



REPORT TO: East Lothian IJB Audit and Risk Committee

MEETING DATE: 8 June 2021

BY: Chief Internal Auditor

SUBJECT: Internal Audit Report on Social Care Sustainability
Payments – Further Assurance Work

1 PURPOSE

- 1.1 To inform the Audit and Risk Committee of the recently issued audit report on Social Care Sustainability Payments – Further Assurance Work.

2 RECOMMENDATION

- 2.1 That the Audit and Risk Committee note the contents of the audit report.

3 BACKGROUND

- 3.1 The findings from Internal Audit's assurance review of Social Care Sustainability Payments were presented to the East Lothian IJB Audit and Risk Committee on 8 December 2020.
- 3.2 In March 2021, the Sustainability Payment Panel requested further assistance from Internal Audit in relation to payments being made to one care home provider.
- 3.3 The main findings from the further assurance work undertaken in response to this request are outlined in the attached report.

4 ENGAGEMENT

- 4.1 The findings from the work undertaken have been discussed with Management, but do not require wider engagement.

5 POLICY IMPLICATIONS

- 5.1 None

6 INTEGRATED IMPACT ASSESSMENT

- 6.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

7 DIRECTIONS

- 7.1 The subject of this report does not require any amendment to or creation of Directions.

8 RESOURCE IMPLICATIONS

- 8.1 Financial - None
8.2 Personnel - None
8.3 Other - None

9 BACKGROUND PAPERS

- 9.1 East Lothian IJB Audit and Risk Committee, 8 December 2020 – Internal Audit Report on Social Care Sustainability Payments

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DATE	27 May 2021



Internal Audit Assurance Report

From:	Duncan Stainbank, Chief Internal Auditor Stuart Allan, Senior Auditor
To:	Alison MacDonald, Director ELHSCP/Chief Officer East Lothian IJB Claire Flanagan, Chief Finance Officer East Lothian IJB Laura Kerr, Interim General Manager Service Improvement and Strategic Planning
Date:	25 May 2021

Social Care Sustainability Payments – Further Assurance Work

1. Background

- 1.1 Since the beginning of lockdown the East Lothian Health and Social Care Partnership (ELHSCP) has been supporting local social care providers by ensuring that reasonable costs are met through the COSLA National Principles for Sustainability and Remobilisation Payments to Social Care Providers during Covid-19. The Scottish Government has provided funding to the ELHSCP to support the social care sector to help meet Covid-19 related costs.
- 1.2 Internal Audit have previously reviewed the processes developed to collect appropriate information, review and approve claims, and resolve appeals in making sustainability payments for Covid-19 related costs to social care providers within East Lothian. The audit work included coverage of adherence to guidance, decision making and payment processes, record keeping and audit trail. An assurance report was provided to management on 30 November 2020 and the report was presented to the East Lothian IJB Audit and Risk Committee on 8 December 2020.

2. Further Assurance Work

- 2.1 On 31 March 2021, Internal Audit were contacted by the Planning and Performance Officer and advised that the Sustainability Payment Panel has requested Internal Audit's assistance in relation to recent sustainability payment claims from one provider. The minutes of the Sustainability Payment Panel meeting of 30 March 2021 recorded that the provider had received emergency 1:1 Covid-19 support from the ELHSCP and Internal Audit's view was being sought as to whether the 1:1 funding should be offset against the provider's non-delivery (under-occupancy) claims that were currently being considered by the Panel.
- 2.2 It was noted that the payments for additional 1:1 support in a care home setting had been approved and made by the HSCP at an operational level. The payments were not made through the Sustainability Payment Panel and members of the Panel had been unaware that these payments were being made.
- 2.3 It was established that the provider had received payments for additional 1:1 support at both the care homes they operated in East Lothian. For Home A, additional 1:1 support payments of £41,641.68 had been made covering the period from 18/06/20 to 22/02/21 and for Home B

additional 1:1 support payments of £8,460.00 had been made covering the period from 14/08/20 to 30/11/20. We note that the reasons for the payments were recorded as “stress and distress behaviour putting client and others at significant risk. Management of situation exacerbated by Covid pandemic. Required to sustain placement and prevent inappropriate hospital admission”.

2.4 At the time of our review, the non-delivery (under-occupancy) claims submitted by the provider and being considered by the Sustainability Payment Panel were:

Home A – £37,995.64 (01/01/21 – 31/01/21) and £36,811.64 (01/02/21 – 28/02/21)

Home B – £6,782.71 (01/01/21 – 31/01/21) and £2,206.55 (01/02/21 – 28/02/21)

3. Internal Audit Response

On 15 April 2021, Internal Audit provided a response, which was split between post and pre 1 December 2020:

From 1 December 2020 onwards: Internal Audit referred to the “Guidance for financial support for social care providers during COVID-19 from December 2020 to March 2021”, issued by COSLA/Scottish Government on 4 December 2020 (and subsequently extended to 30 June 2021), which states:

Para 20: “...care home providers subject to the NCHC can continue to receive a payment for under-occupancy that is a direct result of the COVID-19 pandemic...”

Para 21: “To receive payment, care home providers must demonstrate that occupancy levels remain below the average occupancy between January 2020 and 23 March 2020, specifically where:

- It is clinically unsafe to admit people to the care home in accordance with Public Health Scotland guidance, or
- There is another reason that is a direct result of the COVID-19 pandemic for being unable to attract residents which the care home can provide clear evidence for.”

Para 22: “If these criteria are met, payments will be made for the impact of the pandemic on care home occupancy at 80% of the NCHC rate.”

Para 23: “Providers should in the first instance use this payment to meet any other additional costs incurred as a result of the pandemic such as:

- Ensuring that they continue to pay their staff in line with their expected income in line with the Social Care Staff Support Fund;
- Additional staffing costs such as backfill; and
- Additional infection prevention and control (IPC) and PPE costs.”

It is clear from the responses of operational staff, that the additional 1:1 support payments made to providers are COVID related. As such, these costs require to be met by the provider from the under-occupancy payments received and the provider should not be claiming separately for these (from either the Panel as additional costs or operationally as 1:1 support). In this case, **under-occupancy payments due to the provider should be reduced by the amount of any payments made for 1:1 support for the period from 1 December 2020 onwards.**

Prior to 1 December 2020: The National Principles for Sustainability and Remobilisation Payments to Social Care Providers during Covid-19 is the key guidance in place for social care sustainability payments prior to 1 December 2020. The National Principles are issued by COSLA and have been agreed by the Scottish Government.

In respect of reduced occupancy, the National Principles specify that:

- care homes will be supported by the authority in the care home's boundary area;
- where a care home is impacted by a reduction in occupancy because it is clinically unsafe to admit people or due to a reduction in admissions caused by Covid-19, then a sustainability payment will be made to the care home;
- for care homes where the National Care Home Contract (NCHC) is in place, the payment will be made on the basis of 80% of the NCHC rate;
- transitional arrangements are in place for the period from September 2020 to November 2020, with 75% of claims paid for voids caused by Covid-19 for September 2020 and 50% of claims paid for October 2020 and November 2020.

In addition to payments for under-occupancy, where social care providers incur additional costs in respect of personal protective equipment (PPE), infection prevention and control and staffing related costs, the National Principles state that providers should identify and submit these costs on a template provided by the authority and the provider must ensure that they can evidence the additionality of these payments. Prior to 1 December 2020, there was no requirement for providers to use under-occupancy payments to first meet any other additional costs.

We note however that all providers submitting a claim were required to complete a Supplier Relief Confirmation Form, clearly indicating if their claim relates to reduced occupancy or additional costs. Providers were required to indicate if they have made a claim for any other Covid-19 related relief, grant, intervention or other measure, which results in them receiving more than one benefit/relief for the same underlying cash flow issue, and to confirm that:

- any payments made will be used as intended to employ and pay staff, including sickness absence, to pay suppliers and to maintain the solvency and capacity of the business;
- consideration will be given to reducing costs in the business, such as by redeployment of staff;
- they will permit an open book basis for accounts and evidence monies have been spent as intended on request;
- if money has not been spent as intended or there has been overcompensation it can be recovered by public bodies;
- if other relief is made available it will be pursued and declared to the authority if duplication arises.

In this case, we note that the additional 1:1 support payments received were not disclosed in the Supplier Relief Confirmation Forms submitted by the homes and the Sustainability Payment Panel were not aware that these payments were being approved by colleagues within the HSCP.

In addition, we further note that both homes had significant levels of reduced occupancy in the periods prior to 1 December 2020 and have indicated that staff are covering different roles in the homes, yet they still requested additional funding for 1:1 support, and an argument could be made that they are receiving more than one benefit for the same underlying cash flow issue (i.e. staffing). However given that the guidance in place prior to 1 December 2020 did not specifically require under-occupancy payments to be used to meet any other additional costs, on balance the Panel may decide **not** to reduce the under-occupancy payments due to the provider by the 1:1 support payments made for the period prior to 1 December 2020. It will however still be necessary to confirm that there is no duplication between the additional 1:1 support payments made and the additional costs claims that were submitted by the homes to the Sustainability Payment Panel for this period.

4. Sustainability Payment Panel Response

- 4.1 Internal Audit's feedback and recommendations were considered at the Sustainability Payment Panel meeting of 20 April 2021. The minutes of the meeting recorded that:

"Response now received from internal audit stating that non-delivery / reduced occupancy payments due to the provider should be reduced by any payments paid for 1:1 support from the period of the 1st December 2020 onwards, any claims under the new guidance and any 1:1 payments made during that timeframe should be deducted from their non-delivery. Internal audit also confirmed that the panel may decide not to reduce under occupancy payments prior to December 2020."

- 4.2 The Sustainability Payment Panel accepted the Internal Audit recommendations and took the decision to offset the claims for all periods from 1 December 2020 onwards. For Home A, this resulted in non-delivery payments being reduced by £18,123.84 for additional 1:1 support payments made for the period from 1 December 2020 onwards. For Home B, no offset was applied as all additional 1:1 payments made related to periods prior to 1 December 2020. We note that the provider was also advised that any future Covid-19 1:1 support payments received would require to be disclosed and offset against future non-delivery amounts claimed.