

ABERDEEN CITY COUNCIL

COMMITTEE	Audit, Risk and Scrutiny Committee
DATE	14 February 2019
REPORT TITLE	Internal Audit Report AC1920 – National Care Home Contract
REPORT NUMBER	IA/AC1920
DIRECTOR	N/A
REPORT AUTHOR	David Hughes
TERMS OF REFERENCE	2.2

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to present the planned Internal Audit report on the National Care Home Contract.

2. RECOMMENDATION

- 2.1 It is recommended that the Committee review, discuss and comment on the issues raised within this report and the attached appendix.

3. BACKGROUND / MAIN ISSUES

- 3.1 Internal Audit has completed the attached report which relates to an audit of the National Care Home Contract.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from the recommendations of 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 The Internal Audit process considers risks involved in the areas subject to review. Any risk implications identified through the Internal Audit process are as detailed in the attached appendix.

7. OUTCOMES

- 7.1 There are no direct impacts, as a result of this report, in relation to the Local Outcome Improvement Plan Themes of Prosperous Economy, People or Place, or Enabling Technology, or on the Design Principles of the Target Operating Model.
- 7.2 However, Internal Audit plays a key role in providing assurance over, and helping to improve, the Council's framework of governance, risk management and control. These arrangements, put in place by the Council, help ensure that the Council achieves its strategic objectives in a well-managed and controlled environment.

8. IMPACT ASSESSMENTS

Assessment	Outcome
Equality & Human Rights Impact Assessment	An assessment is not required because the reason for this report is for Committee to review, discuss and comment on the outcome of an internal audit. As a result, there will be no differential impact, as a result of the proposals in this report, on people with protected characteristics.
Privacy Impact Assessment	Not required
Duty of Due Regard / Fairer Scotland Duty	Not applicable

9. APPENDICES

- 9.1 Internal Audit report AC1920 – National Care Home Contract.

10. REPORT AUTHOR DETAILS

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Internal Audit Report

Aberdeen City Health & Social Care Partnership

National Care Home Contract

Issued to:

Frank McGhee, Director of Commissioning
Sandra Ross, Chief Officer, Aberdeen City Health & Social Care Partnership
Craig Innes, Chief Officer – Commercial & Procurement
Jonathan Belford, Chief Officer – Finance
Fraser Bell, Chief Officer – Governance
Jean Stewart-Coxon, Social Care Procurement & Contracts Manager
Claire Duncan, Lead Social Work Officer
External Audit

EXECUTIVE SUMMARY

The National Care Home Contract (NCHC) provides for agreement between providers of care facilities and Local Authorities for the provision of care facilities for those who have been assessed as requiring residential care. The agreement sets out the contractual obligations and responsibilities of each party and sets out minimum levels of monitoring which must be carried out on the provider by the Local Authority primarily to ensure quality of care towards clients who are resident in the provider's establishment.

The objective of this audit was to ensure that adequate monitoring of Suppliers is occurring in order to ensure continuity and quality of service provision and that contingency plans are in place to deal with any event which may see residents either temporarily or permanently displaced from the Care Home in which they are resident.

In general, contract monitoring is sufficient to meet the needs of the Service. However, some elements included in the NCHC are not well recorded. The NCHC predates changes to Procurement Legislation and the Integration of Health and Social Care, and a review is planned nationally during 2019/20 for implementation in 2020/21. At a Partnership level assurance is being obtained over Home and Provider activity, however this is not always being fully captured within contract monitoring records.

The Service commenced a review of its monitoring procedures in August 2018, in recognition of system complexities and limited resources impacting on the achievability of planned reviews, which have also been identified in this audit. Changes are planned to be implemented by April 2019, and the Service has agreed to add reference to capturing additional assurances and sources of information. Other improvements, including financial risk assessments and a review of Providers' contingency planning will be subject to further investigation by the Service as to the most appropriate method of implementation.

1. INTRODUCTION

- 1.1 The National Care Home Contract (NCHC) provides for agreement between providers of care facilities and Local Authorities for the provision of care facilities for those who have been assessed as requiring residential care. The agreement sets out the contractual obligations and responsibilities of each party and sets out minimum levels of monitoring which must be carried out on the provider by the Local Authority primarily to ensure quality of care towards clients who are resident in the provider's establishment.
- 1.2 The objective of this audit was to ensure that adequate monitoring of Suppliers is occurring in order to ensure continuity and quality of service provision and that contingency plans are in place to deal with any event which may see residents either temporarily or permanently displaced from the Care Home in which they are resident. This involved examining the NCHC to determine the level of monitoring required and thereafter reviewing examples of practice with the Commissioning, Procurement & Contracts Team (Social Care), and review of management contingency plans.
- 1.3 The NCHC itself is due for review as it predates changes to Procurement Legislation and the Integration of Health and Social Care. Additionally, a review of monitoring procedures is currently being undertaken by the Service with changes planned to be implemented by April 2019.
- 1.4 The factual accuracy of this report and action to be taken with regard to the recommendations made have been agreed with Jean Stewart-Coxon, Social Care Procurement & Contracts Manager, and Martin Allan, Business Manager, Aberdeen City Health and Social Care Partnership.

2. FINDINGS AND RECOMMENDATIONS

2.1 Written Procedures

- 2.1.1 Comprehensive written procedures which are easily accessible by all members of staff can reduce the risk of errors and inconsistency. They are beneficial for the training of current and new employees and provide management with assurance that correct and consistent instructions are available to staff, important in the event of an experienced employee being absent or leaving. They have increased importance where new systems or procedures are being introduced.
- 2.1.2 Within the Commercial and Procurement Shared Service, the Commissioning, Procurement & Contracts Team (Social Care) has guidelines for the monitoring of Social Care Contracts in addition to guidance on the information which should be obtained in relation to contracts which are operated under the NCHC.
- 2.1.3 Contained within the NCHC is specific guidance about which areas of a Care Home's performance should be monitored and what information should be passed to or obtained by Councils. These include ensuring that: the Care Home has appropriate insurance in place; staff are adequately trained; there is an appropriate number of staff on duty at any one time; there is a complaints procedure in place and records of complaints are passed to the Council at periodic intervals; statutory notices are passed to or obtained by the Council; and there are quality assurance procedures in place.
- 2.1.4 The current written procedures reflect the requirement to obtain the majority of this information however some elements are not currently covered.
- 2.1.5 The procedure does not include a requirement to check if there has been a variation to the Care Inspectorate Registration. While it is likely that the Care Manager would be notified where this has happened, it would be good practice to ensure that the written procedures reflect the requirement to check for this.
- 2.1.6 Additionally, statistics regarding resident admissions to hospital including the Accident and Emergency Department, noting the frequency and reason for admission, death rates at the Home, residents moving out of the Home, and any other significant events should be sought from the Home. These could be important as examination of these statistics could, when compared to other Homes or national averages, give an indication of potential issues.
- 2.1.7 The Service has confirmed that statistical data is currently obtained and reviewed by NHS Grampian and any concerns regarding this data, or raised via the Care Inspectorate, Care Managers or the Adult Support and Protection team, will routinely be discussed within the Health and Social Care Partnership. However, information and assurance obtained from these sources is not currently consistently captured in the Service's contract monitoring procedure.
- 2.1.8 The NCHC itself is under review by the Scottish Government, in conjunction with COSLA, supported by Scotland Excel. A cost calculator is being developed which is hoped will be able to help form agreed rates by taking into account the cost of running the Care Home and providing the necessary support by including raises in fuel costs, food, rates, wages etc. If the NCHC is changed following the current review of it, then the Service will need to ensure that the current guidance is revisited at a future date.

Recommendation

The Service should ensure procedures include all elements which require to be subject to monitoring as per the terms of the National Care Home Contract, and further revisions are made in line with any future changes to the contract (where applicable).

Service Response / Action

Agreed. Whilst we agree that it is important to monitor all elements that are specified in any contract, we need to be mindful of the fact that this contract is 6 years old and predates the implementation of the Integration of Health and Social Care and the changes to inspection of services by the Care Inspectorate. The development of the future national contract is expected to take place during 2019/20 and be implemented in 2020/21 – we will review the monitoring requirements in the new contract and ensure compliance.

In the meantime, we will ensure that our review of contract monitoring includes reference to all elements of contract monitoring required, regardless of whether the information is gathered directly or indirectly.

Implementation Date

December 2019

Responsible Officer

Social Care Procurement and Contracts Manager

Grading

Significant within audited area

- 2.1.9 The Service has stated that the current methodology for monitoring contracts is currently under review with a view to improving performance in this area. This will look at the requirement to review contracts at set frequencies, how best to get the most relevant information, clarification of roles and responsibilities, and the current templates. However, for NCHC contracts it should take account of any contractual requirements to review practices or records at set time frames as defined in the NCHC.

Recommendation

The Service should ensure that any revision to monitoring guidelines and practices takes account of the requirement to monitor practices or records within any timeframes stipulated in the NCHC.

Service Response / Action

Agreed. The revised procedures will require annual monitoring of all contracts.

Implementation Date

July 2019

Responsible Officer

Social Care Procurement and Contracts Manager

Grading

Important within audited area

2.2 Monitoring of Contracts

- 2.2.1 The Service's own guidelines in respect of NCHC monitoring mirrors that of the NCHC in that Providers should be subject to an annual review – as these contracts present a high risk to service provision and a high financial risk. As discussed above, the information being asked for and thereafter assessed largely reflects the areas which should be monitored.
- 2.2.2 There are currently 25 NCHC contracts between Providers and Aberdeen City Council. Records are maintained showing when annual reviews have taken place, and although all have received reviews, 3 had not been updated within 12 months of the previous review date. Whilst the Service was able to evidence a close working relationship with the Care Inspectorate, and Care Management, which would allow them to identify any issues within

Care Homes should they arise, contracts need to be monitored to ensure that the Service is meeting its obligations under the NCHC.

Recommendation

The Service should ensure that monitoring of contracts is undertaken in line with the contractual obligations of the National Care Home Contract and the Service's own guidelines.

Service Response / Action

Agreed. The revised contract monitoring procedures should make routine monitoring activity more achievable. It will take time to determine whether this has been the case, hence the implementation date 1 year post introduction of the new procedures.

Implementation Date

July 2020

Responsible Officer

Social Care Procurement and Contracts Manager

Grading

Important within audited area

- 2.2.3 The Annual Monitoring reports contain 11 sections against which a grading of either 'exceeds compliance', 'compliant', 'areas of non-compliance' or 'non-compliant' is recorded against each area being assessed. There is a further 'for information only' section. The overall score is based on the lowest score awarded throughout the report even if it only occurs in one section, and where necessary the Service will advise the Provider of the need to address any issues identified. Actions are either 'recommendations', or a 'requirement' – the latter of which must be resolved through a formal, monitored, non-compliance process.
- 2.2.4 A sample of 5 Annual Monitoring reports was reviewed. Whilst each had been fully completed, and included comments and gradings, these did not always correlate with each other, or reflect full application of the appropriate procedure. The Service has acknowledged this and the current templates will be reviewed as part of the overall review of contract monitoring referred to 2.1.8 above.
- 2.2.5 It was noted that one report had been given an overall grading of 'Areas of Non-Compliance' despite a number of sections having being graded as 'Non-Compliant' due to the non-return of requested information in relation to areas of the report. It was explained that the reason for this was that the Care Inspectorate had not marked the Home in question as 'Non-Compliant' (or similar) in their own reports therefore in contrast to written procedures (which state that Care Inspectorate findings are one of several potential triggers for the non-compliance process) the Service considered it would not have been appropriate for them to do so.
- 2.2.6 Another report noted in the 'Outcomes' section: 'Outcomes poor for residents at present due to high agency staff use and lack of suitable staff' yet the grade awarded in the staffing section was 'Compliant'. This also contradicted the 'Staffing' section which noted: 'More stable staff team'. The Service stated that the Home had recently been subject to a Non-Compliance process after which the Care Inspectorate had noted substantial improvement at the Home and a suspension on admissions had been lifted. However, the report was written after the Care Inspectorate's observations, and should therefore have been wholly based on the most up to date information.
- 2.2.7 One report, produced in August 2018, noted that 'Training' was compliant, yet the records had not been checked since November 2017 and further notes indicated management changes in the interim. It was evident that other sections had not been updated to fully reflect the conditions observed in August 2018. Starting a new assessment from a template already populated with previous data risks elements being overlooked. The

Service has noted that a need for improved records and system workflow is part of the reason for undertaking a review of the contract management procedure.

- 2.2.8 It is good practice for the Service to utilise information from the Care Inspectorate and not to duplicate work where this is relevant and current. However, the Service needs to ensure that contracts are monitored, grades awarded, any issues with practice recorded, and relevant action is taken, based on the supporting observations, current evidence, and its own procedures, to avoid risk of reputational damage and financial loss to the Council.

<u>Recommendation</u>		
The Service should ensure consistency between grades, narrative and current supporting evidence within its annual monitoring reports.		
The Service should ensure actions are progressed in line with procedure regardless of the Care Inspectorate's separate opinion on other aspects of Care Homes' activity.		
<u>Service Response / Action</u>		
Agreed. This will be addressed by the revised contract monitoring procedures.		
<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
July 2019	Social Care Procurement and Contracts Manager	Significant within audited area

- 2.2.9 The NCHC requires that the Council check that all applicable insurance is in place and that payment has been made by Providers. Whilst each of the Annual Monitoring Reports reviewed showed the policy provider's name and policy number confirming that policies had been viewed, there was no indication of the expiry dates, and there is no check regarding payment (and therefore validity).

<u>Recommendation</u>		
The Service should ensure that Insurance Policies' dates and validity are checked and recorded on an annual basis.		
<u>Service Response / Action</u>		
Agreed. However, it has proved difficult to implement an achievable way of doing this that is not onerous for the Council or service providers. There is a possibility that this task will be undertaken by Scotland Excel in future, and/or is already being checked by the Care Inspectorate; we will explore these possibilities. In the meantime, we will carry out these checks on an individual care home basis.		
<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
December 2019	Social Care Procurement and Contracts Manager	Important within audited area

- 2.2.10 Financial monitoring of Companies, Sole Traders & Partnerships to ensure their long term viability is considered is currently being developed by the Service. The Service has drafted a risk register in which information from credit reports, tendering information, accounting ratios and information from Companies House including filed accounts will be held, and used to make an overall assessment and suggest potential action in the event that concerns are identified. Whilst positive, there is as yet no periodic monitoring of this data. In addition, this information is being updated by staff within the team, for whom financial training has been limited to 2 days training by an external provider in 2016, and there is currently no ongoing training in this respect. Advice will be sought by the Service from Finance or other relevant sources as necessary.

Recommendation

The Service should ensure that the financial risk register is implemented and updated regularly, and training, support and advice is available to aid interpretation of the results.

Service Response / Action

Agreed. We will conclude and implement the work on the financial risk register as soon as possible. This will be available for internal reference in the first instance. Significant work will need to be carried out with Service Providers before the outcome from our financial risk monitoring can be included in monitoring reports. We will explore the possibility of further financial training, subject to budget availability.

Implementation Date

July 2020

Responsible Officer

Social Care Procurement and Contracts Manager

Grading

Significant within audited area

2.3 Contingency Planning

- 2.3.1 The Council has a duty of care towards residents of all Care Homes whether or not they are managed by Aberdeen City Health & Social Care Partnership. As such contingency plans should be in place to deal with such eventualities as residents being displaced due to either temporary or permanent closure of a Home (whether in part or full) due to any incident such as fire, flooding or closure of the Home due to financial or administrative failure. This is covered under the Partnership's contract with Bon Accord Care as provider of last resort – the arrangements for which have recently been tested.
- 2.3.2 The NCHC and Care Inspectorate guidance states that Providers must have contingency plans in place. Additionally noted in the NCHC is that in the event of an emergency or closure of a Care Home the Provider and Council should work together to implement the contingency plan. Therefore it is imperative that the Service has assurance over Providers' contingency / emergency response plans.
- 2.3.3 The Service has confirmed that letters were issued in October 2018 to all Providers requesting that they confirm their contingency plans are up to date and provide copies. The sample of contingency plans received to date has shown that these are in widely differing formats with different scopes; there is no meaningful way of evaluating them.
- 2.3.4 There is a risk that in the event of emergency closure or other scenarios affecting operation / availability of Care Homes, Providers may place substantial reliance on the Council or a third party, beyond that which has been prepared for, and this could impact on the ability to respond effectively in the event of an incident.

Recommendation

The Partnership should ensure that it has assurance over Providers' plans in the event of emergency closure and other scenarios affecting the operation of Care Homes.

Service Response / Action

Agreed. It is proposed that work is done to develop a way of gaining assurances that concerns about contingency planning are addressed. This may be by means of a provider engagement event, or the development of a more specific questionnaire.

Implementation Date

December 2019

Responsible Officer

Business Manager, H&SCP; & Social Care Procurement and Contracts Manager

Grading

Significant within audited area

AUDITORS: D Hughes, C Harvey and D Henderson

Appendix 1 – Grading of Recommendations

GRADE	DEFINITION
Major at a Corporate Level	The absence of, or failure to comply with, an appropriate internal control which could result in, for example, a material financial loss, or loss of reputation, to the Council.
Major at a Service Level	<p>The absence of, or failure to comply with, an appropriate internal control which could result in, for example, a material financial loss to the Service/area audited.</p> <p>Financial Regulations have been consistently breached.</p>
Significant within audited area	<p>Addressing this issue will enhance internal controls.</p> <p>An element of control is missing or only partial in nature.</p> <p>The existence of the weakness identified has an impact on a system's adequacy and effectiveness.</p> <p>Financial Regulations have been breached.</p>
Important within audited area	Although the element of internal control is satisfactory, a control weakness was identified, the existence of the weakness, taken independently or with other findings does not impair the overall system of internal control.