



# West Sussex Safeguarding Adults Board

## Operational Framework for Managing Provider Concerns

**Date:** 08.04.19

**Review Date:** 08.04.20

## Purpose

This document underpins the Pan Sussex Safeguarding Procedures. It seeks to outline the Operational Framework for managing safeguarding Provider Concerns.

A provider concern should be triggered where there are significant safeguarding concerns or multiple Section 42 safeguarding enquiries and a wider public interest issue/possible risk to other adults. This includes all adults who are supported by the provider, irrespective of who is commissioning their care.

The threshold for considering Provider Concerns is indicated when a number of adults have been allegedly abused, or patterns or trends are emerging from information, intelligence or data that suggests the care and support regime presents a significant risk to people or is negatively impacting on their lifestyle.

### 1. Guiding Principles

Whilst West Sussex County Council (WSCC) has a duty to co-ordinate safeguarding enquiries, effective responses to Provider Concerns should be based on a multi-agency approach. This results in robust partnership working, collective responsibility and shared accountability across agencies.

This Framework supports the need to have individual Section 42 safeguarding enquiries and the adherence to the key principal of Making Safeguarding Personal. From safeguarding enquiries, the key themes found, identified risks and customer outcomes should be recognised and considered in the provider concern process.

It is essential that collaborative working and appropriate information sharing across agencies takes place to identify any previous enquiries and allegations involving any named individuals or the organisation.

A Provider Concern may have some or all of the following additional factors:

- Potential for media interest;
- High volume of safeguarding concerns and severity of risk;
- Culture of dangerous practices;
- The need for a senior level co-ordinated response;
- Single or several people/organisations with significant power and authority to cause abuse or neglect to adults.

## 2. Involvement of the Provider Representative

The involvement of the provider and the supporting relevant agencies should be considered at every stage, unless there is a specific reason which should be documented and endorsed by the lead agency.

The level and nature of concern will influence which organisations need to be involved and the required level of authority to make decisions on behalf of organisations.

### Roles and Responsibilities

- a) Host Authority – The Local Authority and Clinical Commissioning Groups (CCG) in the area where abuse or neglect has occurred. The host authority is responsible for:
  - Liaising with the regulator if any concerns are identified about a registered Provider;
  - Determining if any other authorities/CCGs are making placements, alerting them and liaising with them over the issues in question/under investigation;
  - Co-ordinating action under safeguarding and has the overall responsibility to ensure that appropriate action is taken and monitoring the quality of the service provided;
  - Ensuring that advocacy arrangements are in place where needed, and care management responsibilities are clearly defined and agreed with placing authorities;
  - Ensuring that there is a Chair and the administration of meetings, and provides a clear audit trail of agreements, responsible leads for particular actions and timescales;
  - Taking on the lead commissioner role in relation to monitoring the quality of the service provision.
  
- b) Placing Authority – The Local Authority (or CCG) that has commissioned the service for an individual(s) delivered by a Provider. The placing authority/CCG is responsible for:
  - Duty of care to people it has placed that their needs continue to be met;
  - Contribute to safeguarding activities as requested by the host authority, and maintain overall responsibility for the individual they have placed;
  - Ensure that Provider, in service specifications, has arrangements in place for safeguarding;

- The placement continues to meet the individual's needs;
- Undertaking specific mental capacity assessments, or best interest decisions for, individuals they have placed;
- Reviewing the contract specification, monitoring the service provided and negotiating changes to the care plan in a robust and timely way;
- All usual care management responsibilities as per the Care Act 2014;
- Assessments under the Deprivation of Liberty Safeguards (DoLS);
- Keeping the host authority informed of any changes in individual needs and/or service provision.

#### c) The Care Quality Commission (CQC)

The CQC acts independently and is a valued partner in the process of information sharing and working to tackle areas of concern. Their expertise in working with providers and standard setting may support safeguarding processes.

The CQC can only use its civil and criminal enforcement powers in relation to breaches of legal requirements set out in the Health and Social Care Act. CQC have to evidence that a breach has occurred before they can proceed with enforcement powers.

This CQC's approach to inspection and enforcement focuses on five key questions about care:

- Is it safe?
- Is it effective?
- Is it responsive?
- Is it caring?
- Is it well-led?

Where there has been a recent inspection it may be helpful for providers to share pre-publicised reports, to support the principle of openness and transparency. In some instances providers may be addressing issues identified by inspections and adult safeguarding and it makes sense to address both through agreed joint processes.

#### d) Lead Agency

A lead agency should be identified, and will be responsible for co-ordinating the enquiry.

In most cases, the Local Authority will lead on safeguarding action in consultation with partners. Health agencies may also lead on the

enquiry, especially where the concern is about health provision, as their clinical knowledge and expertise is likely to be needed.

As with all criminal matters the police will be the lead for criminal proceedings and must be consulted about any additional proposed action.

### **3. Provider Concerns Stages**

The Provider Concern Operational Framework is made up from the following six stages and are described in detail below:

Stage 1: Decision to Initiate Provider Concerns Process

Stage 2: Initial Provider Concerns Meeting

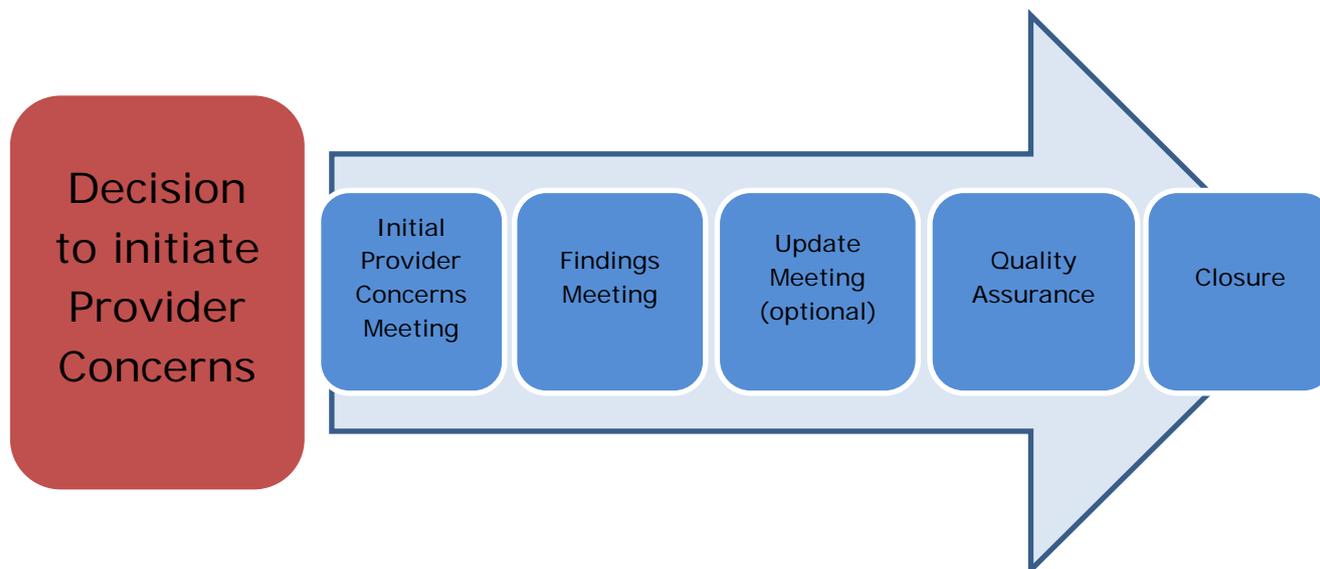
Stage 3: Findings Meeting

Stage 4: Update Meeting (optional)

Stage 5: Quality Assurance

Stage 6: Closing the Provider Concerns Process

## Stage 1: Decision to Initiate Provider Concerns Process



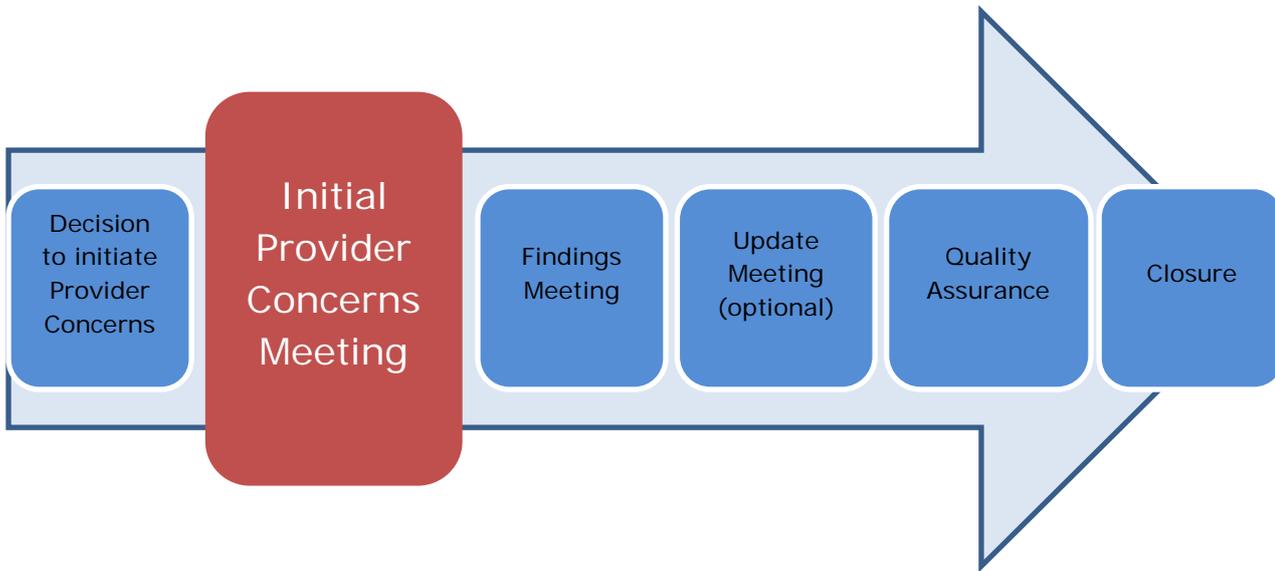
The purpose of this stage is to determine whether to initiate Provider Concerns. This includes:

- Overview of current level and impact of risk;
- Update on immediate checks on welfare of people using the service;
- Any active criminal investigations;
- Contact placing authorities;
- Contact the Provider;
- Decision to initiate Provider Concerns meeting.

### **Consideration needs to be given to the information currently available and additional information to be gathered**

- Summary of concerns linked to specific adults at risk;
- Background checks of any previous concerns and how these were addressed;
- Background checks of the provider;
- Link inspector/last Care Quality Commission Report and any previous enforcement action, dates and outcomes;
- Company name and other local homes in the group;
- Commissioning arrangements and needs of individual adults;
- Any recent contract management involvement and/ or contract monitoring concerns.

## Stage 2: Initial Provider Concerns Meeting



The purpose of the Initial Provider Concerns meeting stage is to:

- Identify and clarify the main themes and risks;
- Devise a communication strategy about how adults using the service will be informed and updated;
- Ensure appropriate advocacy and support;
- Listen to the views of the provider;
- Safeguarding planning to consider the type of enquiries, leads and timescales;
- Risk management;
- Draw up issues for an Improvement Plan/Risk Management Plan;
- Consider commissioning intentions;
- Information sharing protocol – should this be a separate Board protocol agreed by partners, to be agreed, with all partners, including police when there is a criminal investigation;
- Set date for a Findings Meeting.

### Meetings with the Provider

The Provider will be informed by the LEO that it is subject to the Provider Concerns process and will be asked to share as much information as possible, without compromising any subsequent lines of enquiry. They will be informed of the process and provisional timescales if available. If there is a criminal investigation, the provider will be informed in accordance with Police advice.

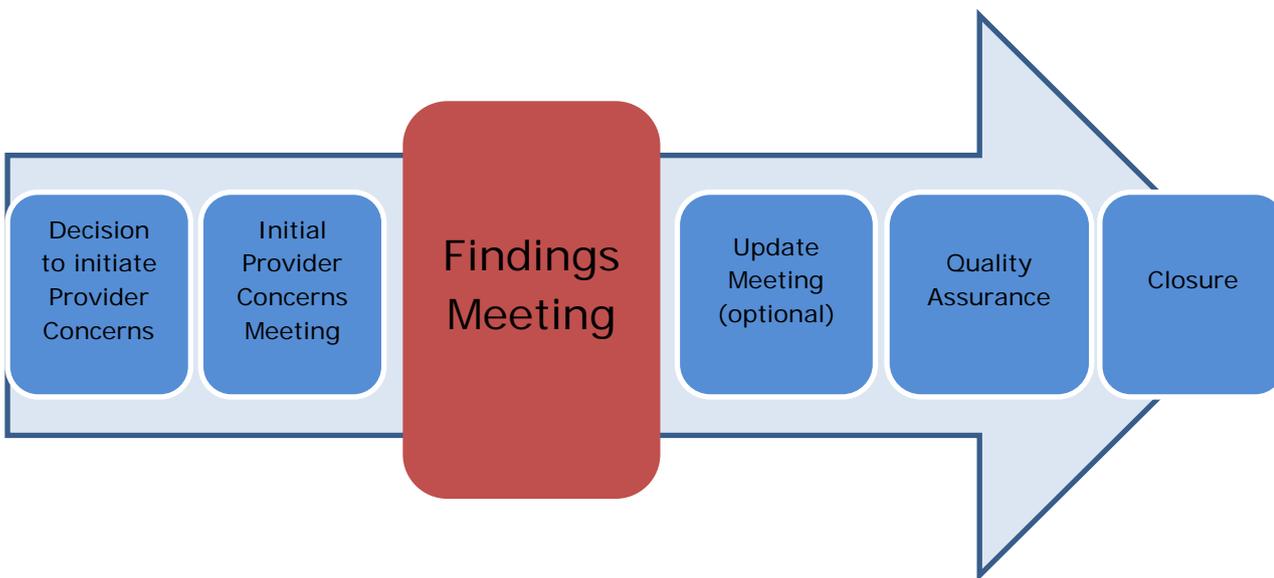
### Communication with the Provider’s Service Users

Information sharing should always include adults who use the Provider’s services and their carers so that there is transparency and, they are able to make informed choices and retain their independence.

Effective communication with adults is essential. They will be kept updated (where appropriate) so that if emergency decisions are made, they have a greater understanding of the associated risks.

Adults who are thought to lack capacity to make a specific decision need to be provided with all practicable support to enable them to make their own decision before it can be concluded that they lack capacity regarding the decision and a best interests process is entered into. This may be achieved in a variety of ways such as the help of a family member or friend an advocate or Independent Mental Capacity Advocate, an interpreter or other communication assistance or aids.

### Stage 3: Findings Meeting



The purpose of the Finding Meetings stage is to:

- Consider any other relevant information such as previous safeguarding or quality concerns;
- Finalise the Improvement Plan and agree how any identified risks are being mitigated;
- Consider commissioning intentions;
- Consider the interface with any Police investigations.

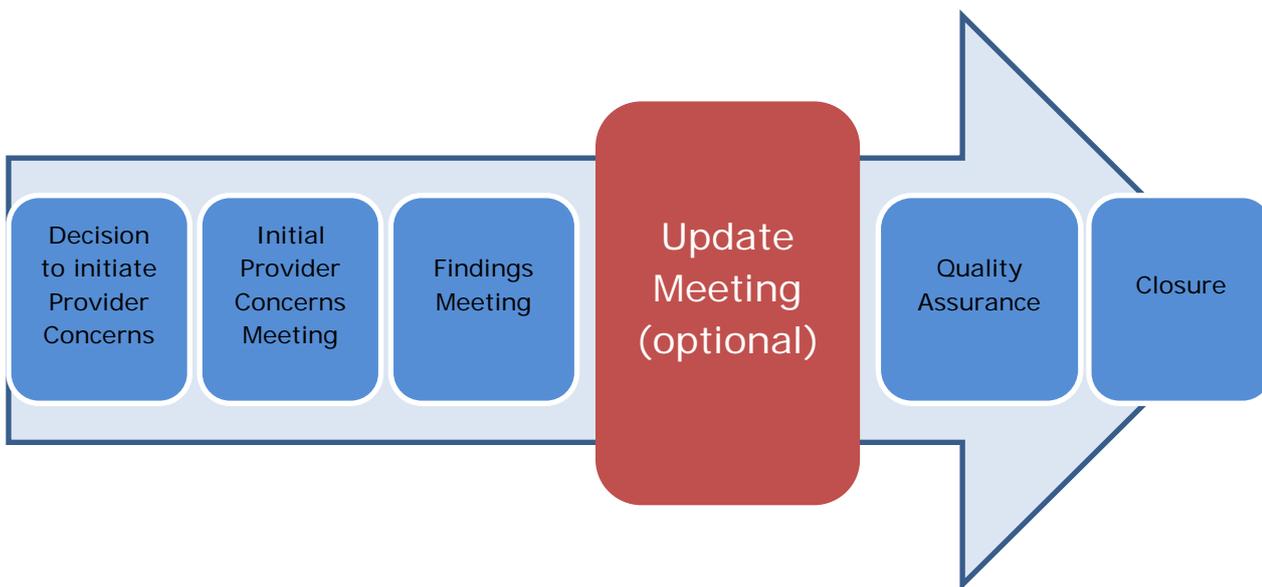
### Improvement Plan

This is the plan for measuring the effectiveness of interventions to ensure safety, governance, compliance, clinical effectiveness referencing throughout, the experience/vies/desired outcomes of adults using the service and their informal network. This must be in accordance with any recommendations Contracts and Commissioning have in place.

If there is a Contract Officer, or other relevant member of staff they should be part of these meetings.

In the event that the Provider advises that they are unable to make the improvements or of possible service failure or interruptions, a further meeting with all stakeholders should be convened to assess risks and impact on service users to determine commissioning based on the risk and safety of adults using the service. The position in relation to the contract should also be considered at this time, if it hasn't already been considered.

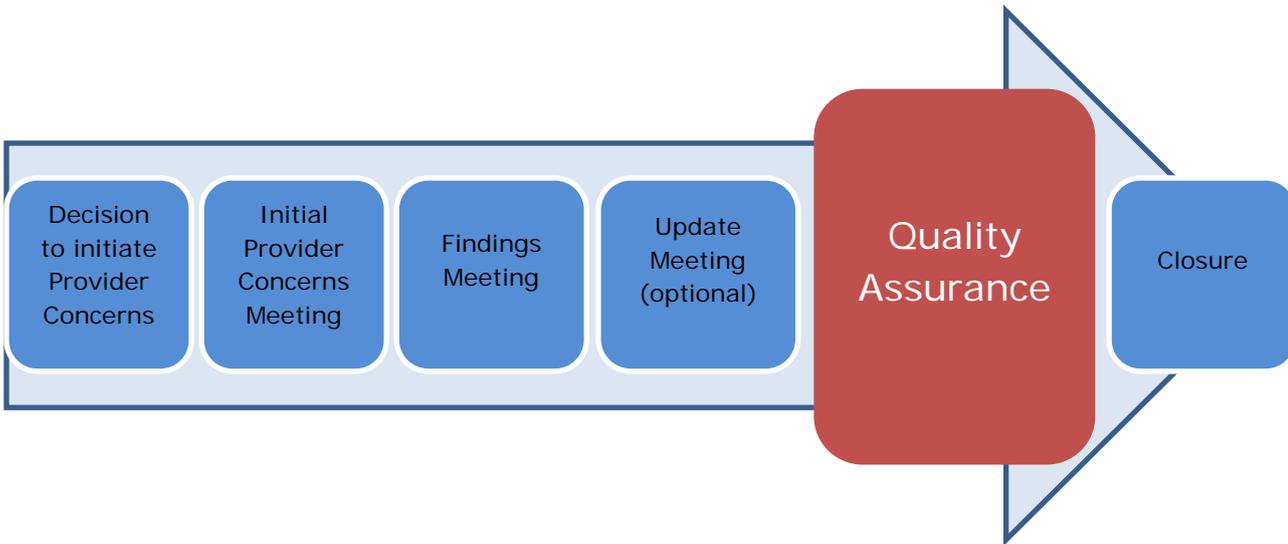
**Stage 4: Update Meeting (optional)**



The purpose of the Update Meetings is as follows:

Further meetings to update stakeholders will be made if and when necessary. Where there are wide reaching, complex concerns, and there is high risk, it is likely that updated meetings are needed more frequently. Where there are serious delays by the provider to implement improvements, a further meeting should always be held to consider the level of risk and appropriate action. Focus should be on risk and the impact on adults using the service. It is important to distinguish between what is safeguarding and what are commissioning responsibilities and if further incidents have occurred.

**Stage 5: Quality Assurance**



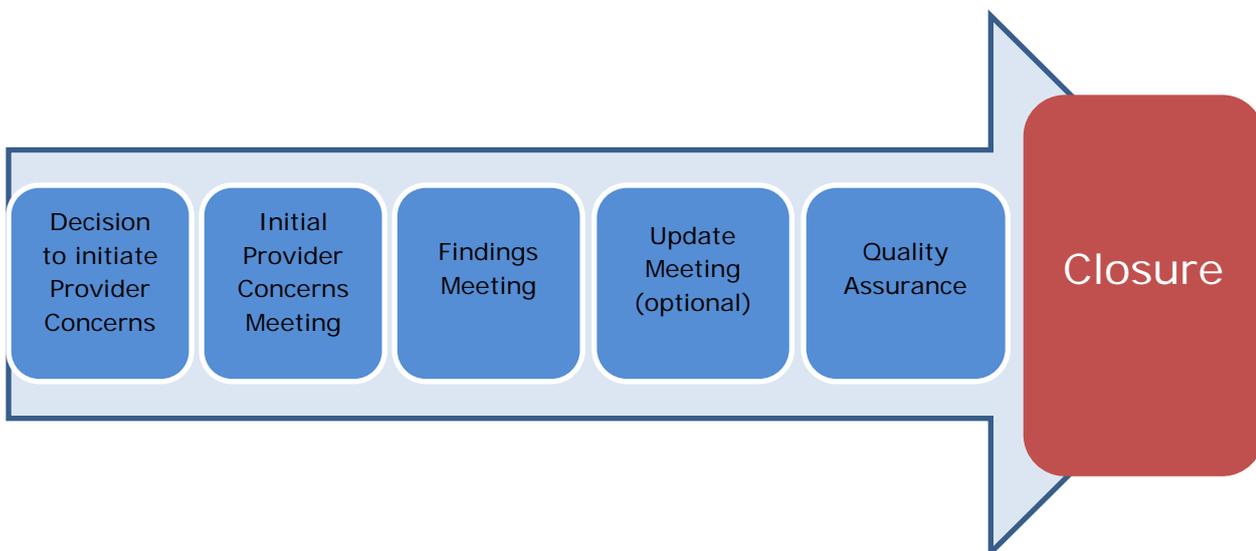
The purpose of the Quality Assurance stage is as follows:

A Quality Assurance strategy should be agreed. The purpose is to rigorously test whether improvements have been attained and can be sustained. This may include involving a range of staff with the right knowledge, skills and experience to assess the viability of the improvements and might be the same staff involved in fact finding so that they can provide a comparative narrative.

Obtaining feedback from adults and carers can act as a further measure to assess whether there has been any noted difference in the service delivery. This may be obtained from holding a follow up meeting with adults in care settings or from a sample of telephone calls to those adults who said that they had experienced a poor service, to see if their view has changed.

Support from Healthwatch may be appropriate to help seek an independent assurance.

**Stage 6: Closing the Provider Concerns Process**



The purpose of the closure stage is as follows:

Following evidence based improvement, the process will formally come to an end and the relevant parties including the provider and the CQC will be notified in writing by the Chair.

### **Where Concerns Remain**

Where there are ongoing concerns and resolution does not look likely to occur and risks remain high, the Quality Safeguarding Information Group (QSIG) must be notified so that a decision can be made as to whether it is escalated to the Strategic Provider Concerns Group.

### **Links to other Policies**

#### **Emergency Planning**

#### **West Sussex Joint Management of Care and Nursing home Incidents: Practice guidance**

The purpose of this document is to provide pre agreed working arrangements for response to incidents involving the capacity of care and nursing home provision. Care homes are people's homes and people should be able to live there as long as they want. Unfortunately this may not always be possible due to circumstances affecting the running of the home.

**Emergency Planning Guidance can be found [here](#).**