

# Final Internal Audit Report

## Direct Payments

### February 2018

**Distribution:** Executive Director of People (Final only)  
 Director of Adult Social Care and All-Age Disability  
 Assistant Director 0-65 Disability Service  
 Head of 25-65 Disability Service  
 Head of Disability Commissioning and Brokerage  
 Team Manager

| Assurance Level   | Recommendations Made |   |
|-------------------|----------------------|---|
| Limited Assurance | Priority 1           | 1 |
|                   | Priority 2           | 2 |
|                   | Priority 3           | 1 |

#### Status of Our Reports

This report ("Report") was prepared by Mazars Public Sector Internal Audit Ltd 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.

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

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## Executive Summary

### 1. Introduction

- 1.1 The Croydon Standard Operating Procedures state that 'Adult Social Care is committed to enabling people to have as much choice, control and independence as possible within the boundaries of Council policy on how public money may be spent, and will offer direct payments to all adults who are eligible'.
- 1.2 The Council is responsible for deciding whether the individual is eligible to receive direct payments, and then monitor and review the usage of the individual to ensure the direct payments are meeting the care and support needs set out in their care and support plan.
- 1.3 The objectives, methodology and scope are contained in the Audit Terms of Reference at Appendix 1.

### 2. Key Issues

#### Priority 1 Issues

Personal Budget Direct Payment Agreements do not have a fraud declaration or 'fair processing' notice, (**Issue 1**).

#### Priority 2 Issues

A Direct Payment Independent Living Agreement (DPILA) could not be found for one client and for a further eight clients, the DIPLAs were not signed on behalf of the Council, (**Issue 2**).

No centralised log of variances identified in service user quarterly returns and the progress made to resolving these was available, (**Issue 3**).

The priority 3 issue is included under item 4 below.

### 3. Actions and Key Findings/Rationale

| <b>Control Area 2: Direct Payment Agreements</b> |   | <b>Detailed Finding/Rational – issue 1</b>   |
|--|---|--|
| <b>Priority</b>                                  | <b>Action Proposed by Management</b>  |  |
| 1  | Corporate anti-fraud service and data protection have been asked for a "form of words" to be added to the Personal Budget Direct Payment Agreement (PBDPA). | <p>The Data Protection Act 1998 states that 'Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless (a) at least one of the conditions in Schedule 2 is met, and (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.' In this regard, the Council must be transparent about how it intends to use any data collected and any application forms in use should include a 'fair processing notice'.</p> <p>Examination of the Personal Budget Direct Payment Agreement that is signed by the Council and the respective service users to agree the terms of the direct payment that the service user will be receiving found that there was no 'fair processing' notice or a fraud declaration included on the form.</p> <p>Where appropriate declarations are not included on application forms, the Council may be unable to use the details provided for data matching to identify and reduce fraud. It is good practice and may reduce instances of fraud if the service user is aware that the data collected may be used for that purpose. The requirements regarding data subject consent become significantly more important when the General Data Protection Regulations come in to force in May 2018.</p> |
| <b>Responsible officer</b>                       | <b>Deadline</b>   |  |
| Head of 25-65 Disability                         | 1 <sup>st</sup> March 2018  |  |

| <b><u>Control Area 2: Direct Payments Agreements</u></b> |   |                            |                 |                          |   |
|--|---|----------------------------|-----------------|--------------------------|---|
| <b>Priority</b>  | <b>Action Proposed by Management</b>  |                            |                 |                          |   |
| 2  | <p>The revised Personal Budget Direct Payment Agreement (PBDPA) will be sent to every direct payment recipient or person responsible for the administration (Children Services) using the same mailing list as that used for the quarterly returns.</p> <p>The revised PBDPA will include details of the gross cost of the personal budget, service user contribution and net cost.</p> <p>2 pre-signed copies will be sent to the service user with a prepaid envelope in order that one copy can be returned to the council.</p> <p>On receipt of the signed PBDPA it will be logged locally for audit purposes, a file note added to AIS to state it has been received and indexed on ESCR.</p> <p>A local log will be maintained to record date PBDPA was sent and date returned. Non returns will be followed by the Direct Payment Support Service.</p> |                            |                 |                          |   |
|  | <p><b>Detailed Finding/Rational – Issue 2</b></p> <p>The Direct Payment Independent Living Agreement (DPILA) is an agreement signed by both parties, the service user and the Council, that sets out the terms and conditions of the direct payments, as well as the requirements of each party.</p> <p>Examination of the documentation for a sample of 15 service users established that:</p> <ul style="list-style-type: none"> <li>• A DPILA could not be found for one client; and</li> <li>• There were eight cases where a Council signature was not evident on the DPILA.</li> </ul> <p>Where DPILAs are not completed or are not signed, there is a risk that the Council will have limited recourse in the case of a dispute.</p>   |                            |                 |                          |   |
|  | <table border="1"> <thead> <tr> <th><b>Responsible officer</b></th> <th><b>Deadline</b></th> </tr> </thead> <tbody> <tr> <td>Head of 25-65 Disability</td> <td>Process to begin 1<sup>st</sup> March 2018</td> </tr> </tbody> </table>  | <b>Responsible officer</b> | <b>Deadline</b> | Head of 25-65 Disability | Process to begin 1 <sup>st</sup> March 2018 |
| <b>Responsible officer</b>                               | <b>Deadline</b>   |                            |                 |                          |   |
| Head of 25-65 Disability                                 | Process to begin 1 <sup>st</sup> March 2018   |                            |                 |                          |   |

| <b>Control Area 4: Monitoring of Payments and Budgetary Control</b> |  |
|---|--|
| <b>Priority</b>   | <b>Action Proposed by Management</b>   |
| 2   | <p>All variances will be recorded on AIS as well as the outcome of the investigation and/or agreement that funds can be spent for the purpose for which they appear or intended outcome on the service users' support plan.</p> <p>Queries on open cases will be sent to the allocated social worker. Queries on unallocated/closed cases (6 months plus) will be sent the relevant review team.</p>   |
|   | <p><b>Detailed Finding/Rational – Issue 3</b></p> <p>Where a variance is identified in a service user's quarterly return, a record should be maintained so that it can be effectively tracked to ensure that the correct course of action has been completed - i.e. the money retrieved or a valid explanation obtained.</p> <p>Discussions established that there is no centralised log of the variances identified in the service user quarterly returns and there is no record held of the progress made in each case that is identified.</p> <p>Where a record of variances is not maintained, there is a risk that inappropriate payments may not be appropriately followed up or are overlooked.</p> |
| <b>Responsible officer</b>  | <b>Deadline</b>  |
| Head of 25-65 Disability  | Process to begin 1 <sup>st</sup> March 2018  |

4. Priority 3 Issue

| <b>Action Proposed by Management</b>  | <b>Findings</b>  |
|---|--|
| <p>As part of the ADAPT programme there is a Direct Payment work stream. As part of this work the whole Direct Payment process will be redesigned to make sure it is compliant with the Care Act 2014 and all policies and procedures will be refreshed. Consequently, new policies and procedures will be drafted and implemented as well as systems to monitor non-compliance with requirements.</p> <p>As an interim measure the Direct payment team will be asked to audit the non-compliance of quarterly returns and service users will be contacted accordingly.</p> | <p>The Council receives quarterly returns from the service users to evidence what the direct payments have been spent on. Where quarterly returns are not received, the Council sends out a letter informing the service user that their payments will be suspended if they fail to provide their quarterly return.</p> <p>For one client, no quarterly returns have been received since their services commenced in October 2015. However, no letters have been sent to the client advising them that their account will be suspended if they fail to provide their quarterly return. Discussion established that direct payments team were advised not to send the suspension letter, but no evidence was provided to explain why no letter was sent or why the user had not yet completed a quarterly return.</p> <p>Where quarterly returns are not received in a timely manner, there is a risk of financial loss to the Council where the service user incorrectly uses their direct payments.</p> |

## TERMS OF REFERENCE

### Direct Payments

#### 1. INTRODUCTION

- 1.1 The Croydon Standard Operating Procedures state that 'Adult Social Care is committed to enabling people to have as much choice, control and independence as possible within the boundaries of Council policy on how public money may be spent, and will offer direct payments to all adults who are eligible'.
- 1.2 The Council is responsible for deciding whether the individual is eligible to receive direct payments, and then monitor and review the usage of the individual to ensure the direct payments are meeting the care and support needs set out in their care and support plan.
- 1.3 As part of the agreed 2017/18 Internal Audit Plan, an internal audit of Direct Payments was identified to be undertaken.

#### 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 The audit included the following areas:





| Control Areas/Risks                            | Issues Identified    |                        |                     |
|--|----------------------|------------------------|---------------------|
|  | Priority 1<br>(High) | Priority 2<br>(Medium) | Priority 3<br>(Low) |
| Assessments of Individuals for Direct Payments | 0                    | 0                      | 0                   |
| Direct Payments Agreements                     | 1                    | 1                      | 0                   |
| Payments to Clients                            | 0                    | 0                      | 0                   |
| Monitoring of Payments and Budgetary Control   | 0                    | 1                      | 1                   |
| <b>TOTAL</b>                                   | <b>1</b>             | <b>2</b>               | <b>1</b>            |



## DEFINITIONS FOR AUDIT OPINIONS AND RECOMMENDATIONS

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, adequacy and 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 consistently 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 which may put this achievement at risk.                    |
|  | Limited Assurance     | There are significant weaknesses in key areas of system controls and/or non-compliance that puts achieving the system objectives at risk.   |
|  | No Assurance          | Controls are non-existent or weak and/or there are high levels of non-compliance, leaving the system open to the high risk of error or abuse which could result in financial loss and/or reputational damage. |

Priorities assigned to recommendations are based on the following criteria:

|                        |   |
|------------------------|---|
| Priority 1<br>(High)   | Fundamental control weaknesses that require the immediate attention of management to mitigate significant exposure to risk.   |
| Priority 2<br>(Medium) | Control weakness that represent an exposure to risk and require timely action.  |
| Priority 3<br>(Low)    | Although control weaknesses are considered to be relatively minor and low risk, action to address still provides an opportunity for improvement. May also apply to areas considered to be of best practice. |

## 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.

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