

Argyll and Bute Council  
Internal Audit Report  
September 2019  
FINAL

## Care Home Provision

Audit Opinion: Substantial

	High	Medium	Low
Number of Findings	0	1	2

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## 1. Executive Summary

### Introduction

1. As part of the 2019/20 internal audit plan, approved by the Audit & Scrutiny Committee in March 2019, we have undertaken an audit of Argyll and Bute Council's (the Council) system of internal control and governance in relation to care home provision.
2. The audit was conducted in accordance with the Public Sector Internal Audit Standards (PSIAS) with our conclusions based on discussions with council officers and the information available at the time the fieldwork was performed. The findings outlined in this report are only those which have come to our attention during the course of our normal audit work and are not necessarily all the issues which may exist. Appendix 1 to this report includes agreed actions to strengthen internal control however it is the responsibility of management to determine the extent of the internal control system appropriate to the Council.
3. The contents of this report have been agreed with the appropriate council officers to confirm factual accuracy and appreciation is due for the cooperation and assistance received from all officers over the course of the audit.

### Background

4. Care home services are provided either by the Council or by an authorised provider who is registered by the Care Inspectorate. All care homes, regardless of who provides them, are regulated by the Care Inspectorate. All providers are routinely inspected and graded by the Care Inspectorate. There are 18 care homes operating in Argyll and Bute, 12 of which are operated by private providers and six run by the Council. Exhibit 1 shows the last grading for each of the homes as per the Care Inspectorate website.
5. Care homes provide 24 hour care services including support with all personal care. Weekly charges vary according to the provider's rates and include:
  - personal and communal accommodation
  - furniture, bedding & soft furnishings
  - heating, lighting & electricity
  - laundry (excluding dry cleaning)
  - housekeeping and all meals and snacks
  - NHS services.
6. Other services are available at an additional charge (e.g. private chiropody, newspapers and magazines and hairdressing) but these charges would be levied to the residents.
7. The Council/Health and Social Care Partnership (HSCP) pays providers on the basis of the National Care Home Contract, adjusted to reflect care quality awards based on Care Inspectorate inspections.
8. Most older adults want to remain living in their own homes for as long as possible and can be supported at home by a variety of services. This is in line with national policy. Access to funding for a care home placement is determined by a professional assessment of long- term care by social work services. This incorporates a financial assessment and benefits check to ensure

service users are receiving the full range of benefits they are entitled to and are charged appropriately for their care home placement.

9. The Council operate a charging policy and carry out financial assessments to determine whether individuals should contribute towards the cost of a care home placement.

#### Exhibit 1 – Care Home Inspectorate Gradings

Care Home Name	Area	Council/Private	Grade (1-6)	Last Inspected
Struan Lodge	BAC	Council	5	12 Dec 2018
Eadar Glinn	OLI	Council	4-5	15 Nov 2018
Thomson Court	BAC	Council	4-5	30 Nov 2018
Ardfenaig	MAKI	Council	4	12 Sep 2018
Tigh a Rhuda	OLI	Council	3-4	20 Sep 2017
Gortanvogie	MAKI	Council	3-4	03 Oct 2019
North Argyll House	OLI	Private	4-5	2 May 2019
Morar Lodge Care Home	HL	Private	4-5	12 Jun 2019
Ashgrove	BAC	Private	4-5	24 Oct 2018
The Argyle Care Centre	HL	Private	4	07 May 2019
Lochside Care Home	HL	Private	3-4	08 Nov 2018
Northwood House	HL	Private	4	21 Nov 2018
Ardenlee Hotel	BAC	Private	4-5	14 Dec 2018
Invereck	BAC	Private	4-5	03 Jul 2019
Kintyre Care Centre	MAKI	Private	4	20 Mar 2018
Palm Court	BAC	Private	2	22 Jul 2019
Ardnahein Care	BAC	Private	3-4	19 Jun 2019
Etive House	OLI	Private	3-4	12 Sep 2019

Grades: 1 = Unsatisfactory, 2 = Weak, 3 = Adequate, 4 = Good, 5 = Very Good and 6 = Excellent

#### Scope

10. The scope of the audit was to review the Council's policies and procedures in relation to care home charging and compliance with those procedure. This was outlined in the Terms of Reference agreed with the Acting Head of Adult Services by telephone on 6 August 2019.

#### Risks

11. The risks considered throughout the audit were:
  - **SRR03:** Financial Sustainability – Insufficient resource to meet current and future service requirement. Budget not aligned/does not support business outcomes.
  - **Audit Risk 1:** Failure to comply with Scottish Government Charging for Residential Accommodation Guidance (CRAG).
  - **Audit Risk 2:** Failure to comply with General Data Protection Regulations.

## Audit Opinion

12. We provide an overall audit opinion for all the audits we conduct. This is based on our judgement on the level of assurance which we can take over the established internal controls, governance and management of risk as evidenced by our audit work. Full details of the five possible categories of audit opinion is provided in Appendix 2 to this report.
13. Our overall audit opinion for this audit is that we can take a substantial level of assurance. This means that internal control, governance and the management of risk is sound. However, there are minor areas of weakness which put some system objectives at risk and specific elements of residual risk that are slightly above an acceptable level and need to be addressed within a reasonable timescale.

## Recommendations

14. We have highlighted one medium priority recommendations and two low priority recommendations where we believe there is scope to strengthen the control and governance environment. These are summarised below:
- the care home charging policy should be subject to version control and committee approval
  - the reference to private care home charges on the Council's fees and charges schedule should be removed
  - the Adult Residential Care Procedure Note should be updated to reflect current working practices.
15. Full details of the audit findings, recommendations and management responses can be found in Section 3 of this report and in the action plan at Appendix 1.

## 2. Objectives and Summary Assessment

16. Exhibit 2 sets out the control objectives identified during the planning phase of the audit and our assessment against each objective.

Exhibit 2 – Summary Assessment of Control Objectives

	Control Objective	Link to Risk	Assessment	Summary Conclusion
1	The Council has appropriate policies, aligned to statutory guidance, in relation to residents required to contribute toward care costs.	SRR03 Audit Risk 1	Substantial	The Council has a charging policy which is aligned to appropriate legislation however it should be subject to version control and committee approval. Reference to private care home charges on the Council's fees and charges schedule should be removed.
2	There is operational guidance to support the performance of financial assessments	Audit Risk 1	Substantial	Procedures are in place, available to staff and being complied with however they should be updated to reflect the current charging order spreadsheet. Clients suspected of asset deprivation are appropriately investigated.
3	Interim funding arrangements are	SRR03 Audit Risk 1	Substantial	Interim funding arrangements are well managed with appropriate

	processed in accordance with approved policies and procedures.			documentation maintained. An isolated error was identified where a charging order had not been established and corrective action is being taken.
4	The Council obtains any unpaid charges for residential care upon death or realisation of the resident's assets	SRR03 Audit Risk 1	High	The Income Maximisation team (Income Max) are promptly notified if a client dies and appropriate communications are issued, payments ceased and credits processed where relevant.
5	Personal and sensitive data is maintained and held securely in accordance with GDPR requirements	Audit Risk 1 Audit Risk 2	High	Files are well maintained and held securely in either locked cabinets or on applications that are accessed using logical controls.

17. Further details of our conclusions against each control objective can be found in Section 3 of this report.

### 3. Detailed Findings

*The Council has appropriate policies, aligned to statutory guidance, in relation to residents required to contribute toward care costs*

18. The Council has a Care Home Charging Policy (the Policy) which is consistent with the Scottish Government's revised guidance on charging for residential accommodation (CRAG) and relevant legislation. During the audit we identified that the Policy makes reference to the National Assistance Act 1948 as amended by the National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2010 and the National Assistance (Sums for Personal Requirements) (Scotland) Regulations 2018. These Acts were updated in 2019 which meant the Policy was quoting the wrong version of these Acts. This was highlighted to the relevant officer and the Policy has now been updated to reflect the correct version of the legislation. Income Max prepared a cover report to present the Policy for approval in August 2017 however it was never presented to, or approved by, the appropriate Council or Health and Social Care Partnership committee. Additionally the Policy does not include any author or version control information.

#### **Action Plan 1**

19. On an annual basis the Council updates its fees and charges schedule which are subject to approval by Policy and Resources Committee as part of the budget setting process. The schedule contains an entry for private care homes however there are no rates stated as these rates are not determined by the Council. They are agreed as part of the COSLA arranged national care home contract and were not available at the time of the budget meeting. The agreed rates are available on the COSLA website and the updated information is sent to clients as part of the annual review of contributions process where relevant. The amount paid by each client is unique as it is based on an assessment of their individual financial resources taking into account upper and lower savings thresholds and tariff charge rate between the two thresholds. The amount assessed as payable by the client is paid directly to the care home and not to the Council. As this is not a Council set charge, and as it doesn't necessarily reflect the actual amount

a client will need to pay, consideration should be given to removing the reference to the rate from the Council's fees and charges schedule.

## Action Plan 2

### There is operational guidance to support the performance of financial assessments

20. The Council has an overarching Adult Residential Care Procedure Note (the Procedure) that is consistent with the Policy and CRAG, however, it was last reviewed in June 2017 and has references and links to an outdated charging order spreadsheet.

## Action Plan 3

21. The Procedure is available to all members of Income Max via a shared drive. Through observation and review of files it was evident that procedures were followed and staff were competent in undertaking assigned work.
22. Documentation and guidance notes made available to care managers via SharePoint are appropriate and up to date and refresher training has been provided to all relevant staff.
23. Should the client require assistance completing financial assessment documentation, care staff or social workers can provide support, they must also ensure the client is entitled to the service. There was evidence on all files that all clients were entitled to the service and on 14 of 15 files sampled it was clear that assistance had been provided.
24. Application forms are completed and contracts issued to the client. By signing these the client is confirming the information they have provided is true and accurate. They also act as a mandate for the Council to seek further information from the Department of Work and Pensions (DWP) if necessary and advise the client that any change in financial circumstances should be advised to the Council as soon as possible. All files reviewed contained the required documentation with the exception of one where the contract had been issued but a signed copy had not been returned. This is being followed-up by Income Max and is considered to be an isolated incident so no audit action has been raised.
25. Clients in private care homes assessed as requiring to contribute towards care costs pay the care home directly. Clients in a Council care home are set up as a sundry debtor and issued with periodic invoices. All files reviewed provided evidence that payment schedules were issued to clients for information and, where relevant, to private care homes to ensure invoices were issued on a four weekly cycle.
26. Financial assessments had been completed appropriately and accurately for all 15 sampled clients. Of these eight were self-funding and only claiming the free care elements. The remaining clients had appropriate information on file and calculations were accurate taking into account the client's pension income, savings and appropriate disregarded items. All calculations had been checked by another member of Income Max and communicated to the client and care home. The information held on the debtors system for relevant clients was accurate and invoices were generated for the correct values. Furthermore annual reviews of financial assessments were undertaken for all clients that were not self-funding which took into account changes in circumstances and uplifts in the national thresholds.
27. A list of all care home invoices issued to Council care home residents by the debtors system in the month of July 2019 was reviewed and a sample of 15 was selected to ensure the records accorded with those held on the CareFirst system. All were found to be complete and accurate.

28. Where assessments require further information to be provided, Income Max use a diary system to prompt follow-up reminders. If a client is suspected of deliberately depriving themselves of assets to avoid or reduce their contribution towards residential care costs, an interim funding arrangement is put in place pending investigation. The Council's legal services are consulted for advice with the final decision whether to pursue funds being taken by the Head of Adult Services.
  29. A process has been established which is followed if deprivation of assets is suspected. There is no separate list of clients that have been, or are being, investigated for deprivation of assets, however hard copy files of investigations in progress are held in a pending file storage area. Income Max are in the process of moving to a fully electronic file process using the Civica document management system. When this is complete these 'pending' client files will be visible using workflow technology and a report will be able to be generated showing all current cases.
  30. As there was no list of clients who had been investigated it was not possible to identify a population from which to select an audit sample. Consequently we selected three cases from the pending files and a further one identified during other testing performed during this audit. Appropriate communications and evidence had been collected for all four files with the investigation completed on one and funds fully recovered. Investigations were ongoing for the other three with evidence of ongoing correspondence between social work and legal services.
  31. When assessing their financial resources clients entering residential care are treated as individuals. Their assessment should not factor in a partner's income. Testing confirmed the Council are complying with this requirement.
  32. There can be circumstances where clients have an appointed power of attorney to make decisions for them and sign documentation on their behalf. We reviewed the files of 15 clients of which 13 had appointed a power of attorney and confirmed they all contained documentation signed by the appointed person. However there was no document in the files which confirmed the person's appointment. As Social Work require power of attorney documentation to be in place to arrange the client's care needs, it is considered acceptable that Income Max place reliance that the appointment has been formalised. A copy of the legal appointment was provided for the files reviewed that required an interim funding arrangement to be put in place.
- Interim funding arrangements are processed in accordance with approved policies and procedures
33. If a client's liquid financial assets are below the upper savings thresholds but they have property assets which mean their total assets exceed the threshold the Council implement interim funding arrangements. In effect interim funding is an interest free loan to the client where a charging order stating the Council's interest in the property value is placed on the property meaning the loan can be repaid from the proceeds of its disposal.
  34. We reviewed a sample of 15 client files and confirmed that interim funding arrangements and charging orders are being well managed. Appropriate documentation is held on client files and the steps established in the Procedure are being followed. We did identify one charging order request made by Income Max in August 2017 which had not been received by legal services and therefore not put in place however we considered this to be an isolated incident caused by a diary reminder not being set up. The order is now being progressed and no audit issue has been raised.



35. Property ownership is disregarded for the first 12 weeks of a client's residence in a care home to allow financial assessments to be completed. This disregard was correctly applied for all sampled files that required interim funding arrangements.
36. CareFirst flags clients who have an interim funding agreement and relevant financial information is recorded separately on a spreadsheet to allow monitoring, reconciliations and year end calculations. The spreadsheet provides a record of charging orders in place and adjustments that occur throughout the year. We can confirm that all 15 client files reviewed provided evidence that the Council is actively recovering funds through charging orders, two of which have been fully recovered.
37. The Council do not carry out formal property valuations when placing a charging order on a property as the Council's property services no longer have the required resource. Income Max will accept a reasonable valuation, provided by the client, based on local knowledge and a search of similar property for sale or recently sold nearby. Estimated valuations had been provided for all client files reviewed and there was evidence these were validated by local research undertaken by Income Max.

[The Council obtains any unpaid charges for residential care upon death or realisation of the resident's assets](#)

38. The Procedure sets out the steps to follow in the event of the death of a care home client. There is an agreement in place with registrars who advise of all deaths within the council area via a dedicated death notification email inbox. This allows for prompt action to be taken to cease payments and obtain credit notes where required.
39. Income Max had been notified of 13 deaths in February 2019. Six of these were sampled and all six files contained evidence of the appropriate correspondence and CareFirst had been updated appropriately. Payments and invoices had ceased in all cases and credits processed where relevant.
40. Five of the clients reviewed resided in private care homes and were self-funding. There were no accrued charges for personal care due for three of these and credits for overpayment had been processed for two. The remaining client was resident in a Council care home and payments were up to date, however discussions are ongoing regarding deprivation of assets to the value of £8,000. This may result in the client's financial assessment being adjusted and additional contribution towards care costs recovered from their estate.

[Personal and sensitive data is maintained and held securely in accordance with GDPR requirements](#)

41. Terms and conditions are outlined on the contracts put in place by the Council and private care homes. These have not changed since being established in 2012/13 however they have been subject to variations to extend their duration on an annual basis and to include General Data Protection Regulation requirements.
42. From a population of 613 care home residents, a random sample of 15 client records were reviewed and we confirmed that files for all 15 were either held on the Civica document management system or a confidential hard copy file is maintained. An exercise is underway to transfer all hard copy files onto Civica. Client information is also held on CareFirst. Physical files are held securely in locked cabinets and access to Civica and CareFirst is restricted through appropriate logical access controls.

## Appendix 1 – Action Plan

	No	Finding	Risk	Agreed Action	Responsibility / Due Date
Medium	1	<b>Care Home Charging Policy</b>  The Care Home Charging Policy has never been approved by an appropriate committee nor does it detail its author or any version control information.	Future changes in legislation may not be reflected in the Policy if it is not subject to periodic review and approval	Review the care home charging policy and present for approval at the appropriate HSCP committee before submission to Council for approval.	Head of Adult Services- Older Adults  31 January 2020
Low	2	<b>Fees and Charges Schedule</b>  The Council's fees and charges schedule contains an entry for private care homes however no rate is stated as it is not determined by the Council. The rate is set nationally and the amount paid by each client is unique as it is based on an assessment of their individual financial resources. Furthermore the client pays the care home directly rather than paying the Council. As it is not a Council set charge, and doesn't necessarily reflect the amount a client will pay, consideration should be given to removing the reference to the rate from the Council's fees and charges schedule.	Fees and charges schedule contain an entry which is not set by the Council or necessarily payable to the Council. This may cause confusion.	2020/21 fees and charges list will be modified.	Principal Accountant – Social Work  31 December 2019
Low	3	<b>Adult Residential Care Procedure Note</b>  The Council's Adult Residential Care Procedure Note was last reviewed in June 2017 and has references and links to an outdated charging order spreadsheet.	The Procedure note may not reflect current working practices and/or charging orders may be calculated incorrectly.	Procedure to be amended	Income Max Team Lead  31 December 2019

In order to assist management in using our reports a system of grading audit findings has been adopted to allow the significance of findings to be ascertained. The definitions of each classification are as follows:

Grading	Definition
<b>High</b>	A major observation on high level controls and other important internal controls or a significant matter relating to the critical success of the objectives of the system. The weakness may therefore give rise to loss or error.
<b>Medium</b>	Observations on less significant internal controls and/or improvements to the efficiency and effectiveness of controls which will assist in meeting the objectives of the system. The weakness is not necessarily substantial however the risk of error would be significantly reduced if corrective action was taken.
<b>Low</b>	Minor recommendations to improve the efficiency and effectiveness of controls or an isolated issue subsequently corrected. The weakness does not appear to significantly affect the ability of the system to meet its objectives.

## Appendix 2 – Audit Opinion

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