

## AUDIT AND RISK COMMITTEE

26 April 2016

### EXTERNAL PLACEMENTS AUDIT PROGRESS REPORT

#### Report of the Director for People

Strategic Aim:	Meeting the health and wellbeing needs of the community	
Exempt Information	No	
Cabinet Member(s) Responsible:	Mr R Clifton, Portfolio Holder for Health and Adult Social Care	
Contact Officer(s):	Karen Kibblewhite, Head of Commissioning	01572 758127 kkibblewhite@rutland.gov.uk
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Ward Councillors	N/A	

#### DECISION RECOMMENDATIONS

That the Committee:

1. Notes the update on progress made following the External Placements Audit report.
2. Endorses the request for a follow-up audit in January 2017.

#### 1 PURPOSE OF THE REPORT

- 1.1 This report sets out the actions taken and progress made following the internal audit undertaken of External Placements.

#### 2 BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 The People Directorate makes a range of external placements for individual service users to meet their needs. Over the past 12 months, a total of 48 providers have been used: 34 for residential placements for older people, learning disabilities, physical disabilities, and mental health; and a further 14 providers for Special Educational needs (SEN) placements. The average annual cost of these placements is c£2m for all residential placements and c£1.4m for the SEN placements.
- 2.2 The People Directorate requested Welland Internal Audit Consortium undertake an audit of the external placements: officers had identified risks with the process as it

was, and were keen to ensure that all risks had been identified and that the plans to address would suitably mitigate these.

- 2.3 The audit was undertaken in August 2015 and the final report issued in October 2015. It showed Limited Assurance with 16 recommendations. It covered placements made for adults and children and young people with Special Educational Needs (SEN). Children's Social Care placements were not included.

### **3 ACTION TAKEN & PROGRESS**

- 3.1 A number of issues were identified by the audit. These are grouped into themes and set out below along with actions taken. Appendix A sets out the full list of recommendations made.

#### **3.2 Formal Commissioning Strategy**

- 3.2.1 The Audit noted that there is currently no formal commissioning strategy in place for the Directorate. A Commissioning Strategy is currently being developed, and this strategy will form the basis for macro-commissioning: that which is how we commission provision types; rather than micro-commissioning: that which is how we support individual service users.
- 3.2.2 The overarching Commissioning Strategy will be across the People Directorate, covering children and adults. It will follow the principles for commissioning already set out in the Adult Social Care Market Position Statement, of utilising framework agreements; continuation of block contracts where there is sufficient demand; and agreeing pricing structures with providers based on the needs of the person using the services and using competitive tendering where possible.
- 3.2.3 The level of demand for placements in Rutland and the need to ensure that each is suitable for an individual's specific needs, mean that for most placement types – other than older people's residential – block contracts are not appropriate. Instead best use will be made of framework agreements, such as the East Midlands Regional Children's Framework to support commissioning from providers of both quality and value for money.

#### **3.3 Individual Placement Policy**

- 3.3.1 The Policy for Individual Placements had been drawn up in 2013 and remained in draft, having never been formally approved. There was an expectation that staff were working to it and the policy was available to all staff.
- 3.3.2 The Policy had remained in draft for two reasons: the staff who had lead responsibility had left the organisation and the incoming staff were not initially aware the policy had not been formally adopted; and the legislation behind the procedures for Adults had changed with the Care Act 2014.
- 3.3.3 The practice of staff had changed in line with legislation, but the policy itself was not updated.
- 3.3.4 The draft Policy has now been replaced with a Standard Operating Procedure which sets out clear steps that need to be undertaken for placements to be made, along with the relevant checklist and forms which need to be completed.

- 3.3.5 The SOP has been signed off by People DMT and will be reviewed annually. It has been transferred from a Policy to a SOP to ensure that it can be reviewed and updated by People DMT immediately and as frequently as necessary to maintain the procedures in line with legislative and national guidance changes.
- 3.3.6 All staff are aware of the revised procedures and are now working to them. Spot-checks will be undertaken on a periodic basis to ensure that placements continue to be made in line with the procedures.

### **3.4 Identifying and Negotiating Placements**

- 3.4.1 The audit noted that it was not always clear how placements were identified for service users. This has been addressed through the revised paperwork to ensure that there is clarity on why a particular placement has been chosen, and the options considered. Justification also has to be provided where a placement has been made outside of an existing contract or framework.
- 3.4.2 Placement rates are set for some placements, including: in-county older people's residential; out of county older people's residential (usually set by the host Local Authority); those providers on existing regional or local authority frameworks. For other placements, usually learning or physical disability, or Special Educational Needs, placement costs are negotiated dependent on the individual's package and level of care and interventions required.
- 3.4.3 In many authorities, there are specific teams whose role it is to identify potential placements and negotiate the placement package and cost on behalf of the social workers. Rutland does not have sufficient placements to warrant this. However, staff turnover has left the Council in a position where staff do not have the experience of negotiating placements and care packages for individuals. In order to address this, support is currently being sought through an invest to save piece of work. This will:
- Review all existing external placements, to seek to renegotiate costs (and realise savings);
  - Provide support to staff and lessons learned so that they feel more confident in undertaking these negotiations themselves in future.
- 3.4.4 This work will also provide a further assurance that the correct contractual paperwork and monitoring is in place for each individual placement.
- 3.4.5 Where placements are not already covered by pre-agreed rates, the negotiation of placement costs will be undertaken by the social/education worker with support from the Procurement Officers. Work is being undertaken to upskill officers to do this.

### **3.5 Quality Standards and Pre-Placement Checks**

- 3.5.1 The audit noted that from the case files and contract paperwork it was not always clear whether these had taken place. Officers are confident that these are - and had been - taking place, the issue was one of recording. This has been resolved by implementing a checklist which requires recording of the checks before the placement is signed off.

- 3.5.2 It is also important to note that there has been no suggestion that any placements which have been made have put individual service users at risk. The audit found clear procedures for safeguarding and information sharing (though it notes that this was beyond the scope of the audit and only touched on).
- 3.6 The social/education worker ensures that when discussing potential placements with service users, only those which are registered (CQC or Ofsted) and meet quality standards are offered. The P&CM Team will undertake the financial checks and contact host local authorities for quality assurance and any safeguarding information.
- 3.7 A Financial Due Diligence process is being drafted currently by the P&CM Team and overseen by the Assistant Director for Finance, this will be used with all providers going forward to help monitor financial stability and risk. A piece of concurrent work is being undertaken regionally via the East Midlands Commissioning Leads group, which will ensure that work undertaken in Rutland to identify risk is consistent with processes used across the region.
- 3.8 Where it was suggested from the sample testing that contracts did not appear to be in place, work has been undertaken to ensure there are current contracts for all placements. It should be noted that at the point the audit was undertaken, a new set of contractual Terms and Conditions were being negotiated and agreed with older people's residential providers and this accounts for half of the placements where it was noted that a current contract was not in place. The new Terms and Conditions were being brought in to ensure contracts reflected the change in legislation following the Care Act.

### **3.9 Contract Monitoring**

- 3.9.1 The audit suggested that the responsibility for contract monitoring was not necessary clear from the cases tested. The responsibility is in line with Contract Procedure Rules and has been made explicit to staff: the Procurements and Contracts Management (P&CM) Team undertake the annual contract compliance with providers; the individual case workers within the operational teams (whether in Education or Social Care) undertake the placement reviews according to the minimum statutory requirements for review.
- 3.9.2 The restructure within both Adult Social Care and the Procurement and Contracts Management Team which was undertaken at the end of 2015 has increased capacity in both teams:
- 3.9.2.1 Adult Social Care now have additional 2fte staff to undertake reviews and ensure assessments are kept up-to-date. This enables packages to be altered in light of service users' changing needs and ensures a placement remains the most appropriate intervention.
- 3.9.2.2 P&CM Team have recently recruited to a dedicated Quality Assurance Officer post to provide expertise on contract compliance for placements. This post will take over the monitoring of registered care providers in-county and develop the links with other local authorities where placements are made. This work was previously undertaken by the Senior Procurement Officers.
- 3.9.2.3 Since the Audit was undertaken, there has been regional work to establish

information sharing on quality and contract compliance of registered providers, via the Placement and Contracts Teams across the East Midlands. This information sharing covers: quality of provision; risks; and financial stability. This is in addition, to the existing structures for quality assuring and information sharing via the Care Quality Commission (adults) which Rutland participate in.

- 3.9.3 It was also identified that workforce training for providers had been previously withdrawn. This was reinstated last Autumn for providers, however this is only applicable for in-county providers and is not always practical for smaller providers to access or attend. Instead, work is being undertaken via the Adult Social Care Provider Forum to identify alternative ways to support providers with workforce development.

## **4 CONSULTATION**

- 4.1 The relevant officers have been consulted to ensure the revised processes are fit for purpose.

## **5 ALTERNATIVE OPTIONS**

- 5.1 There are no alternative options. The actions taken were to address the risks and issues identified.

## **6 FINANCIAL IMPLICATIONS**

- 6.1 There are no direct financial implications of undertaking the actions to address the risks and issues within the audit.
- 6.2 The additional capacity created within Adult Social Care and within the P&CM Team were within the existing staffing budgets.
- 6.3 The external review of all placements noted in Section 3.4.3 should result in savings on the overall placement spend of between 2% and 5%, and should provide a basis on which to negotiate future placement spend going forward.

## **7 LEGAL AND GOVERNANCE CONSIDERATIONS**

- 7.1 The placement process is in line with legislative requirements and national guidance for each placement type.
- 7.2 The Standard Operating Procedure will be reviewed at least annually to ensure to remains in line with these requirements.

## **8 EQUALITY IMPACT ASSESSMENT**

- 8.1 An Equality Impact Assessment (EqIA) has not been completed as this report updates the actions taken following the audit. The placements themselves take account of individual service users' needs when choosing a suitable provider.

## **9 COMMUNITY SAFETY IMPLICATIONS**

- 9.1 The council is required by Section 17 of the Crime & Disorder Act 1998 to take into account community safety implications. Quality care placements contribute to the safety and reduction of risk of vulnerable people.

## **10 HEALTH AND WELLBEING IMPLICATIONS**

- 10.1 Appropriate placements of individuals in quality services will support the good health and well-being of Rutland residents.

## **11 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

- 11.1 The audit identified a range of issues with the (then) current placement processes. There were no additional issues identified by the audit that Senior Officers had not already identified and started to address, however this does not suggest that officers were not greatly concerned about the potential impact of the issues identified.
- 11.2 Significant work has been undertaken over the past six months to ensure that placement decisions are both rigorous and the appropriate audit trails to support decisions are in place. Work continues across the Directorate to monitor placements and undertake spot-checks to ensure all staff are following the correct procedures.
- 11.3 In order to ensure that this more robust process addresses the issues raised and to provide further assurance, it is recommended that a follow-up audit is taken towards the end of this financial year. This would allow the Invest to Save work reviewing all external placements to be completed first and for officers to implement any lessons learned from that.

## **12 BACKGROUND PAPERS**

- 12.1 Welland Internal Audit Consortium External Placements Audit 2015-16

## **13 APPENDICES**

- 13.1 Appendix A. Audit Recommendations

**A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.**

### Action plan

Rec no.	Issue	Recommendation	Management comments	Priority	Officer responsible	Due date
<i>Risk 1: Weak or ineffective arrangements for procuring external placements with limited challenge or negotiation of costs leading to poor value for money.</i>						
1	A placements policy exists but has not been finalised, formally adopted or fully implemented in practice.	The draft Individual Placements Policy should be reviewed, updated, approved and fully implemented. It should include detailed process maps for all placement types and examples of completed documents.	The placements policy will be reviewed in line with the recommendations and implemented with the agreement of the three service heads.	H	Head of Commissioning / Head of Adult Social Care) / Head of Lifelong Learning	31 January 2016
2	The commissioning process is led by social workers with limited specialist procurement input. The involvement of specialist procurement and contract compliance staff would represent a better use of relevant skills and experience and help to ensure value for money and improve probity safeguards through separation of duties.	Prepare a business case with cost/benefit analysis to determine the options and viability of using specialist procurement and contract compliance staff in the identification and short-listing of providers and negotiation of costs in respect of all placements.	A business case was previously prepared for this but was not progressed for reasons unknown as this pre-dates the current Heads of Service. Consideration will be given to reviewing this and taking it forward.	M	Head of Commissioning	31 January 2016

Rec no.	Issue	Recommendation	Management comments	Priority	Officer responsible	Due date
3	Lack of a departmental commissioning strategy has been a long-standing issue. Positive action has been taken to appoint a Head of Commissioning to prepare a strategy, which is currently in the early stages of development	A project plan and appropriate governance arrangements should be established to support preparation of a detailed commissioning strategy for the People Directorate.	The governance arrangements for developing a strategy are already in place. The need to review and effectively commission placements is not reliant on such a strategy, and therefore the prioritisation will be of the policy and placement process rather than of an overarching strategy per se.	M	Head of Commissioning	31 March 2016
4	There is currently limited use of framework and block contracts or joint commissioning as a means of improving value for money.	The commissioning strategy should include proposals to seek opportunities to improve value for money through greater use of framework agreements, block contracts and joint commissioning where appropriate.	This work has very recently begun and will be taken forward over the next 9-12 months for the various placement types.	M	Head of Commissioning	30 June 2016
5	There is a lack of clarity over the nature and responsibility for undertaking pre-contract checks. Officers asserted that basic checks are always carried out to ensure service users are not placed at risk, although testing found that this had not been fully and consistently evidenced in 55% of cases.	The Individual Placement Policy and supporting procedures should specify the pre-contract checks that are expected to be carried out before making a placement. This should include clarification of roles and responsibilities for carrying out the checks and details of how they are to be evidenced and documented.	This will be undertaken as part of Recommendation 1.	M	Head of Commissioning / Head of Adult Social Care) / Head of Lifelong Learning	31 January 2016



Rec no.	Issue	Recommendation	Management comments	Priority	Officer responsible	Due date
6	The Individual Placements Policy requires completion and presentation of a Core Process Checklist as part of the panel approval process for all placements. In practice the checklist is rarely completed and, whilst there is no direct evidence of poor value for money, testing found that evidence of how value for money has been achieved could be better documented in many cases.	The Core Process Checklist in the draft Individual Placements Policy should be completed and retained in all cases, or some other means developed to clearly demonstrate how value for money has been assured. Consideration should be given to what tools and information would be useful to support this process (e.g. the Care Funding Calculator). Funding panels should ensure that the checklist or other evidence of value for money is presented as part of the panel's consideration and approval of the placement.	Agreed (Head of Learning & Skills).  This will be undertaken as part of Recommendation 1.  Please note that there is no funding panel for Adult Social Care in line with Care Act guidance.	M	Head of Adult Social Care) / Head of Lifelong Learning	31 January 2016
7	Testing found that 65% of placements in the sample did not have a valid signed contract at the time of audit. This increases the risk of difficulties in resolving any disputes or disagreements over the obligations of both parties.	All current placements should be reviewed and arrangements made to ensure that an up-to-date signed contract and Individual Placement Agreement is in place for them all. This should include SEN placements in all except RCC maintained schools.	Work has begun and is focusing on ensuring correct processes and contracts are in place going forward and are put in place at point of review.	H	Head of Commissioning	31 December 2015
8	Testing found that signed panel approvals were not retained in six cases and a further two cases did not go to panel as costs were below £10k. Officers asserted that panel approval is not required below £10k but this was not formally specified. There was also a lack of clarity over when a CPR exemption form was required and testing found only one case with an approved exemption.	The Individual Placement Policy and any supporting guidance notes and procedures should clarify exactly when a panel approval is required for each type of placement and when completion of the CPR exemption form is expected.	Agreed, Head of Learning and Skills.  This will be undertaken as part of Recommendation 1.	M	Head of Lifelong Learning	31 January 2016

Rec no.	Issue	Recommendation	Management comments	Priority	Officer responsible	Due date
9	Testing found that signed panel approvals were not available in six cases and the basis for shortlisting and selection of providers was not clearly documented in most cases.	The basis for shortlisting and selection of providers should be clearly documented in all cases and signed panel approval forms or other evidence of formal management approval of the placement should be retained.	Agreed, Head of Learning and Skills.  This will be undertaken as part of Recommendation 1	M	Head of Lifelong Learning	31 December 2015
<i>Risk 2: Inadequate arrangements for ensuring compliance with contracts, including service quality (e.g. safeguarding) and financial management.</i>						
10	Roles and responsibilities for contract monitoring are not clearly documented.	The Individual Placements Policy should be updated to include details of roles, responsibilities and procedures in respect of contract management for each type of placement.	Agreed, Head of Learning and Skills.  This will be undertaken as part of Recommendation 1.	M	Head of Commissioning / Head of Adult Social Care) / Head of Lifelong Learning	31 January 2016
11	Although individual placements are being regularly reviewed, there is currently no proactive monitoring of overall contractual obligations in respect of out-of-county placements. Reliance is placed on the host council and CQC for monitoring provider performance and notifying the Council of any issues or concerns.	Develop more formal proactive arrangements for monitoring overall contractual obligations in respect of out-of-county placements either through extension of the existing monitoring and inspection regime or obtaining formal periodic assurances from the relevant 'host' council.	This work has started.	H	Head of Commissioning	29 February 2016
12	Again, although individual placements are being regularly reviewed, there is currently no contract monitoring of in-county or out-of-county SEN placements.	Contract monitoring should include all placement contracts, including SEN.	This is the responsibility of the individual budget holders as well as the Procurement and Contracts Team. This will be undertaken as part of Recommendation 1.	H	Head of Commissioning	29 February 2016

Rec no.	Issue	Recommendation	Management comments	Priority	Officer responsible	Due date
13	<p>Officers asserted that contract monitoring includes quarterly information returns, annual inspections and targeted inspections. In practice, limited resources mean that most inspections are focused on a specific area or concern. However, the basis for determining the focus of each inspection is not clearly documented and there are no mandatory aspects. Testing found evidence that follow-up of recommendations arising from inspections is not always evidenced.</p>	<p>The overall approach to contract monitoring and inspections should be clarified and documented, including:</p> <ul style="list-style-type: none"> <li>• the basis for determining the type of inspection to be undertaken each year (e.g. full, targeted, follow-up etc);</li> <li>• any areas that should be subject to mandatory annual inspection (e.g. insurance certificates, safeguarding policies etc);</li> <li>• justification for the focus of targeted inspections and/or the areas not covered by the inspection should be clearly documented in inspection reports; and</li> <li>• retention of evidence of follow-up of recommendations / actions arising from inspections.</li> </ul>	<p>This will be undertaken as part of Recommendation 1</p>	H	Head of Commissioning	31 March 2016

Rec no.	Issue	Recommendation	Management comments	Priority	Officer responsible	Due date
14	<p>Testing found that most placements (85%) had been subject to an annual review except:</p> <ul style="list-style-type: none"> <li>• one case (older person residential) was overdue;</li> <li>• one case (educational exclusion) had no evidence of council involvement; and</li> <li>• one case (SEN) had no evidence of review.</li> </ul>	Ensure that an annual review has been carried out or is planned for all individual placements.	<p>ASC has recruited two designated review officers whose job is to carry out all ASC reviews.</p> <p>The cases described are surprising; this will be reviewed, Head of Learning and Skills.</p>	M	Head of Adult Social Care) / Head of Lifelong Learning	31 December 2015
15	The council no longer facilitates safeguarding training for residential care providers.	Consider reinstating training provision for external providers via the LSCDG.	This provision has already been reinstated.	L	Head of Adult Social Care)	31 March 2016
16	There is no periodic refresh of the financial standing of care providers in order to provide an early warning of any potential failure and timely initiation of contingency plans.	Introduce periodic refresh of financial monitoring checks, particularly in respect of any high-risk providers.	A Financial Due Diligence policy is currently being developed in line with Financial Procedure Rules and Contract Procedure Rules.	M	Head of Commissioning	29 February 2016

