



Direct Payments 2015-16

City of York Council

Internal Audit Report

Business Unit: Adult Social Services

Responsible Officer: AD – Mental Health, DOLS, Customer Assessment, Safeguarding

Service Manager: Group Manager – Learning Disabilities and Contracts

Head of Customer and Exchequer Services

Date Issued: 21.07.16

Status: Final

Reference: 11480/006

	P1	P2	P3
Actions	0	5	3
Overall Audit Opinion	Limited Assurance		

Summary and Overall Conclusions

Introduction

Direct Payments are local Health and Social Care payments for people who have been assessed as needing help from social services, and who would like to arrange and pay for their own care and support services instead of receiving them directly from the local authority. The aim of Direct Payments is to allow the service user greater choice and control through the flexibility of purchasing their own care package. Although the council has offered Direct Payments for some time, the Care Act mandates them for the first time in certain circumstances. Sections 31 to 33 of the Care Act (2014) set out local authorities' duties in respect of these payments.

The council currently administers Direct Payments to three hundred and forty five customers, with payments from Jan 2015 to Dec 2015 totalling approximately £3,000,000. One hundred and twenty three customers receive payments via Cashplus accounts, which are monitored by the council's Income Services team, whilst the accounts of two hundred and twenty nine customers are managed by the Independent Living Scheme, an external charity who offer administrative services.

Objectives and Scope of the Audit

The purpose of this audit was to provide assurance to management that procedures and controls within the system will ensure that:

- Cashplus accounts are monitored, reconciled appropriately and reclaims are processed accurately;
- designated personal bank accounts are monitored, reconciled appropriately and reclaims are processed accurately;
- transitional arrangements are in place for provision of account management upon the expiration of the Independent Living Scheme contract;
- the proposed Direct Payments Policy document is aligned with the Care Act and is fit for purpose.

Key Findings

It was found that Direct Payment accounts are not monitored according to council policy. Cashplus accounts are subject to a reasonable amount of monitoring with accounts being reconciled on a six monthly basis. Reconciliations are calculated correctly and transactional reports are reviewed to look for potentially inappropriate expenditure. Accounts managed by the Independent Living Scheme (ILS) are subject to limited monitoring, with the majority of accounts being accurately reconciled on a six monthly basis. Designated personal bank accounts are not monitored.

A number of weaknesses were identified in the monitoring processes of all Direct Payment accounts, with new starters failing to be monitored at the agreed intervals and Direct Payment performance not being used to inform future provision during the customer's annual review. Account surpluses and deficits (failure to pay customer contributions) are usually identified but not always acted upon.

The contract for Direct Payment administration with the Independent Living Scheme has been extended until October 2016. In April 2016, provision of this service transferred from the ILS to a company called Salvere. After the expiration of this contract, customers will be given the option to purchase this service from a provider of their choosing, thus eliminating the council's requirement for a contractual agreement.

In the main, the draft Policy document conforms with the requirements of the Care Act. The draft Terms and Conditions and Policy documents contain some clauses which are incompatible with the 'Care and Support Statutory Guidelines' and/or contain some inconsistencies with current operational practice.

Overall Conclusions

It was found that the arrangements for managing risk were poor with significant control weaknesses in key areas and major improvements required before an effective control environment will be in operation. Our overall opinion of the controls within the system at the time of the audit was that they provided Limited Assurance.

1 Monitoring of Cashplus accounts

Issue/Control Weakness

The accounts of Cashplus customers are not monitored according to council policy.

Risk

Customers may misuse their Direct Payment or fail to pay their agreed contribution. Budget provision may be affected by the accrual of account surpluses or failure to recover funds.

Findings

Cashplus accounts are monitored and reconciled on a six monthly basis by Income Services. Reconciliations are calculated correctly, taking into account agreed contingency costs (where provided by the customer). Transaction reports are reviewed to look for potentially inappropriate expenditure and action is taken by the Income Officer in order to flag this with Care Managers.

Account surpluses are identified during the reconciliation process and appropriate action is undertaken in order to notify Care Managers. However, the recovery of surplus funds occurs on an infrequent basis due to the inaction of Care Managers or their failure to notify the Income Officer that the situation has been discussed with the customer. The failure to pay customer contributions is also identified during the reconciliation process but the Income Officer is not currently notifying Care Managers of this fact. Therefore, the customer is not contacted and recovery action is not undertaken.

Currently, new starters are not being monitored on a two monthly basis for the period of six months. Transactions are not compared to the support plan to ensure they are in line with expectations and expenditure is not reviewed by Care Managers in order to make decisions about future budgets.

Please see comparative tables in Annex 1 and 2.

Agreed Action 1.1

Responsibilities for the monitoring and reconciliation of Cashplus accounts are now being shared with other members of the Income Team, in order to ensure that resources are available to monitor new starters at the agreed intervals and that recovery action is instigated when a customer fails to pay their assessed contribution. A direct payment monitoring task within Mosaic will also prompt staff to monitor new payments two months from the date of commissioning.

Priority

2

Responsible Officer

Income Services
Manager

Timescale

01.11.16.

Agreed Action 1.2

A policy note has been circulated to Care Managers to clarify their responsibilities in the monitoring process. Going forward, staff will check and record whether transactions are appropriate and meet the requirements of the support plan.

Priority

2

Responsible OfficerGroup Manager –
Learning Disabilities
and Contracts**Timescale**

Complete

2 Monitoring of accounts managed by third party providers

Issue/Control Weakness

The accounts of customers who are managed by the Independent Living Service are not monitored according to council policy.

Risk

Customers may misuse their Direct Payment or fail to pay their agreed contribution. Budget provision may be affected by the accrual of account surpluses or failure to recover funds.

Findings

In 75% of cases tested, Direct Payment accounts administrated by the Independent Living Scheme (ILS) were accurately reconciled on a six monthly basis, taking into account agreed contingency costs. Reconciliations were not in evidence for 25% of cases tested.

New starters are not monitored on a two monthly basis for a period of six months, expenditure reports are not reviewed for potentially inappropriate transactions, expenditure is not compared with the customer's support plan and Care Managers do not review the use of the Direct Payment to make decisions about future budgets. Account surpluses are identified but are not currently recovered, due to Care Managers failing to act upon notification. The ILS rarely report a customer's failure to pay their customer contribution into their account and when it is reported, insufficient recovery action is undertaken by Care Managers.

Please see comparative tables in Annex 1 and 2.

As the administration of accounts is likely to be undertaken by a number of third party providers after October 2016, consideration should be given to how monitoring requirements will be communicated and enforced. Income Services are currently receiving the monitoring documentation from the ILS and are then instigating any required recovery processes. Going forward, the responsibility for receiving and acting on monitoring documentation provided by a number of third party providers and/or customers will have to be agreed between Income Services and Adult Social Services. The potential complexity of and resources required for obtaining this documentation from multiple sources should be considered.

Agreed Action 2.1

The responsibility for the monitoring of these accounts will be shared between Income Services and Care Management, depending upon the method of payment used. If a customer's account is managed by a third party provider but paid via a Cashplus card, Income Services will undertake the monitoring of these accounts. If a customer opts to receive their funds into a personal bank account, third party providers will be required to undertake the monitoring of these accounts and pass the resulting documentation to Care

Priority

2

Responsible Officer

Group Manager –
Learning Disabilities
and Contracts

Timescale

01.11.16.

Management.



3 Monitoring of personal bank accounts

Issue/Control Weakness

The accounts of customers who receive Direct Payments into a personal, dedicated bank account are not monitored according to council policy.

Risk

Customers may misuse their Direct Payment or fail to pay their agreed contribution. Budget provision may be affected by the accrual of account surpluses or failure to recover funds.

Findings

Six customers were identified as having payments made into their personal bank accounts, with a total of £65k paid in between January 2015 and December 2015.

These accounts are not monitored or reconciled. Whilst this represents a fraction of total expenditure, it is against policy to allow accounts to go entirely un-monitored. In addition, two of these customers are expected to make contributions into their account. Without the agreed arrangements in place, it is not possible to ensure that they are paying this contribution.

Please see comparative tables in Annex 1 and 2.

Bank accounts are not monitored as responsibility for this has not been agreed between Income Services and Adult Social Care.

Agreed Action 3.1

From June 2016 onwards, the accounts of these customers are monitored by Care Management. If the number of customers wanting to use a separate personal bank account increases above the agreed threshold of 12, responsibilities for monitoring will require further negotiation between Income Services and Care Management.

Priority

2

Responsible Officer

Group Manager –
Learning Disabilities
and Contracts

Timescale

Complete

4 Employee Costs

Issue/Control Weakness	Risk
Employee costs are not taken into account during the reconciliation of Cashplus accounts.	Sufficient funds may not be available in customer accounts in order to meet various employer obligations.

Findings

Direct Payment accounts are reconciled on a six monthly basis, taking into account the following agreed contingency costs: any unpaid wages or invoices, an 8 week contingency fund and any costs associated with employing a personal assistant (tax/national insurance, holidays, redundancy provision and employer's liability insurance).

It was found that in all of the cases tested for Cashplus accounts, the costs associated with employing a personal assistant were not provided to the Income Officer for calculation in the reconciliation process. The value of these costs should be obtained from the customer at the beginning of the agreement.

Agreed Action 4.1

The DP2 agreement document has been amended to request that the customer provides details of these costs to Income Services.

Priority	3
Responsible Officer	Income Services Manager
Timescale	Complete

5 Review of Support Plan

Issue/Control Weakness

The type and value of expenditure is not used to inform future provision during the annual review of a Direct Payment customer's support plan.

Risk

Customers may spend Direct Payment funds on items/services which are ineligible according to their support plan. Individual budget provision may be inappropriate due to lack of awareness of account surpluses or failure to pay customer contributions.

Findings

Current policy states that Direct Payment provision and expenditure should be assessed during the annual review of the customer's support plan. In nearly half of the cases tested, the Direct Payment provision was not discussed with the customer. In the remaining cases, the payment was discussed but no reference was made to how the customer had spent their funding and whether expenditure was in line with the support plan. No reference was made to the value of the payments, whether the customer had accrued surpluses or failed to make their contributions, or if the amount of the provision was still appropriate for their needs.

The Income Officer confirmed that Care Managers do not request Cashplus or ILS expenditure reports or the status of recent account reconciliations.

Agreed Action 5.1

A policy note has been circulated to Care Managers, specifying that the annual review of the support plan should record how the budget has been used, whether expenditure is in line with the plan, the reasons for accrual of surplus money in the budget or failure to make customer contributions and whether the payment amount is still appropriate to the customer's needs.

Priority	2
Responsible Officer	Group Manager – Learning Disabilities and Contracts
Timescale	Complete

6 Draft Policy and Terms and Conditions documents

Issue/Control Weakness	Risk
The draft Terms and Conditions and Policy documents contain some clauses which are incompatible with the 'Care and Support Statutory Guidelines' and/or contain some inconsistencies with current operational practice.	Conflict may arise due to customers and council employees being unaware of their responsibilities concerning usage of Direct Payments.

Findings

Draft Policy and Terms and Conditions documents were presented to the Health and Adult Social Care Policy Scrutiny Committee in June 2015. These are still under review by the Income and Adult Social Care Services, therefore, the most recent versions of the documents were assessed for the purpose of the audit. The documents should conform to the Care Act 2014 and 'Care and Support Statutory Guidance' issued in 2014, updated March 2016.

The draft Policy mostly conforms to the Care Act, with only one requirement failing to feature in the document: ""5) In a case where a condition specified under subsection (2)(b) (terms and conditions of the Direct Payment) or the condition mentioned in subsection (3) (expenditure not according to support plan) is breached, the local authority may require repayment of the whole or part of a direct payment (with section 69 accordingly applying to sums which the local authority requires to be repaid)." The Terms and Conditions document specifies that customers may be asked to repay Direct Payment funds after misuse or failure to abide by the conditions of the payment. The draft Policy should be updated to include this clause and reflect the content of the Terms and Conditions document. In addition, neither document outlines an escalation policy for misuse of funds, an agreed action that is outstanding from the 14/15 audit.

There are some clauses in the draft Policy document which either do not reflect current practice or are incompatible with the 'Care and Support Statutory Guidance'. The draft Policy document states that "The council will make direct payments available into individually designated bank accounts operated by Advanced Payment Solutions Ltd, known as 'cashplus' accounts." According to the guidance, local authorities cannot specify the method that customers must use to receive their Direct Payment. This has already been noted in the meetings of the Health and Wellbeing Policy Scrutiny Committee. The document also states that "The council will extend its monitoring of accounts to ensure that where the customer has employment responsibilities and liabilities such as tax and national insurance, that these costs are being met from the direct payment." Currently, neither Income Services nor third party providers take any action if the customer is failing to pay the associated tax or insurance.

The responsibilities of the council and customer are adequately described in the Terms and Conditions document.

Agreed Action 6.1

Escalation policies have now been drafted, detailing the consequences for the misuse of Direct Payment funds. Income Services will be responsible for administering the escalation policy for Cashplus customers. A decision will have to be made regarding who will be responsible for escalating misuse of funds by customers with designated bank accounts.

The wording of the policy document has been successfully updated to state: “the council will make direct payments available into individually designated bank accounts”, as opposed to specifying a method of payment.

The Legal department have advised that the council is obliged to monitor customer accounts for non-payment of employee related liabilities, therefore, this clause will remain in the policy document.

Priority

3

Responsible OfficerIncome Services
Manager**Timescale**

Complete

7 Risk Register

Issue/Control Weakness

The risks associated with provision of Direct Payments are not documented in the council's risk management software.

Risk

Potential threats to the achievement of service objectives may not be identified, managed or mitigated.

Findings

A number of risks are inherent to the provision of the Direct Payments service, including the misuse of funds, conflict between customers and council employees and a potentially expanding demographic. There are also emerging risks associated with provision of administration services by a number of third party providers, such as the inconsistent monitoring of customer accounts.

These risks are not addressed in the Magique risk management software.

Agreed Action 7.1

Relevant risks will be documented in the corporate risk register.

Priority

3

Responsible Officer

Corporate
Transactional and
Business Services
Manager

Timescale

01.11.16

	1 - CYC to Cashplus card	2 - CYC to bank account	3 -CYC to ILS
Monitoring/reconciliation of all accounts on a six month basis	✓	✗	✓ - 75% of the time
New starters monitored on a two month basis for six months	✗	✗	✗
Monitoring for potential surpluses/reclaims	Identified but not always recovered	✗	Identified but not recovered
Monitoring for customers who fail to pay their contributions	Identified but not acted upon	✗	Identified but not always reported to CYC and not acted upon when they are reported
Reconciliation of customer contributions with actual care costs, with allowance for employee costs and up to 8 week contingency	✓ - where provided	✗	✓
Reviewing expenditure reports for potentially inappropriate transactions	✓	✗	✗
Comparison with support plan to identify inappropriate expenditure	✗	✗	✗
Review of annual surpluses and transactions in order to make appropriate adjustments to the allowance and support plan.	✗	✗	✗

Payment Method	Cashplus card	Bank account	ILS
No. of customers using the method between Jan 15 and Dec 15	123	6	229
Expenditure between Jan 15 and Dec 15 (approx.)	£ 1,200,000.00	£ 65,000.00	£ 1,900,000.00

Audit Opinions and Priorities for Actions

Audit Opinions

Audit work is based on sampling transactions to test the operation of systems. It cannot guarantee the elimination of fraud or error. Our opinion is based on the risks we identify at the time of the audit.

Our overall audit opinion is based on 5 grades of opinion, as set out below.

Opinion	Assessment of internal control
High Assurance	Overall, very good management of risk. An effective control environment appears to be in operation.
Substantial Assurance	Overall, good management of risk with few weaknesses identified. An effective control environment is in operation but there is scope for further improvement in the areas identified.
Reasonable Assurance	Overall, satisfactory management of risk with a number of weaknesses identified. An acceptable control environment is in operation but there are a number of improvements that could be made.
Limited Assurance	Overall, poor management of risk with significant control weaknesses in key areas and major improvements required before an effective control environment will be in operation.
No Assurance	Overall, there is a fundamental failure in control and risks are not being effectively managed. A number of key areas require substantial improvement to protect the system from error and abuse.

Priorities for Actions

Priority 1	A fundamental system weakness, which presents unacceptable risk to the system objectives and requires urgent attention by management.
Priority 2	A significant system weakness, whose impact or frequency presents risks to the system objectives, which needs to be addressed by management.
Priority 3	The system objectives are not exposed to significant risk, but the issue merits attention by management.

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