

ABERDEEN CITY COUNCIL

COMMITTEE	Audit, Risk & Scrutiny
DATE	23 rd November 2017
REPORT TITLE	Audit Scotland National Reports
REPORT NUMBER	OCE/17/025
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1. PURPOSE OF REPORT:-

- 1.1 The purpose of this report is to present a summary of Audit Scotland national studies published in the last cycle together with any actions taken or agreed to be taken by the Council in response to these.

2. RECOMMENDATION(S)

- 2.1 that the Committee:-

(a) note the detail of the reports:-

- “Self-Directed Support – 2017 Progress Report”
- “Equal Pay in Scottish Councils”

(b) consider officers’ comments.

3. BACKGROUND/MAIN ISSUES / OTHER HEADINGS AS APPROPRIATE

- 3.1 Audit Scotland has an annual programme of national reviews it undertakes. Some of these are specific to individual councils and Community Planning Partnerships, others are intended for local government and other public sector bodies more broadly. Since the last time this was reported to Committee there have been 2 reports with direct significance for Aberdeen City Council.

- “Self-Directed Support – 2017 Progress Report”
- “Equal Pay in Scottish Councils”

- 3.2 A summary of each report is set out below.

3.3 Self-directed support 2017 progress report

3.3.1 The aim of this audit was to establish whether councils, integration authorities and the Scottish Government are making sufficient progress in implementing self-directed support (SDS) to achieve the aims of the ten-year SDS strategy. The audit set out to answer four questions:

- What progress have councils and integration authorities made in implementing SDS?
- What impact is SDS having on people with support needs, carers, families and communities?
- What factors are supporting or impeding effective implementation of SDS?
- How effectively is the Scottish Government supporting implementation of SDS and evaluating its impact?

Key Messages

3.3.2 There are examples of positive progress in implementing SDS, but there is no evidence that authorities have yet made the transformation required to fully implement the SDS strategy. Most people rate their social care services highly and there are many examples of people being supported in new and effective ways through SDS, but not everyone is getting the choice and control envisaged in the SDS strategy. People using social care services and their carers need better information and help to understand SDS and make their choices. More reliable data is needed on the number of people choosing each of the SDS options. Data should have been developed earlier in the life of the strategy in order to measure the progress and impact of the strategy and legislation.

3.3.3 Social work staff are positive about the principles of personalisation and SDS but a significant minority lack understanding or confidence about focusing on people's outcomes, or do not feel they have the power to make decisions with people about their support. Front-line staff who feel equipped, trusted and supported are better able to help people choose the best support for them. What makes this possible for staff is effective training, support from team leaders or SDS champions, and permission and encouragement from senior managers to use their professional judgement to be bold and innovative.

3.3.4 Authorities are experiencing significant pressures from increasing demand and limited budgets for social care services. Within this context, changes to the types of services available have been slow and authorities' approaches to commissioning can have the effect of restricting how much choice and control people may have. In particular, the choices people have under option 2 are very different from one area to another. Authorities' commissioning plans do not set out clearly

how they will make decisions about changing services and re-allocating budgets in response to people's choices.

3.3.5 There are tensions for service providers between offering flexible services and making extra demands on their staff. At the same time, there are already challenges in recruiting and retaining social care staff across the country owing to low wages, antisocial hours and difficult working conditions.

3.3.6 SDS implementation stalled during the integration of health and social care services. Changing organisational structures and the arrangements for setting up, running and scrutinising new integration authorities inevitably diverted senior managers' attentions. Some experienced staff are also being lost through early retirement and voluntary severance schemes as the pressures on budgets mount.

	Recommendations:-	Officer Comments
Directing your own support		
	Authorities should:	
1.	<ul style="list-style-type: none"> - work in partnership with service users, carers and providers to design more flexibility and choice into support options; 	<ul style="list-style-type: none"> - Development of the MyLife portal. - Review workers in post completing outcome focused assessments as part of the review process. - Offering of 4 options as standard practice.
	<ul style="list-style-type: none"> - review their processes for supporting children to transition into adult services. 	<p>The SDS Team attend Children's Resource Allocations Panel ensuring transition workers involved earlier in the process, cases highlighted and discussed where the child will be transitioning to adult services over the next 2-3 years.</p> <p>Joint support planning carried out between both Children's and Adult services.</p>
2.	The Scottish Government, COSLA, partners and authorities should:	
	<ul style="list-style-type: none"> - continue working together to develop:- <ul style="list-style-type: none"> • the accuracy and consistency of national data on the number of people choosing each SDS option; • methodologies to understand the impact of SDS on people who need support and their 	<ul style="list-style-type: none"> - 4 options forms recording reported to service managers monthly. ACHSCP and ACC are now in a position to provide this data to Scot Government. - Carers Strategy development includes carer's eligibility to access services in their own right as part of their caring role.

	carers.	<ul style="list-style-type: none"> - Questions asked re the impact their caring role has on their own wellbeing. - Specific question asked around carer's role developed into cared for person assessment.
Assessing needs and planning support		
3.	Authorities should:	
	<ul style="list-style-type: none"> - provide staff with further training and help on identifying and planning for outcomes 	As part of the SDS Core training outcome focused assessments is discussed.
	<ul style="list-style-type: none"> - work with service users and carers to review their assessment and support planning processes to make them simpler and more transparent 	<p>Scottish Government funding utilised to employ 3 Care Managers across service areas to carry out reviews of those in receipt of a direct payment to ensure the level of care and support meets the needs of the supported person and their carer.</p> <p>Assessment and support planning process and associated documentation is being reviewed as part of the preparation work for the implementation of the Carers Scotland Act 2016.</p>
	<ul style="list-style-type: none"> - establish clear guidance for staff on discussing the balance between innovation, choice and risks with service users and carers and implementing local policies in practice 	<p>Guidance developed for staff.</p> <p>Risk assessment is part of the assessment process.</p> <p>Carer representatives from IJB involved in the development and implementation of the Carers Strategy due to be published April 2018.</p> <p>Programme of Carer's conversations held 6 week consultation period for carer's strategy.</p>
	<ul style="list-style-type: none"> - support staff in applying professional judgement when developing innovative solutions to meet individual needs flexibly 	<p>Staff as part of the Resource Allocation Panel are required to identify needs led assessments for paid and unpaid supports.</p> <p>Staff attend to discuss their cases identifying new and innovative ideas throughout the support planning and assessment stage of the process.</p>
	<ul style="list-style-type: none"> - ensure they are providing information on sources of support to those who are accessing SDS 	MyLife Portal provides the latest information on SDS and the 4 options, supported people, carers, practitioners and providers can directly link to their own website, Goods, Activities and Service information is available.

		<p>SDS team attend schools, day services, carer's events, community resources ensuring a high presence within the community.</p> <p>SDS leaflet developed. Easy read format in production.</p>
	<ul style="list-style-type: none"> - work with service users, carers and providers to review the information and help they offer to people during assessments, reviews and planning discussions. 	<ul style="list-style-type: none"> - Focus groups. - Information sharing by attending events. - Link to MyLife portal. - SDS team attend reviews where requested by care manager or the supported person. - SDS helpline and email functions.
Commissioning for SDS		
4.	Authorities should:	
	<ul style="list-style-type: none"> - develop longer-term commissioning plans that set out clearly how more choice and flexibility will be achieved for local service users and how decisions will be made to re-allocate money from one type of service to another 	<p>Following publishing of the Partnership's Strategic Plan a Strategic Commissioning Implementation Plan (SCIP) plan has been developed which details the commissioning approach in each of the service areas.</p> <p>In addition, locality plans have been developed for each of the 4 localities within Aberdeen City and these identify the needs specific to each locality.</p> <p>The first iteration of these locality plans do not identify locality specific commissioning budgets, but it is intended that future versions will.</p>
	<ul style="list-style-type: none"> - work with service users, carers and provider organisations to develop more flexible outcome-focused contractual arrangements 	<p>Since February 2016 the social care commissioning procurement and contracts team have been working to develop more outcome focused service specifications and tendering processes which in turn will lead to more flexible contractual arrangements.</p> <p>The implementation of the SCIP will be undertaken via a series of work streams and these will include service user, carer and provider representation.</p>
	<ul style="list-style-type: none"> - continue to work with communities to develop alternative services and activities that meet local needs. 	<p>ACHSCP has an ambitious transformation programme which includes a number of local pilot projects for alternative service delivery to meet specific local needs.</p> <p>Now that the governance arrangements of</p>

		each locality are more developed it will be easier to involve local communities in service development.
Implementing the national SDS strategy		
5.	Authorities should:	
	<ul style="list-style-type: none"> - develop targeted information and training on SDS for healthcare professionals who have a direct or indirect influence on people's health and social care support 	<p>Training has been developed by the SDS team and BAC and was piloted in August 2017. This will be rolled out across the Partnership from January 2018.</p> <p>4 levels of training have been developed to ensure staff at all levels have knowledge in SDS and the 4 options</p> <p>Level 1 Self-Directed Support Informed Practice: provides the baseline knowledge and skills required by all staff working in health and social care settings including a person's own home.</p> <p>Level 2 Self-Directed Support Skilled Practice: - describes the knowledge and skills required by all staff that have direct and/or substantial contact with people and their families and carers.</p> <p>Level 3 Self-Directed Support Enhanced Practice: - outlines the knowledge and skills required by health and social services staff that have more regular and intense contact with people, provide specific interventions, and/or direct/manage care and services.</p> <p>Level 4 Self-Directed Support Expertise Practice:- outlines the knowledge and skills required for health and social care staff who by virtue of their role and practice setting, play an expert specialist role in the care, treatment and support of people.</p>
	<ul style="list-style-type: none"> - monitor and report the extent to which people's personal outcomes are being met and use this information to help plan for future processes and services. 	<p>Since the implementation of the Resource Allocation Panel in both children's and adults services the service managers have a clearer picture of the requirements for future resources required to enable supported people to have a choice in how their care is carried out .</p> <p>The Partnership's performance framework is currently being reviewed this includes not only the performance data captured but also the where and how this information is</p>

		recorded.
6.	The Scottish Government, COSLA and partners should work together to:	
	- review what independent information, advice and advocacy people will need in future, and how that should be funded after current Scottish Government funding for independent organisations comes to an end in March 2018. This review should fully involve users, carers, providers and authorities, and should conclude in time for appropriate action to be taken	N/A
	- agree how any future financial support should be allocated, taking into account how authorities' local commissioning strategies will inform future spending priorities	N/A
	- seek solutions that address the problems of recruitment and retention in the social care workforce	N/A
	- ensure that the requirement to effectively implement SDS is reflected in policy guidance across all relevant national policies, such as health and social care integration, community empowerment, community planning, housing and benefits	N/A
	- routinely report publicly on progress against the 2016-2018 SDS implementation plan and the SDS strategy.	N/A
7.	The Scottish Government should:	
	- report publicly on the outcomes it has achieved from the almost £70 million funding it has committed to support implementation of SDS.	N/A

3.4 Equal Pay in Scottish Council

3.4.1 The audit examines equal pay in local government, focusing on the following five themes:

- how councils implemented the Single Status Agreement (SSA);
- how much councils have spent settling equal pay claims;
- how councils demonstrate that they are dealing effectively with equal pay claims and minimising future risks;
- how effective the governance and oversight arrangements of the SSA are; and
- what lessons can be learned for the future.

Key messages:-

3.4.2 Under equality legislation all employers have a legal responsibility to ensure that women and men receive equal pay for equal work. In 1999, Scottish councils and trade unions reached the Single Status Agreement. The aim of the agreement was to harmonise local government pay and employment terms and conditions, and eliminate pay inequality.

3.4.3 Implementing the Single Status Agreement was a complex process that required all councils to undertake a large-scale job evaluation exercise. Councils underestimated the challenges involved and all but one missed the agreed implementation date of 2004. It was not until 2010 that all councils in Scotland had single status in place. This was 11 years after the agreement was signed, with implementation taking twice as long as initially planned.

3.4.4 There has been a lack of collective national leadership to overcome the challenges and address equal pay issues in a timely way.

3.4.5 Councils initially worked on the basis that they could offset the costs of implementing single status with savings from changes to staff conditions and by improving staff productivity. Councils received no additional funding to implement their new pay and grading structures. In reality, single status brought significant costs and some councils and trade unions found themselves balancing the risk of industrial unrest with affordability. This meant that some of the approaches taken by councils when implementing single status did not always prioritise pay equality and were later found to be discriminatory.

3.4.6 Councils sought to compensate workers who had historically been unfairly paid by offering payments if they signed compromise agreements. Councils paid around £232 million to approximately 50,000 workers in this way. The payments made were often of a relatively low value compared with the difference in pay over time, so some people refused them. Even while councils were implementing single status, they continued to receive thousands of equal pay claims for historical pay discrimination.

3.4.7 All councils received equal pay claims after implementation. There were many reasons for these claims, for example claims against pay and bonus protection given to predominately male workers and discrimination in job evaluation schemes. Since 2004, around 70,000 equal pay claims have been lodged against councils. The cost of compensation agreements and settling claims, along with legal fees, amounts to around £750 million. The number of claims made against councils varies widely. Some of this variation can be explained by how actively 'no-win no-fee' lawyers have encouraged claims in different council areas. There are almost 27,000 live equal pay claims and workers could potentially still make new claims against councils.

3.4.8 Councils need to be confident they have fair and transparent pay arrangements and take necessary action, such as regular equal pay audits, to deliver pay equality in line with their public sector equality duty. Elected members need to continue to oversee, scrutinise and challenge councils' approaches to delivering equal pay and reducing the gender pay gap.

3.4.9 Recommended Actions

	Councils must:	Officer Comments
1.	Councils must ensure they are fulfilling their public sector equality duties in relation to equal pay	It is considered that the Council is fulfilling its public sector equality duties in relation to equal pay, with the detail of how this is being met shown under 2 below.
2.	This includes: <ul style="list-style-type: none"> • publishing an equal pay statement and equal pay policy • assessing the impact of any changes that may affect equal pay • publishing gender pay gap information. 	There is specific equality duties for Scottish public authorities to:- <ul style="list-style-type: none"> • Publish statement on equal pay every 4 years. The statement must contain the authority's policy on equal pay as well as information on occupational segregation (the concentration of groups in particular

		<p>grades and in particular occupations). The occupational segregation information must contain information on men and women; people who are disabled and people who are not; and people who are members of a minority racial group and people who are not.</p> <ul style="list-style-type: none"> • Assess the impact of applying a proposed new or revised policy against the needs of the general equality duty, in so far as is needed to meet the general equality duty. It must publish the results of the assessment within a reasonable time and must take account of the results of the assessment of the policy. • publish gender pay gap information every 2 years on the difference among its employees, between men’s average hourly pay (excluding overtime) and women’s average hourly pay (excluding overtime). <p>The Council has met the statutory requirements in relation to the first and last bullet points above, with the latest information having been included in the Council’s Equality Outcomes and Mainstreaming Report 2017-2021 (published earlier in 2017). With regard to the second bullet point above, this has also been met - whenever a Council employment related policy is developed or reviewed an equality impact assessment is undertaken in accordance with the above, which would include any impact on equal pay.</p>
3.	<p>In complying with good practice, councils should:</p> <ul style="list-style-type: none"> • use EHRC guidance for example when undertaking equal pay audits and developing equal pay policies • use Close the Gap’s guidance on 	<p>With regard to using the EHRC guidance when undertaking equal pay audits, it should be noted that the Council uses the Northgate Arinso equal pay reviewer software for undertaking equal pay audits, which</p>

	<p>meeting the public sector equality duty</p> <ul style="list-style-type: none"> • ensure their risk registers are up to date. 	<p>has been designed to comply with the EHRC guidance, (this being the company that maintains the Council's HR/Payroll database). The EHRC guidance was also referred to in the compilation of the Council's equal pay statement, which includes the policy on equal pay.</p> <p>The 'Close the Gap' guidance has also been referred to in relation to complying with the public sector equality duty.</p> <p>There is currently no entry in the risk register in relation to equal pay, with the Council being at the end of the process of resolving all equal pay claims (post implementation of Single Status), and the risk of further claims emerging in the foreseeable future being regarded as extremely low. The risk register will, however, be updated if a new source of risk is identified in relation to equal pay e.g. if there was a change in legislation or if there were relevant developments in case law.</p>
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3.4.10 The audit report also includes advice to elected members in overseeing, challenging and scrutinising equal pay.

Questions for elected members in overseeing, challenging and scrutinising equal pay



- Have I been updated on the number of ongoing equal pay claims at my council? Am I satisfied they are being dealt with effectively?
- Have I been updated on the potential cost of equal pay claims?
- Have I been updated on the steps my council is taking to mitigate against the risks of equal pay claims? For example:
 - Have I seen my council’s equal pay audit? Did it meet EHRC good practice guidance? Are there any pay gaps? Can we sufficiently justify any differences in pay gaps?
 - Have I seen action plans and progress reports against my council’s equal pay policy?
 - Have I been updated on changes in case law that might affect my council?
 - Have I seen equality impact assessments on any changes to my council’s pay and grading system?
 - Has my council fully implemented the SJC third edition guidance and recommendations?
- Have I been informed about whether my council has allocated adequate resources to proactively carry out equality work around equal pay/gender pay gap beyond responding to equal pay claims?

4. FINANCIAL IMPLICATIONS

4.1 There are no direct financial implications arising from this report.

5. LEGAL IMPLICATIONS

5.1 There are no direct legal implications arising from the recommendations of this report.

6. MANAGEMENT OF RISK

6.1 There are no identified material Financial, Employee, Customer / citizen, Environmental, Technological, Legal or Reputational risks which would result from the approval of the recommendations in this report. The actions and recommendations contained in the report are a response to identified risks and are designed to mitigate these.

7. IMPACT SECTION

7.1 There is impact on the Council's governance arrangements through improved transparency, understanding and mitigation of the risks identified by Audit Scotland.

8. BACKGROUND PAPERS

- 8.1 Audit Scotland reports
- [“Self-Directed Support – 2017 Progress Report”](#)
 - [“Equal Pay in Scottish Councils”](#)

9. APPENDICES (if applicable)

9.1 None

10. REPORT AUTHOR DETAILS

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