
West Sussex
Safeguarding Adults
Board
Making Safeguarding Personal



West Sussex Safeguarding Adults Board

Operational Framework for Managing Provider Concerns

Document history

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1. Purpose

- 1.1. This document underpins the Pan Sussex Safeguarding Procedures. It seeks to outline the operational framework for managing safeguarding provider concerns.
- 1.2. 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.
- 1.3. The Quality Assurance and Safeguarding Information Group (QASIG) can also request a decision to initiate a meeting or discussion to be held for any providers identified by the group as being of concern.
- 1.4. 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.

2. Guiding principles

- 2.1 Whilst West Sussex County Council (WSSCC) 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.
- 2.2 This framework supports the need to have individual Section 42 safeguarding enquiries and the adherence to the key principle of Making Safeguarding Personal. From safeguarding enquiries, the key themes found, identified risks and outcomes for the adult should be recognised and considered in the provider concern process.
- 2.3 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.
- 2.4 The provider concerns framework aligns to the principles of no delay.
- 2.5 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 coordinated response;
 - Single or several people/organisations with significant power and authority to cause abuse or neglect to adults.

3. Involvement of the provider representative

- 3.1. 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.

4. Roles and responsibilities

4.1. Host authority

- 4.1.1. The host authority is the local authority and Integrated Care Board (ICB) 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/ICBs are making placements, alerting them, and liaising with them over the issues in question/under investigation;
 - Coordinating 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.
- 4.1.2. The local authority and ICB have the above responsibilities regardless of whether an adult is funded by the local authority or is a self-funder.

4.2. Placing authority

- 4.2.1. The local authority (or ICB) that has commissioned the service for an individual(s) delivered by a provider. The placing authority/ICB 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.

4.3. The Care Quality Commission (CQC)

- 4.3.1. 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?
- 4.3.2. 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.

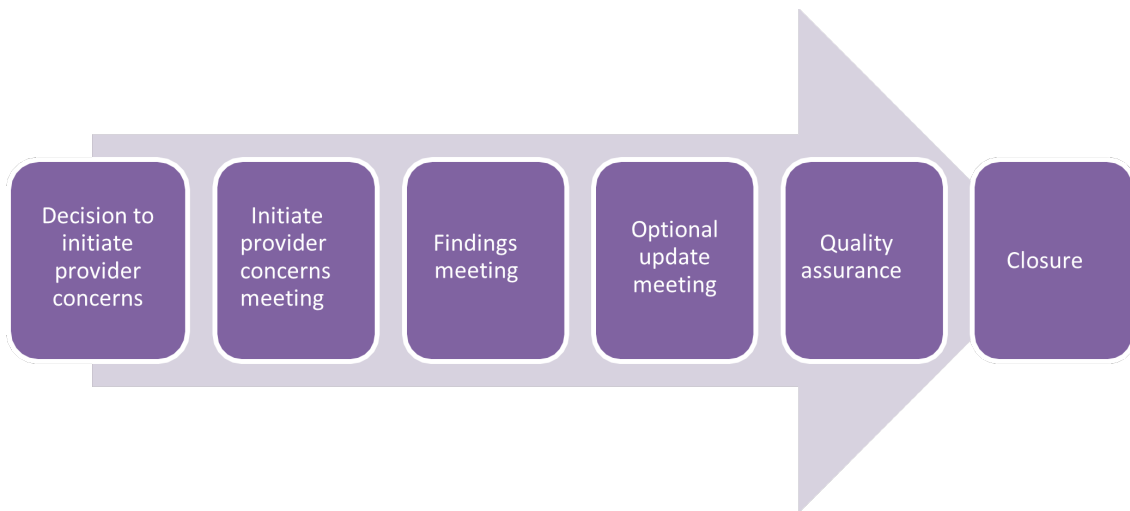
4.4. Lead agency

- 4.4.1. A lead agency should be identified and will be responsible for coordinating 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.

5. Provider concerns stages

- 5.1. 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



6. Stage 1: Decision to initiate provider concerns process

- 6.1. The purpose of this stage is to determine whether to initiate provider concerns. This includes:

- Overview of current level and impact of risk;
- Consider current welfare checks of residents;
- Any active criminal investigations;
- Consider the need to contact placing authorities;
- Clarify arrangements for contacting the provider;
- Decision to initiate provider concerns meeting.

7. Stage 2: Initial provider concerns meeting

- 7.1. 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
 - Set date for a findings meeting.
- 7.2. The provider will be informed by the Lead Enquiry Officer (LEO) of the concerns 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.
- 7.3. Information sharing regarding a provider of concern is considered on a case-by-case basis. Where there is a service-wide concern, 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. If concerns specifically apply to individual/s with specific needs and there are no wider risks or concerns, information sharing may only be with those on a 'need to know' basis.
- 7.4. 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.
- 7.5. 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.

8. Stage 3: Findings meeting

- 8.1. The purpose of the findings 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 any feedback from service users;
 - Consider commissioning intentions;
 - Consider the interface with any police investigations.
- 8.2. Improvement Plan: This is the plan for measuring the effectiveness of interventions to ensure safety, governance, compliance, clinical effectiveness referencing throughout, the experience/views/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.
- 8.3. If there is a Contract Officer, or other relevant member of staff they should be part of these meetings.
- 8.4. 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.

9. Stage 4: Update meeting (optional)

- 9.1. 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.

10. Stage 5: Quality assurance

- 10.1. 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.

- 10.2. 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.
- 10.3. Support from Healthwatch may be appropriate to help seek an independent assurance.
- 10.4. Where there are ongoing concerns and resolution does not look likely to occur and risks remain high, the QASIG subgroup must be notified so that a decision can be made as to whether it is escalated to the Strategic Provider Concerns Group.

11. Stage 6: Closing the provider concerns process

- 11.1. 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.
- 11.2. Other policies relevant to this framework:
 - Emergency Planning
 - West Sussex Joint Management of Care and Nursing home Incidents: Practice guidance
 - Information Sharing Guide and Protocol

12. Emergency planning

- 12.1. An urgent meeting should always be held between the relevant Heads of Service, including Contracts and Commissioning, if a safeguarding provider concern indicates that the emergency planning procedure should be invoked. The criteria for invoking the West Sussex Joint Care and Nursing Closure Response Plan is as follows:
 - Emergency, temporary/permanent closure – There is an emergency situation, e.g., an emergency closure (by the CQC); an emergency temporary/permanent closure/evacuation due to a natural disaster or other incident such as a fire, flood, unsafe conditions of the building etc; immediate withdrawal of contract by health or social care, due to safeguarding or catastrophic management or financial failure;
 - Planned closure - where Notice of Intent by a provider to cease provision of business under the contract notice period e.g., market exit by provider - notice given as per contract; CQC issue a notice of Proposal then Notice of Decision to remove a location from the registration.