

Internal
Audit

Council's Appointee and
Deputy Role

2021/22



Overall assurance rating



Substantial

Audit findings requiring action

Extreme	High	Medium	Low
0	0	0	4

A strong control environment exists over the activities of the Financial Safeguarding Team (FST) when they act as an appointee or deputy for individuals who have been assessed in accordance with the Mental Capacity Act 2005 as not having an ability to manage their own finances. This audit has focussed on individuals who are supported by the council's Disability Service in a supported living tenancy, although the overarching processes and controls operated by the FST apply equally to all individuals they support.

Regular monitoring is undertaken to ensure income due to the individual is received and bills are paid on a timely basis, and monies are made available for the individual to cover day to day living costs; with high value expenditure receiving additional authorisation and approval. In those cases where the council acts as a Court Appointed Deputy, the FST further comply with Office of the Public Guardian's (OPG) requirements and provide an annual report detailing significant decisions made on behalf of the individual and a high-level summary of income and expenditure. A small number of areas for improvement have been identified below to further improve the control environment.

Agreed actions from the audit	Priority
FST guidance will be updated to ensure it fully reflects the current operational arrangements including accounting and financial systems in use. Similarly, the guidance documents will reflect the arrangements in place between the FST and the Disability Service regarding their separate roles and responsibilities in supporting individuals in order to avoid any conflicts. Additionally, the guidance documents for the adult community social care team will be reviewed.	
Adult Community Social Care staff will be reminded of the need to ensure that the most up to date referral documentation is used, and that all relevant forms are completed fully to evidence that all the required pre-referral checks have been undertaken and to avoid any unnecessary delays in the overall process.	
Anticipated income values will be entered into the Caspar system following the annual increase in benefit rates applicable from April 2022 to allow the system to reconcile these values automatically, which will improve the efficiency of the bank reconciliation process. Similarly, all Motability contracts will be entered into Caspar to improve the administration of these contracts. Additionally, FST staff will be asked to use the diary function within Caspar to ensure that significant tasks are not omitted in the unforeseen absence from work of the responsible officer.	
The authoriser will check for any unknown payments by checking the service user's CASPAR record for payment request.	

Background

This audit has been undertaken in accordance with the 2021/22 Internal Audit Plan as approved by the Audit, Risk & Governance Committee. The audit covers the period April 2021 to January 2022 and has been conducted in conformance with the Public Sector Internal Audit Standards.

Context

Where an individual has been assessed in accordance with the Mental Capacity Act 2005 to lack the ability to manage their own finances and they do not have a family member or solicitor to take on this role, they are referred to the FST to be processed through the Court of Protection. The role of Court Appointed Deputy is awarded to the holder of the office of Director of Adult Community Social Care and the day-to-day management of finances is then delegated to the FST which is supervised and regulated by the OPG, or as an Appointee, approved via the Department for Work and Pensions (DWP).

The council's Disability Service are currently reassessing all individuals in supported living tenancies and are transferring responsibility for overall financial management to the FST, where appropriate. The Disability Service will however retain responsibility for supporting the individuals with day-to-day financial activity, and for retaining records of these transactions.

Financial information

Currently referrals have been processed for 81 individuals supported by the Disability Service, whose assets are valued at approximately £1.2m, a further 130 referrals are still to be processed.


Previous audit

Whilst an internal audit of the council's role as an appointee or deputy has been carried out previously, this is a number of years ago and no significant weaknesses were identified at that time.

Scope of Audit

In this audit we have reviewed and tested the adequacy and effectiveness of the controls and processes established by management to mitigate the key risks relating to the following areas:

- Guidance
- Referral to the FST and deputy or appointee application process
- Oversight of finances
- Office of the Public Guardian reporting and supervision

Area of Coverage	Commentary	Assessment
Referral to FST and deputy or appointee application process	<p>Referral</p> <p>To comply with the requirements of both the OPG and the Mental Capacity Act 2005 a mental capacity assessment (MCA) is completed by an appropriate practitioner and includes confirmation that a referral to the FST is in the best interests of the individual as they lack the capacity to manage their own finances.</p> <p>Following the above, Adult Community Social Care staff complete a referral form, as part of the application to court for Deputyship. The referral form additionally provides a checklist as an aide memoire for adult community social care staff. There is provision for this to be completed to evidence that all required checks in making the referral have been undertaken, which includes the need to contact family/ next of kin to ensure that there is no-one available to undertake the role of Court Appointed Deputy or Appointee. This checklist had not been completed in half the cases in our sample and whilst there was no negative impact on FST activity, the omission of these checks may result in a greater issue for adult community social care staff and legal staff to resolve if a family member were to object.</p>	

	<p>In conducting this review, we considered the timeliness of the referral process from receipt of the referral by the FST to the filing of the application with the Court of Protection (COP). In one case, the referral process incurred delays of more than five months. The cause of this delay was identified as the COP and a complaint was filed by the FST.</p> <p>Application for Deputyship</p> <p>In order for the council to act as a Court Appointed Deputy there are a series of COP forms to be completed. These are held on the FST 'Caspar' system which allows them to be pre-populated with core data held about the individual. The application form supported by the assessment of capacity form is forwarded to the COP in the first instance. Following this the individual for whom the FST are applying for deputyship and any parties with an interest are issued with a notification form.</p> <p>Application for Appointee</p> <p>An Appointee role is applied for when the individual being supported is only in receipt of state benefits. We were satisfied that the appropriate arrangements had been followed for the relevant items in our sample.</p>	
Oversight of finances	<p>Caspar is the key system used by the FST to maintain and administer an individual's bank accounts, state benefits and property. It has several functions that allow anticipated income and expenditure to be monitored and bank reconciliations to be performed which enables FST to identify any missed transactions. For 70% of our sample, we noted that the anticipated income values for state benefits had not been updated following the last annual increase.</p> <p>Caspar also includes other functions used by FST such as a 'diary' that allows staff to add reminders for upcoming tasks that require action, and 'notes' may be added to an individual's record, which is used mainly to append communications between FST and Adult Community Social Care staff, DWP and the COP. Motability contracts should also be recorded on Caspar, although this information had been omitted in 60% of the cases we examined.</p> <p>Additionally, a pre-paid card system is used to enable individuals to manage their own personal allowances, whilst allowing the FST to monitor card transactions. A standing order is set up by the FST to pay a weekly amount onto this card from an individual's personal bank account, but daily management of card expenditure is undertaken by staff from the Disability Service. Amounts held on the cards are reviewed by the FST to ensure the value held does not exceed a reasonable level, with any excess funds being transferred back into the individual's bank account.</p> <p>Whilst expenditure greater than £500 should be approved by the Disability Service and the Managing Individual Adults Finance Panel, we identified one case, with a value exceeding this limit that was not supported by the appropriate approval form from the Disability Service, and no panel approval was noted.</p> <p>User permissions within the council's Bankline system are assigned to ensure there is separation of duties for the payments, although improvements to this have been identified.</p>	●
Office of the Public Guardian reporting and supervision	<p>As part of the Court Appointed Deputy role, the FST are required to submit to the OPG an annual report produced on the anniversary of the COP order being made. There are OPG reporting templates to facilitate this requirement. The reports are held on Caspar and some of the details are pre-populated from within the system. The reports must include significant decisions and why they are in the best interests of the individual and the finances they have.</p> <p>The OPG sends FST a monthly spreadsheet reminder of when reports are due, and for our sample reports had been produced in accordance with the requirements of the OPG. Fees had additionally been charged appropriately and in accordance with OPG guidelines.</p> <p>Supervision by the OPG</p>	●

	<p>The council has an allocated public authority case worker at the OPG who contacts the FST manager on a quarterly basis via telephone. This support was put in place during the pandemic to provide additional assistance as appropriate. Whilst formal notes are not made of these catch ups/ meetings any queries that were raised via email are retained in the manager's Outlook folder.</p> <p>The OPG's bi-annual site inspections have not been undertaken as these were halted due to the pandemic. The FST were subject to a spot check inspection in 2017 and a visit may be undertaken this year although at this time the FST have not received any confirmation of this. The OPG can request a visit from the Lord Chancellor's office for an assurance visit where the service user is visited and then the deputy, a report is then filed by the Lord Chancellor's visitor with the OPG, the findings and any recommendations would then be forwarded to the FST.</p>	
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