority finding which has identified that the efficiency or effectiveness of the control environment could be improved. Management action is suggested to enhance existing controls.