Midlothian

Internal Audit Report

Self-Directed Support

Issued: August 2016

Final

Level of Assurance	**Average -** The overall control framework is of an average standard. Some weaknesses have been identified in the controls and improvements are possible.

Executive Summary

1.0 Introduction

This report has been prepared following an internal audit of the arrangements surrounding Midlothian Council's implementation of Self-Directed Support.

 In January 2013, the Scottish Parliament passed the Social Care (Self-directed Support) (Scotland) Act 2013 (the Act). The Act places a duty on councils, from April 2014, to offer people assessed as needing social care a wider range of options for choosing and controlling their support. The Self-Directed Support (SDS) Act has a number of general principles which underpin the Self-Directed Support Strategy and legislation; these are collaboration, dignity, informed choice, innovation, involvement, participation, responsibility, and risk enablement. In practice this means that the authority should collaborate with the supported person when they undertake the assessment, take steps to ensure the person makes informed choices as part of their assessment, take steps to involve the person in their assessment and in selecting their supported options, and the principles of participation and dignity should guide; and inform the authority's approach to assessment.

 The Act places a duty on local authorities to offer four options to those seeking assistance:
1. *Direct Payment* –a payment paid directly to an individual to purchase a service or employ a personal assistant. This is where the organising and the management of the care is fully under the control of the client.
2. *Individual Budget* – where support is directed by the individual, but the local authority manages the budget. This is where the client chooses the provider in partnership with the local authority.
3. *Direct Service* – traditional service provision provided by the council. The local authority arranges the services for the client based on the client's agreed outcomes.
4. *Combination of the above 3 options*

Additionally, the Act places a duty on local authorities to explain the nature and effect of the 4 options, to "signpost" clients to other sources of information for additional support, and has awarded local authorities the power to provide support to carers (of adults) following a carer's assessment.

All information on Adult Services and Children's Services clients are recorded on the case management system, Mosaic, provided by Servelec Corelogic. This is the newer version of the Council's previous case management software, Frameworki.

The Direct Payments Act has been in place since 1996. Midlothian Council has offered the Direct Payment option for many years with systems in place to support this option. As at quarter 3 2015/16, Midlothian Council had 114 clients in receipt of direct payments (Option 1).

The Option 2 Individual Budget is a new process for Midlothian Council. Guidance for this has been issued to staff, and a standard contract has been designed. This contract is a 'three way agreement' between the Council, the provider of the service, and the client. As at quarter 3 2015/16, Midlothian Council had 122 clients receiving services under Option 2.

The majority of service delivery for both Children's Services and Adult Services is delivered under Option 3, the direct provision of service by the Council. As at quarter 3 2015/16, 2,305 care packages were in place for Option 3.

As explained above, Option 4 is where the client receives some combination of the other three options. At quarter 3 2015/16, 87 individuals were receiving Option 4.

2.0 Objectives of the Audit

The objective of the audit was to provide assurance to senior management and the Audit Committee that the Council has adequate controls in place regarding the implementation of Self-Directed Support (SDS). This included evaluating the operational arrangements and control environment.

A copy of the terms of reference for the review is attached on page **15.**

3.0 Conclusion

Our audit identified that management have made good progress in implementing systems, internal controls, and procedures for the delivery of self-directed support.

Strengths identified included:
- strong governance is in place with regular reporting to the Project Board;
- systems have been established for all of the SDS options to be delivered to clients in Midlothian;
- procedures have been developed and issued to staff and training has been provided on the new Act to help ensure that clients can make an informed choice;

- updates have been made to some policies for the SDS Act;
- operational arrangements for direct payments were found to be operating effectively; and
- procedures and guidance have been developed to adequately provide Option 2 agreements to clients.

Some areas were identified with scope for improvement. These were:
- a formal risk register and issues log needs to be established for the project;
- a number of policies need to be updated for the new Act and for the updated information system, Mosaic;
- improvements could be made to the monitoring of the roll-out of Self-Directed Support to ensure that all existing clients get an opportunity to select their preferred option of support;
- further refinement could be made to Midlothian's implementation of the budget calculator;
- letters of agreement should be reintroduced for Direct Payments and improvements could be made to the audit trail of the assessment of whether a direct payment is appropriate; and
- a signed three way agreement should be in place for all Option 2 arrangements and uploaded to Mosaic.

As noted above, some weaknesses have been identified in the controls and improvements are possible. Therefore, we have on this occasion rated the review as Average as per the definitions on page 13. We have raised a number of recommendations which are detailed in the Management Action Plan to reduce risk further and these recommendations have been agreed by management.

4.0 Findings

4.1   Project Methodology

A core team and project manager is in place for Midlothian to help deliver the SDS Policy in Midlothian. This team was created using funding received from the Scottish Government for the implementation of the SDS Act. The intention however is that SDS should become a business as usual process, and will eventually need no project manager.

In February 2012 the Corporate Management Team agreed to establish a project board for Self-Directed Support. The purpose of the board is:
- overseeing the delivery of the Project Plan and implementation of SDS;
- engaging elected members; and
- reporting to the Health & Social Care Management team and Education, Communities & Economy Management team.

The Board includes representation from senior management, providers, carers, and practitioners. It is the role of the Project Manager to co-ordinate the project, develop the project plan, deliver the project's products, report to the Board, and manage all necessary project documentation. We noted that the Board met regularly, meetings were minuted and an up to date project plan was in place. Additionally, all initial project documentation, such as the project initiation document, and project Board structure had been drafted.

Although the Board is informed of issues in the course of their duties by the Project Manager, we noted there was no formal risk register or issues log in place for the project. We would recommend a risk register should be in place for all key projects to ensure the Project Manager and Board members have awareness of the opportunities and threats affecting the project's success. This will allow management to recognise their ability to control and reduce risk, and to be able to report effectively on the risks of the project at any time. Similarly using an issues log is good practice, as it helps ensure that problems which occur during the lifecycle of a project are documented. It also assists management to record what action was taken and when it was taken.

No	Recommendation	Priority	Manager	Target Date
1	An issues log and risk register should be in place for the SDS Project. This should be updated at least on a quarterly basis and periodically presented to the Self-Directed Support Board.	Medium	Planning Manager Self Directed Support	Complete

4.2   Policies and Procedures

As part of the audit we reviewed the adequacy of the policies, procedures, and guidance in place for SDS. This review of policies included some policies and procedures not necessarily within the direct responsibility of the Planning Manager Self-Directed Support, but which had been impacted by the delivery of Self-Directed Support.

Adult Services
An overarching policy on SDS has been developed for Adult Services. This includes the background to the Act, the principles, the revised process and authorisation steps, the indicative budget process, support planning, and managing the client's support. The policy is available on the intranet.

It was noted during the review that some of the other policies had exceeded their review date and, whilst these policies were still relevant, they referred to obsolete forms such as those contained in the prior information system, Frameworki, and did not encompass the revised forms in place for the SDS approach. These policies and guidance requiring revision include the Risk Assessment Policy, Community Care Reviews Procedure, Community Care Resource Panel Guidance, Occupational Therapy Guidelines, and Transition Planning.

Children's Services
A draft overarching policy has been created for Children's Services, but it is noted by the Project Manager that this draft may only be more relevant to children with disabilities (ie children with higher care needs). A separate policy will need to be drafted for Children's Services for the other types of work in Children's Services. The draft policy is not yet on the intranet for staff to access, however, procedures are available on the intranet outlining the revised assessment processes, the budget calculator, and other relevant training and guidance on SDS.

During the review it was noted there was no policy on the intranet for Children's Services Reviews or for the Children's Services Resource Applications. Equivalent policies exist for Adult Services and there are similar processes in place for Children's Services, however these processes do not have a formal documented policy in place and as such are not available for staff on the intranet. For Children's Services the assessment and care planning process will determine the need for resource, and resource applications are then directly authorised by a Service Manager. There is no resource panel. However, management have agreed that it would be beneficial to have the process documented in guidance for staff.

Direct Payments Policy (encompasses both Adult Services and Children's Services)

A policy is in place for Direct Payments, but the policy has passed the date by which a review is required. Similar to some of the other policies, it is still relevant, but requires update for the revised forms in the Mosaic system and SDS approach. Additionally, this policy needs updated to include the changes introduced by the SDS Act as some of the guidance within the policy is now out of date. For example, section 11.2 of Midlothian's guidance states that Direct Payments cannot be used to employ relatives, unless there are exceptional circumstances. This guidance is now out of date as within the Direct Payment Regulations 2014 and the SDS Act there is increased flexibility to employ family members provided the conditions are appropriate. Supplementary guidance has been added to the intranet on this subject, but this should be added to the main Direct Payments Policy. Management have indicated that officers are following the correct process and that it is only the policies that need to be updated to reflect the new working routines.

No	Recommendation	Priority	Manager	Target Date
2	Adult Services policies should be reviewed and updated for changes introduced by the SDS Act and for the forms used in the new case management system, Mosaic.	Medium	Head of Adult Services	31/12/2016
3	A final overarching policy for SDS should be finalised for Children's Services.	Medium	Planning Manager Self Directed Support	31/12/2016
4	Children's Services should review the need to create formal policies for the review process and for resource applications.	Medium	Head of Children's Services	31/12/2016
5	The Direct Payments policy should be updated for changes introduced by the SDS Act, the Direct Payment Regulations 2014 (Scotland), and the revised forms used in the new case management system, Mosaic.	Medium	Planning Manager Self Directed Support	31/12/2016

4.3   Adequacy of Systems in Place and Availability of SDS to all Adult Services and Children's Services Clients

A number of systems have been established in Midlothian to allow SDS to be delivered. These include:
- an outcomes focussed assessment forms for both Adult Services and Children's Services to enable the individual care needs of the client to be adequately assessed and documented;
- budget calculators for both Adult Services and Children's Services which provides an indicative budget to the client. This enables the client to make an informed choice about how they can meet their assessed need, and provides the Council with an opportunity to be creative in planning how to meet the client's needs;
- an SDS Resource Panel Application which documents the package of care which will be put in place to meet the client's assessed outcomes and the SDS option the client has selected;
- to monitor that training has been delivered to staff on legislative changes, outcomes focussed assessment and risk enablement;
- processes in place to monitor payments to clients who have selected Option 1, direct payments; and
- processes in place to establish a three way contract for clients who have selected Option 2, individual budgets.

Financial Assessments are carried out annually on clients to establish whether the client is required to make any financial contribution to the services. This is based on Midlothian Council's policy on eligibility criteria which is available on the Council's website. For the sample reviewed, we found a recent financial assessment had been completed for all relevant clients (ie those clients potentially in receipt of a chargeable service). Resource panel requests were found to be on file for all recent packages of care and adequately authorised. However, as noted below, there were some clients included in our sample who have exceeded their review date and did not have an up to date outcomes based review on file to ensure their package of care is still appropriate.

The February 2014 Cabinet report noted that from April 2014, the Council is required to offer SDS to new users and carers and existing service users through the annual review process. Therefore, it is anticipated that all clients will have an assessment or review where all SDS options for the provision of support were considered through the annual review process. From the sample of clients reviewed during the audit, some clients were identified who still had the older format of reviews and assessments on file and had exceeded their review date by more than a year. We recommend that there should be a method developed of quantifying outstanding reviews of clients and SDS will be offered to the clients as part of this process. All clients are offered SDS on assessment or review. Best practice would be to identify those clients on existing care packages who may benefit from the SDS options.

No	Recommendation	Priority	Manager	Target Date
6	Develop a method of calculating those clients who have not received an assessment or review where all SDS options for the provision of support were considered to ensure that	Medium	Head of Adult	31/12/2016

No	Recommendation	Priority	Manager	Target Date
	SDS is rolled out to all clients and to quantify the number of clients who have not yet received an SDS assessment.		Services / Head of Children's Services	

4.4   Client Indicative Budget and Support Planning

One of the key changes with the introduction of SDS is the setting of personal budgets. The information provided in the SDS assessment form is used to work out an estimate of the amount of money (an indicative budget) that would be required to achieve the client's required outcomes. Midlothian Council has adopted the Equivalency Model for calculating the indicative budget – this is where the Council will determine the cost of the service to be arranged through traditional means and then provide the equivalent amount as a budget for the supported person to control. Equivalency matrices have been established for both Adult Services and Children's Services.

The matrix used by Adult Services takes into account the frequency/duration of the service required, the client's eligibility, and based on the traditional service package that the client would receive calculates an indicative annual budget.

The Children's Services Matrix uses a points based approach based on the wellbeing indicators (Safe, Healthy, Active, Nurtured, Achieving, Respected, Responsible, Included) indicators and allocates points based on the level of support required for each indicator. This is then used to calculate an indicative annual budget for the client.

From the sample reviewed it was noted that the budget calculator was not always included on file, or had not been completed for the client. The Planning Manager Self Directed Support noted that for some time in 2015 a word document version of the budget calculator was used and that this was not uploaded into the Mosaic case management system for every client. Additionally, it was noted that some of the guidance around when to use the budget calculator and how to use it could be expanded on. Further guidance has been developed on the budget calculator for Adult Services, but this is not yet available on the staff intranet.

No	Recommendation	Priority	Manager	Target Date
7	More guidance should be provided to staff on when it is necessary to include the budget calculator form and to ensure that this is completed in all required cases. Guidance should be expanded to include worked examples of the budget calculator. Additionally, a narrative section is included within the budget calculator form to ensure that the user	Medium	Planning Manager Self Directed	31/12/2016

No	Recommendation	Priority	Manager	Target Date
	explains their calculation and notes when the client was informed of their indicative budget.		Support	

4.5   Managing the risks of Direct Payments

All clients in receipt of Direct Payments are required to set up a separate bank account. This helps ensure that the money transferred by the Council can be easily monitored. All clients in receipt of direct payments must submit their bank statements to the Council on a quarterly basis, and Council officers will reconcile the client's expenses against the bank statements and complete a reconciliation of their payments. In circumstances where the client is having difficulty managing the direct payment, the Council can elect to have the direct payment managed by the Lothian Centre for Inclusive Living (LCIL) or alternatively to increase the frequency they are monitoring the direct payment (eg to increase the requirement of the client to submit bank statements monthly instead of quarterly).

The reconciliation and administration process was reviewed on a sample basis as part of this audit (20 direct payments reviewed) and was found to be operating effectively. The only issue noted with the spreadsheet used to calculate a client's Direct Payment was that a minor formula within the sheet needed to be updated. However some issues were noted with the direct payment process in relation to risk management and governance.

Direct Payments Risk
We note that although the outcomes assessments in place for both Adult Services and Children's Services encompass risk, the forms do not specifically address the unique risks of managing a direct payment (eg formally recording all relevant details about who is managing the direct payment, clarifying the client's financial circumstances to gain assurance on their ability to manage the direct payment, if they require help in managing the process, and confirming the client has copies of relevant guidance and are aware of the support available for direct payments). While we appreciate that this work is communicated informally to the client, we recommend that this should be encompassed in a specific form so there is an audit trail of this process. Checklists covering these requirements are in place in the Direct Payments Policy, however they were found to not be applied in practice and had not been converted into electronic forms in the Mosaic case management system.

Direct Payment Written Agreements
CIPFA guidance on Direct Payments states that a formal Direct Payment agreement should be in place between the Council and the individual so that all parties understand their mutual financial responsibilities. Currently, Midlothian Council is not ensuring that new Direct Payment clients sign a comprehensive written agreement before receiving payment. It has been reported that this used to be in place prior to 2011 but

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has since lapsed. A letter is issued to clients in receipt of Direct Payments, but it is not signed and does not adequately explain the client's or the Council's responsibilities.

The Letter of Agreement should state the amount paid to the client, the payment process, and that the payment is only to be made with an agreed support plan for the client. Also, the agreement should explain the individual's responsibilities which arise from the payment, for example that potential responsibilities as an employer if the Direct Payment is used to employ a care provider, and that payments will be stopped immediately if there is evidence of mis-use, and in some cases the Council will look to reclaim the amount paid. The Letter of Agreement should be signed by the individual receiving payment (or an elected person such as family, friend or spouse) and should be signed by an appropriate Council officer.

It is noted that a form is in place for the client to confirm that it is their (the client) responsibility to ascertain whether any individual employed by the client is a member of the Protection of Vulnerable Groups (PVG) scheme. However, this form does not meet the requirements of all the recommended clauses included in CIPFA's example Letter of Agreement.

No	Recommendation	Priority	Manager	Target Date
8	A Risk Assessment form should be developed for the Direct Payment process. This assessment should be designed to ensure that risks associated with personal budgets are properly assessed and the client is supported in managing their care before any payments are made to the client.	Medium	Planning Manager Self Directed Support	31/12/2016
9	A written agreement should be in place for all clients in receipt of Direct Payments. The written agreement should follow the best practice template issued by CIPFA.	Medium	Planning Manager Self Directed Support	31/12/2016
10	Within the Direct Payments spreadsheet it is noted there is a notional calculation of National Insurance for calculating the client's Direct Payment. The rate used for this is out of date.	Low	Planning Manager Self Directed Support	31/12/2016

4.6   Managing the risks of Option 2 Agreements

Specific guidance has been published to supplement the overarching SDS policy on how to provide Option 2 agreements to clients. The guidance includes the approach that should be taken to ensure the client receives sufficient information to allow the client to make an informed choice. A standard agreement has been implemented for Option 2 agreements with guidance published on how to complete the standard text for these agreements. The guidance is available on the intranet page. The terms of the agreement used for Option 2 agreements use the Council's Standard Social Care Contract terms which have been reviewed by Procurement. However, it was noted that although there is guidance on the rollout of SDS, there could be more information on alternative providers clients could select under Option 2. Also, we note the audit trail could be improved within Mosaic of the additional risks of Option 2 agreements.

A sample of 10 agreements were reviewed to determine whether these had been signed by a Council manager with adequate authority, the individual (or individual's representative), and the provider. Appropriately authorised agreements were found for 9 out of the 10 agreements reviewed. It is understood that the last agreement had not been scanned into the Mosaic system, but a copy of this has not yet been provided to Internal Audit or input into the Mosaic system.

No	Recommendation	Priority	Manager	Target Date
11	Whilst it is noted that guidance is in place to ensure that the client is communicated with all the risks of Option 2 agreements, we recommend that the existing SDS form within Mosaic be expanded to include the key points included in the Option 2 guidance to ensure there is an adequate audit trail of the client's decision to proceed with Option 2 and that the client can manage their support under Option 2. Management Comment – it is noted that these forms are completed by professional level staff, and that steps have been made to try and reduce number of forms that staff require to complete to improve the efficiencies of the process.	Low	Planning Manager Self Directed Support	31/03/2017

No	Recommendation	Priority	Manager	Target Date
12	Management should ensure that there is a signed Option 2 agreement scanned and uploaded into Mosaic for all clients under Option 2. Management should review if there is a way to use exception reporting to highlight any cases where agreements have not been scanned. Management Comment – it is noted that there was a bulk move of a number of clients to Option 2 due to a change of Council supplier and some signed contracts are outstanding from this. A process is in place for all new Option 2 agreements to be signed. Also, it is noted that there are overarching contracts between the Council and each supplier. The Option 2 contracts relate to the package of care agreed for the client.	Medium	Planning Manager Self Directed Support	31/03/2017
13	Consider expanding on the information supplied to clients on alternative providers they can select under Option 2.	Low	Planning Manager Self Directed Support	31/12/2016

Definitions of Ratings

<u>Audit Opinion</u>

Level of Control	Reason for the level of Assurance given
Excellent	The control framework is of a high standard with no unacceptable risks identified.
Good	The control framework is of a good standard with only minor elements of risk identified which are either accepted or being dealt with by management.
Average	The overall control framework is of an average standard. Some weaknesses have been identified in the controls and improvements are possible.
Weak	The control framework is weak and requires improvement as significant issues exist with the adequacy and effectiveness of the Internal Control arrangements. These control deficiencies could result in delivery of poor service or disruption to service to the residents of Midlothian, financial loss or reputational damage to the Council.
Poor	The control framework is inadequate or ineffective and the issues identified require immediate attention to prevent the delivery of poor service or disruption to service to the residents of Midlothian, financial loss or reputational damage to the Council.

<u>Recommendation Rating</u>

Priority	Risk Definition
High	Legal / regulatory issues would normally be regarded as high risks. Strategic risks would normally be regarded as high risks. Financial impact - £50K plus and / or national press interest
Medium	£5K - £49K and / or local press interest
Low	Under £5K and / or no press interest.

Distribution

- Members of the Audit Committee
- Kenneth Lawrie, Chief Executive
- Eibhlin McHugh, Health and Social Care Joint Director
- Mary Smith, Director, Education, Communities and Economy
- Allister Short, Head of Primary Care and Older People Services
- Joan Tranent, Head of Children's Services
- Alison White, Head of Adult Services
- Graham Kilpatrick, Planning Manager Self Directed Support
- Grant Thornton, External Audit

Audit Team

Author: James Polanski   Auditor
Reviewer: Graham Herbert   Internal Audit Manager

APPENDIX 2

TERMS OF REFERENCE:

Audit Objective and Scope

Audit Objective

To provide assurance to senior management and the Audit Committee that the Council has adequate controls in place regarding the implementation of Self-Directed Support (SDS). This includes evaluating the operational arrangements and control environment.

The Social Care (Self-Directed Support) (Scotland) Act 2013 places a legal duty on Local Authorities to offer four options to the supported person
- Option 1 – A direct payment
- Option 2 – Directing the available support
- Option 3 – Council organises support on the person's behalf
- Option 4 – A mixture of the above 3 options

Specific areas included in the review are as follows:
- Appropriate policy and procedures are in place for staff regarding SDS;
- Adequate systems are in place for the delivery of SDS;
- SDS is available to all Adult Services and Children's Services clients;
- Adequate systems are being developed for the calculation of the indicative budget and clients are informed of their indicative budgets;
- An adequate Support Plan is in place for all clients and appropriate authorisation procedures are in place for provision of support;
- The arrangements in place to ensure that risks associated with direct payment and option 2 service provision are properly assessed and managed with adequate monitoring and review;
- A formal Letter of Agreement is in place for all clients who have chosen the Direct Payment option; and
- Adequate arrangements are in place to ensure financial assessments are carried out for all clients.

Scope of Audit

The following areas are included within the scope of the Audit:
- Adult Services
- Children's Services

Exclusions and Limitations

 No specific exclusions.

Potential Risks

Potential risks include:
- Incorrect payments are made due to failure to establish adequate arrangements for the administration of direct payments or option 2 service provision
- Lack of effective controls may lead to errors or irregularities occurring.
- Non-compliance with the Self Directed Support (Scotland) Act 2013 if the Council fails to adequately offer the full range of options as prescribed in the Act and the resulting reputational damage.
- Failure to offer the most appropriate care plan to the client.

Audit Approach

The audit approach consists of:

- fact finding interviews with key employees;
- review of appropriate documentation which includes any risk reviews that have been conducted and risk registers that are in place;
- interrogation of any relevant systems and sample testing as required;
- closure meeting with local management to discuss the findings and any recommendations from the review;
- draft and final reporting; and
- presentation of the final report to the Audit Committee.

Internal Audit in every review will consider whether best value is being delivered and will also review the potential for fraud in the area and the strength of controls to mitigate fraud.

All Internal Audits are subject to Internal Audit quality reviews by the Internal Audit Manager.

Timescales & Reporting

The Audit will commence in February 2016 and is anticipated to be reported to the May 2016 Audit Committee.

Information Requirements

Access to all relevant systems, documentation and employees.

Audit Resource

Auditor: **James Polanski**   **0131 270 5646**
Reviewer: **Graham Herbert**   **0131 271 3517**