

Final Internal Audit Report

Ordinary Residents

November 2021

Distribution: Interim Corporate Director Adult Social Care and Health
 Interim Director of Adult Social Care Operations
 Head of Service Adult Social Care
 Head of Business and Service Compliance
 Interim Corporate Director Resources and S151 Officer
 Interim Assistant Chief Executive (Final Only)

Assurance Level	Issues Identified	
Substantial Assurance	Priority 1	0
	Priority 2	1
	Priority 3	1

Confidentiality and Disclosure Clause

This report ("Report") was prepared by Mazars LLP at the request of London Borough of Croydon and terms for the preparation and scope of the Report have been agreed with them. The matters raised in this Report are only those which came to our attention during our internal audit work. Whilst every care has been taken to ensure that the information provided in this Report is as accurate as possible, Internal Audit have only been able to base findings on the information and documentation provided and consequently no complete guarantee can be given that this Report is necessarily a comprehensive statement of all the weaknesses that exist, or of all the improvements that may be required.

The Report was prepared solely for the use and benefit of London Borough of Croydon and to the fullest extent permitted by law Mazars LLP accepts no responsibility and disclaims all liability to any third party who purports to use or rely for any reason whatsoever on the Report, its contents, conclusions, any extract, reinterpretation, amendment and/or modification. Accordingly, any reliance placed on the Report, its contents, conclusions, any extract, reinterpretation, amendment and/or modification by any third party is entirely at their own risk.

Please refer to the Statement of Responsibility in Appendix 3 of this report for further information about responsibilities, limitations and confidentiality.

Contents
Page**Executive Summary**

1. Introduction	3
2. Key Issue	4

Detailed Report

3. Actions and Key Findings/Rationale	5
4. Priority 3 Issue	7

Appendices

1. Terms of Reference
2. Definitions for Audit Opinions and Issues Identified
3. Statement of Responsibility

1. Introduction

- 1.1 Where an individual is 'ordinarily resident' determines which local authority is required to meet their eligible care and support needs under the Care Act. A local authority's duty to meet eligible needs also applies to those who are present in the area but are of no settled residence.
- 1.2 In the vast majority of cases, it will be obvious where an individual is ordinarily resident – and consequently which local authority is responsible for meeting the eligible social care needs of that individual. The issue of where an individual is ordinarily resident will usually arise when a person is moving or has moved from one geographical area to another. Where there is a dispute about which authority is responsible – due to disagreement over where the individual is ordinarily resident – the end point is resolution by the Secretary of State for Health. Regulations set out detailed guidance of the steps that a local authority must take in order to make such a referral. However, a formal referral to the Secretary of State should be the last resort.
- 1.3 The deeming provisions in section 39 of the Care Act ensure that a local authority cannot 'export' its responsibilities under the Care Act by placing an individual in a different geographical area. That might happen where an individual chooses to go to a different area to be near family or because there are no suitable local placements available and they are placed out of area. In such cases, the legislation deems financial responsibility for care and support services to remain with the 'placing' local authority if a person has been placed out of area. The deeming provisions require that certain types of accommodation (known as 'specified accommodation') be excluded from consideration when working out where someone is ordinarily resident. What that means in practical terms is that a person is 'deemed' or presumed to continue to be ordinarily resident in the area he was ordinarily resident in immediately prior to commencing living at the accommodation in question. Thus, the responsibilities for that person remain with the 'placing' or originating local authority. This only applies in certain types of accommodation as set out in the regulations. These are:
- care home accommodation;
 - shared lives scheme accommodation;
 - supported living accommodation.
- 1.4 The fieldwork for this review was completed during the Government measures put in place in response to COVID-19. While our review and testing were performed remotely, we have been able to obtain all relevant documents required to complete the review.

- 1.5 The audit was undertaken as part of the agreed Internal Audit Plan for 2020/21 based on a risk assessment. The objectives, approach and scope are contained in the Audit Terms of Reference at Appendix 1.

2. Key Issue

Priority 2 Issue

Details such as the Council's communication with other boroughs, correspondence between Advisors and legal team and decision of SoS for disputed cases were neither updated in LiquidLogic (Council's case management system) nor recorded elsewhere by the Council in two cases where the ordinary residents were placed within the Council and one case where the ordinary resident was placed outside the Council out of the five sample cases tested during the audit. **(Issue 1)**

The priority 3 issue is included in section 4 below.

3. Actions and Key Findings/Rationale

Audit Area: Regulatory, Organisational and Management Requirements

Priority	Action Proposed by Management	Detailed Finding/Rationale - Issue 1
2	An addendum to the SOP will be added to clearly outline the OR process, required communication network, steps in the process and recording for each step of the OR process.	<p><u>Maintenance of records of ordinary residence cases</u></p> <p>LiquidLogic has the facility to maintain all records of ordinary residence cases including email conversations and documents. The system is updated by the Advisors working on such cases.</p> <p>Further, the SOP states that <i>'in cases of disputes over the status of ordinary residence between the Council and other boroughs, the Advisor should maintain a chronology of all actions or contact around resolution over dispute. The referral to the Secretary of State (SoS) should include a chronology of events leading up to the referral of dispute.'</i></p> <p>Through our review of five out of 13 ordinary residence cases on sample basis from April 2020 to February 2021 we noted that:</p> <ul style="list-style-type: none"> • Pen Portraits (i.e. needs assessment to determine the status of ordinary residence cases) were completed for all samples by the Advisors and approved by Team Managers; • Funding Panel approval was obtained for cases where the Council accepted responsibility of the ordinary resident; and • Referrals made to the SoS were approved by the Interim Head of Service- Disability and Transition Service. <p><u>Issue</u></p> <p>We tested five out of 13 ordinary residence cases on sample basis from April 2020 to February 2021 and observed that LiquidLogic was not updated with the following details for three cases:</p> <ul style="list-style-type: none"> • Communication between the Council and other boroughs for confirming the ordinary residence of clients and transfer the responsibility of the ordinary residents;

Ordinary Residents 2020-21

Responsible Officer	Deadline	
Head of Service- Adult Social Care / Adults Social Work Consultant Practitioner / Advanced Social Worker	End of November 2021	<ul style="list-style-type: none"> • Communication by the Advisor with the in-house legal team of the Council; and • Decisions of the SoS based on the referral made in case of disputes. <p>Furthermore, such details of cases were not recorded in Council’s database or shared drives. This may lead to staff being unaware of the status of such cases resulting in incomplete documentation for referral to SoS and inadequate record maintenance of cases.</p> <p>As discussed with the Head of Service- Adult Social Care and Interim Head of Service- Disability and Transition Service, the Advisors working on those cases have left the Council. Also, prior to April 2021, transition cases were managed by the Children’s Social Care Team and thus there were inconsistencies in maintenance of records between the two teams.</p>

4. Priority 3 Issue

Issue	Finding
<p>Audit Area: Regulatory, Organisational and Management Requirements</p> <p>An addendum to the SOP will be added to clearly outline the OR process, required communication network, steps in the process and recording for each step of the OR process.</p>	<p>The Council has 'Ordinary Residence- Including Disputes and Final Adjustments' SOP in place. This SOP covers roles and responsibilities of staff, process of determining ordinary residence status of clients, dealing with such cases in line with the regulatory guidance provided by The Care Act 2014 and National Guidance and management reporting.</p> <p>Through our review, and based on discussion with the Head of Service- Adult social Care, noted that the 'Ordinary Residence- Including Disputes and Final Adjustments' SOP was last updated for 2015-2017 and since then has not been reviewed and updated to align with the current process, systems used and any additional guidance issued by the regulators.</p> <p>This may lead to staff being unaware of the current and correct process resulting in inconsistencies or inaccuracies or delays in managing ordinary residence cases.</p> <p>As discussed with the Head of Service- Adult social Care and Interim Head of Service- Disability and Transition Service, the Policy Officer is currently developing a plan to review and revise all policies including this SOP.</p>

AUDIT TERMS OF REFERENCE

Ordinary Residents

1. INTRODUCTION

- 1.1 Where an individual is 'ordinarily resident' determines which local authority is required to meet their eligible care and support needs under the Care Act. A local authority's duty to meet eligible needs also applies to those who are present in the area but are of no settled residence.
- 1.2 In the vast majority of cases it will be obvious where an individual is ordinarily resident – and consequently which local authority is responsible for meeting the eligible social care needs of that individual. The issue of where an individual is ordinarily resident will usually arise when a person is moving or has moved from one geographical area to another. Where there is a dispute about which authority is responsible – due to disagreement over where the individual is ordinarily resident – the end point is resolution by the Secretary of State for Health. Regulations set out detailed guidance of the steps that a local authority must take in order to make such a referral. However, a formal referral to the Secretary of State should be the last resort.
- 1.3 The deeming provisions in section 39 of the Care Act ensure that a local authority cannot 'export' its responsibilities under the Care Act by placing an individual in a different geographical area. That might happen where an individual chooses to go to a different area to be near family or because there are no suitable local placements available and they are placed out of area. In such cases the legislation deems financial responsibility for care and support services to remain with the 'placing' local authority if a person has been placed out of area. The deeming provisions require that certain types of accommodation (known as 'specified accommodation') be excluded from consideration when working out where someone is ordinarily resident. What that means in practical terms is that a person is 'deemed' or presumed to continue to be ordinarily resident in the area he was ordinarily resident in immediately prior to commencing living at the accommodation in question. Thus, the responsibilities for that person remain with the 'placing' or originating local authority. This only applies in certain types of accommodation as set out in the regulations. These are:
 - care home accommodation;
 - shared lives scheme accommodation;
 - supported living accommodation.
- 1.4 This audit is being undertaken as part of the agreed Internal Audit Plan for 2020/21.

2. OBJECTIVES AND METHOD

- 2.1 The overall audit objective is to provide an objective independent opinion on the adequacy and effectiveness of controls / processes.
- 2.2 The audit will for each controls / process being considered:
- Walkthrough the processes to consider the key controls;
 - Conduct sample testing of the identified key controls; and
 - Report on these accordingly.

3. SCOPE





- 3.1 This audit included the following areas (and issues raised):

Control Areas/Risks	Issues Raised		
	Priority 1 (High)	Priority 2 (Medium)	Priority 3 (Low)
Regulatory, Organisational and Management Requirements	0	1	1
'Ordinary residents' placed in other boroughs	0	0	0
Other borough's 'ordinary residents' placed locally	0	0	0
Transfer of responsibility for 'Ordinary residents'	0	0	0
Dispute resolution	0	0	0
Total	0	1	1

Definitions for Audit Opinions and Issues Identified

In order to assist management in using our reports:

We categorise our **audit assurance opinion** according to our overall assessment of the risk management system, effectiveness of the controls in place and the level of compliance with these controls and the action being taken to remedy significant findings or weaknesses.

	Full Assurance	There is a sound system of control designed to achieve the system objectives and the controls are constantly applied.
	Substantial Assurance	While there is basically a sound system of control to achieve the system objectives, there are weaknesses in the design or level of non-compliance of the controls which may put this achievement at risk.
	Limited Assurance	There are significant weaknesses in key areas of system controls and non-compliance that puts achieving the system objectives at risk.
	No Assurance	Controls are non-existent or extremely weak, leaving the system open to the high risk of error, abuse and reputational damage.

Priorities assigned to identified issues are based on the following criteria:

Priority 1 (High)	Fundamental control weaknesses that require immediate attention by management to action and mitigate significant exposure to risk.
Priority 2 (Medium)	Control weakness that still represent an exposure to risk and need to be addressed within a reasonable period.
Priority 3 (Low)	Although control weaknesses are considered to be relatively minor and low risk, still provides an opportunity for improvement. May also apply to areas considered to be of best practice that can improve for example the value for money of the review area.

Statement of Responsibility

We take responsibility to the London Borough of Croydon for this report which is prepared on the basis of the limitations set out below.

The responsibility for designing and maintaining a sound system of internal control and the prevention and detection of fraud and other irregularities rests with management, with internal audit providing a service to management to enable them to achieve this objective. Specifically, we assess the adequacy and effectiveness of the system of internal control arrangements implemented by management and perform sample testing on those controls in the period under review with a view to providing an opinion on the extent to which risks in this area are managed.

We plan our work in order to ensure that we have a reasonable expectation of detecting significant control weaknesses. However, our procedures alone should not be relied upon to identify all strengths and weaknesses in internal controls, nor relied upon to identify any circumstances of fraud or irregularity. Even sound systems of internal control can only provide reasonable and not absolute assurance and may not be proof against collusive fraud.

The matters raised in this report are only those which came to our attention during the course of our work and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. Recommendations for improvements should be assessed by you for their full impact before they are implemented. The performance of our work is not and should not be taken as a substitute for management's responsibilities for the application of sound management practices.

This report is confidential and must not be disclosed to any third party or reproduced in whole or in part without our prior written consent. To the fullest extent permitted by law Mazars LLP accepts no responsibility and disclaims all liability to any third party who purports to use or rely for any reason whatsoever on the Report, its contents, conclusions, any extract, reinterpretation amendment and/or modification by any third party is entirely at their own risk.

Registered office: Tower Bridge House, St Katharine's Way, London E1W 1DD, United Kingdom.
Registered in England and Wales No 0C308299.