

ARGYLL AND BUTE COUNCIL

Internal Audit Section

INTERNAL AUDIT REPORT

CUSTOMER DEPARTMENT	ARGYLL & BUTE HEALTH & SOCIAL CARE PARTNERSHIP
AUDIT DESCRIPTION	RISK BASED AUDIT
AUDIT TITLE	COMPLIANCE WITH SCOTTISH LIVING WAGE
AUDIT DATE	October 2017

2017/2018



1. BACKGROUND

This report has been prepared as part of the 2017/18 risk based Internal Audit Plan. The audit was conducted in accordance with relevant auditing standards with the conclusions detailed in this report based on discussions with key personnel and the information available at the time the fieldwork was performed.

The audit focused on the arrangements within Older People Services, responsibility for which transferred from Argyll and Bute Council (the Council) to the Health and Social Care Partnership (HSCP) on 1st April 2016.

Within Older People Services home care is delivered via a combination of internal and external mechanisms. The Council's Procurement and Commissioning team remain responsible for the contract and supplier management monitoring in partnership with the HSCP.

From April 1st 2017 the Scottish Government committed Local Government to adhere to a Scottish Living Wage (SLW) of £8.45 per hour to be paid to care workers providing direct care and support to adults in care homes and care at home.

There are currently 14 external Homecare providers commissioned within Argyll and Bute at an approximate cost of £10m per annum. These provider's account for approximately 75% of the homecare provision, with the balance internally commissioned. In addition there are 14 care home providers which are also required to adhere to the living wage requirements.

2. AUDIT SCOPE, CONTROL OBJECTIVES AND RISKS

The scope of the audit was to review:

- guidance and procedures
- a sample of adult care contracts with service providers to determine compliance with any guidance/contractual obligations
- Monitoring and reporting arrangements.

The table below sets out the control objectives and associated risks identified during the planning phase of the audit.

Control Objectives		
O1	Authority	Roles and delegated responsibilities are documented in policies and procedures and are operating well in practice.
O2	Occurrence	Sufficient documentation exists to evidence compliance with Council policy on living wage.
O3	Completeness	Policies and procedures are aligned to relevant legislation and all required documentation is accurately and fully maintained.
O4	Measurement	Documentation in place supports payment of the living wage applicable at that time.
O5	Timeliness	Policy on living wage is regularly reviewed and updated as necessary.
O6	Regularity	Documentation is complete, accurate and not excessive and is compliant with the data retention policy. It is stored securely and made available only to appropriate members of staff.
Risks		
Audit Risk	Policy not agreed.	
Audit Risk	Procedures not in place.	
Audit Risk	Contractual arrangement with service provider not in place.	
Audit Risk	Reputational damage to Council.	
Audit Risk	Reporting arrangements are inadequate.	

3. SUMMARY CONCLUSION

Control Objective	Assessment	Summary Conclusion
O1	Substantial	Roles and responsibilities are documented within the Procurement and Commissioning procedures and are operating well.
O2	Reasonable	Contracts are in place with adult care service providers which cover the obligations of service providers to pay the SLW. Procurement and Commissioning contract monitoring procedures adequately cover compliance. It was noted that a substantial number of service providers have yet to confirm acceptance of the latest terms and conditions. Refer to action plan point 2.
O3	Substantial	

O4	Substantial	Documentation supports payment of the SLW by service providers and reflects the living wage at that time.
O5	Substantial	Review of living wage is regularly being carried out and updated in a timely manner as appropriate.
O6	Substantial	Information/data relating to the contracts and monitoring of service providers is held securely, and access is restricted to appropriate personnel. It was noted that there was inconsistent reporting in regard to care home providers and home providers. Refer to action plan point 1.

4. AUDIT OPINION

The level of assurance given for this report is substantial.

Level of Assurance	Definition
High	Internal control, governance and the management of risk are at a high standard with only marginal elements of residual risk, which are either being accepted or dealt with. A sound system of control is in place designed to achieve the system objectives and the controls are being consistently applied.
Substantial	Internal control, governance and management of risk is sound, however, there are minor areas of weakness which put some system objectives at risk and where specific elements of residual risk that are slightly above an acceptable level and need to be addressed within a reasonable timescale.
Reasonable	Internal control, governance and management of risk are broadly reliable, however although not displaying a general trend there are a number of areas of concern which have been identified where elements of residual risk or weakness with some of the controls may put some of the system objectives at risk.
Limited	Internal control, governance and the management of risk are displaying a general trend of unacceptable residual risk above an acceptable level and system objectives are at risk. Weakness must be addressed with a reasonable timescale with management allocating appropriate resources to the issues raised.
No Assurance	Internal control, governance and management of risk is poor, significant residual risk exists and/ or significant non-compliance with basic controls leaves the system open to error, loss or abuse. Residual risk must be addressed immediately with management allocating appropriate resources to the issues.

This framework for internal audit ratings has been developed and agreed with Council management for prioritising internal audit findings according to their relative significance depending on their impact to the process. The individual internal audit findings contained in this report have been discussed and rated with management.

A system of grading audit findings, which have resulted in an action, has been adopted in order that the significance of the findings can be ascertained. Each finding is classified as High, Medium or Low. The definitions of each classification are set out below:

Grading	Definition
High	Major observations on high level controls and other important internal controls. Significant matters relating to factors critical to the success of the objectives of the system. The weakness may therefore give rise to loss or error.
Medium	Observations on less important internal controls, improvements to the efficiency and effectiveness of controls which will assist in meeting the objectives of the system and items which could be significant in the future. The weakness is not necessarily great, but the risk of error would be significantly reduced if it were rectified
Low	Minor recommendations to improve the efficiency and effectiveness of controls, one-off items subsequently corrected. The weakness does not appear to affect the ability of the system to meet its objectives in any significant way

5. DETAILED FINDINGS

The following findings were generated by the audit:

Guidance and procedures

The Scottish Office published guidance in 2016 on the adoption by councils of a policy to pay the living wage to adult care workers providing direct care and support to adults in care homes and care at home. The guidance states that funding to councils for the living wage was provided in part by the Scottish Government as part of the financial settlement for 2016/17 on the provision that councils ensure that adult care providers pay the SLW to staff.

The SLW is agreed as part of collective bargaining with the joint trade unions through the Council of Scottish Local Authorities (COSLA) and arrangements in place allow for any agreed amounts to be updated accordingly.

Included within the procedures document entitled “Joint Procedures for Managing Social Care contracts” are specific monitoring requirements with regards to both financial monitoring and contract compliance. Whilst the procedures document does not specifically reference compliance with the SLW the requirements contained within the procedures adequately cover the monitoring of service providers in relation to compliance with the SLW.

Roles and responsibilities of persons tasked with monitoring the compliance of contracts are in place. A review of the roles and responsibilities document shows that responsibility for compliance rests solely with the Procurement and Commissioning team as they are responsible for the monitoring of service providers.

Adult care contracts

A sample of ten adult care contracts was chosen covering five homecare providers and five care home providers covering the period 1st October 2016 till 31st March 2017 when the SLW was £8.25 and the period 1st April 2017 till 4th October 2017 when the SLW was £8.45. The following was assessed:

- service provider contracts specify provision of SLW
- confirmation from service providers regarding compliance with SLW
- service providers have been allocated funds to support the SLW.

Contractual period 1st October 2016 till 31st March 2017

As existing contracts were already in place for all ten service providers it was evidenced that a contract variation had been issued to all ten sampled. The contract variation specifies that staff will receive a rate of pay commensurate with the SLW applicable at that time.

All ten service providers sampled had agreed by e-mail to the contract variation and had been allocated funds by the HSCP to enable them to pay the SLW of £8.25.

Contractual period 1st April 2017 till 4th October 2017

The Procurement and Commissioning team has forwarded, to each of the ten adult care service providers sampled, a new four year contract commencing 1st April 2017. The contract contains the clause that service providers must have in place “*a fair and equal pay policy that includes a commitment to supporting the Living Wage, including, for example being a Living Wage Accredited Employer*”

At the time of the audit only one of the ten service providers sampled had confirmed acceptance of the updated contract, however sufficient time had not yet elapsed to suggest confirmation would not be forthcoming. Service providers have been allocated additional funds by the HSCP to assist providers in meeting the increased living wage of £8.45.

Monitoring and reporting arrangements

The Procurement and Commissioning team provide a separate annual report for homecare and care at home service providers to both the Strategic Management Team (SMT) and the Integrated Joint Board (IJB) which outlines the contractual arrangements for the provision of adult care services. A review of each report for the year ending 31st March 2017, in relation to compliance with the SLW, highlighted:

- Section 3.3.2 for both reports stated that all service providers have been awarded payment uplifts to allow them to pay the SLW.
- Each report provided a comprehensive review of the contract monitoring carried out against each service provider. The monitoring documentation in regard to compliance with contract specification included a statement from care home providers that they are paying the SLW however there was no corresponding statement for care at home providers.
- The monitoring arrangements outlined within the reports include contracts review and score cards for most of the service providers. The review included an evaluation of the performance of individual providers against the terms of the contracts including issues, such as quality assurance, financial viability and compliance with fair working practices.
- A questionnaire to a selection of home care service provider staff included a section called “Fair Work Practice Review” where the worker states the hourly rate they are currently being paid. A review of the returned questionnaires showed that the workers were being paid the SLW appropriate at that time.
- Open afternoons with care staff from across the providers are periodically organised where, amongst other things, the remuneration and rates of pay are discussed. There is no recorded evidence of non-compliance with the SLW.

Observations

We have also highlighted to management the following observation which was identified during the review. Although not included in the audit scope the matter was brought to our attention during the audit and either indicates a potential risk exposure and /or could be considered as a matter of good practice and therefore noted for information and completeness:

- Payment of minimum wage requirements has been recognised as a high risk area and was subject to a national report by the National Audit Office in May 2016. It was noted that compliance with the SLW by service providers is not given prominence in the reports forwarded to both SMT and the IJB.

6. CONCLUSION

This audit has provided a substantial level of assurance, internal control, governance and management of risk is sound, however, there are minor areas of weakness which put some system objectives at risk and where specific elements of residual risk that are slightly above an acceptable level and need to be addressed within a reasonable timescale. There were two findings identified as part of the audit and these, together with agreed management actions, are set out in the action plan included at appendix 1. These will be reported to the Audit & Scrutiny Committee and progress implementing the actions will be monitored by Internal Audit and reported to management and the Audit & Scrutiny Committee.

Thanks are due to staff and management for their co-operation and assistance during the audit and the preparation of the report and action plan.

APPENDIX 1 ACTION PLAN

Findings	Risk Impact	Rating	Agreed Action	Responsible person agreed implementation date
1. Reporting		High/ Medium		
There are inconsistencies in the annual contract monitoring reports reporting submitted to the SMT and the IJB in terms of the content of reports relating to care providers and reports relating to home care providers.	Failure to have a consistent reporting may lead to ineffective decision making.	Medium	Will ensure consistency of reporting to both SMT and IJB in future reports	Performance Improvement Officer, Procurement and Commissioning Team 30th November 2017
2. Acceptance of new contracts				
A significant number of service providers have yet to formally agree to new terms and conditions applicable from 1 st April 2017.	Failure to have adequately monitor and/or follow up confirmation of terms may lead to contractual dispute.	Medium	Confirmation from service providers will be followed up	Category Management Officer, Procurement and Commissioning Team. 30th November 2017



Contact Details

Name David Sullivan

Address Whitegates, Lochgilphead, Argyll, PA31 8RT

Telephone 01546 604125

Email david.sullivan@argyll-bute.gov.uk

www.argyll-bute.gov.uk

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