



## CITY OF WOLVERHAMPTON COUNCIL

### Adult Social Care Quality Assurance Framework and Suspensions 2024 - 2034

#### Document Control

<b>Document Ref:</b>		<b>Date Created:</b>	9 <sup>th</sup> February 2024
<b>Version:</b>		<b>Date Modified:</b>	
<b>Revision due</b>			
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<b>Equality Impact Assessment (EIA):</b>	Date undertaken:		
	Issues (if any)		

#### Change History

Version	Date	Description	Lead Name
1.0	20/10/2023	Initial draft	Tracy Lockwood, QAF Lead
1.1	01/12/2023	Second draft	
1.2	07/01/23	Third draft	
1.3	09/02/24	Fourth draft	

Review Date: January 2025

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## Glossary

QAF	Quality Assurance Framework
CWC	The City of Wolverhampton Council
ASC	Adult Social Care
ACT	Adult Commissioning Team
PH	Public Health
ICB	Integrated Care Board
CQC	Care Quality Commission
KLOE	Key Lines of Enquiry
KPI	Key Performance Indicator
PST	Personalised Support Team
EMARF	Electronic Multi Agency Referral Form
RWT	The Royal Wolverhampton NHS Trust
LA	Local Authority
MASM	Multi Agency Safeguarding Meetings
CHC	Continuing Healthcare

### 1.0 Provider Quality Assurance Framework

- 1.1 A Quality Assurance Framework (QAF) is in place to evidence if services are providing quality services in line with the Care Act and the City of Wolverhampton's Adult Social Care Commissioning Team's compliance expectation outlined in this policy. This provides effectiveness and impact in securing safety whilst mitigating risk for people living in Wolverhampton.
- 1.2 The Council is responsible for assessing, planning and commissioning Adult Social Care (ASC) services to meet the needs of all within their area who are entitled to public funding, and those who are self-funding and carers, utilising our services to:
- I. Organise procurement, commissioning and contract monitoring arrangements with providers in line with the Department of Health and Social Care guidance on effective commissioning for outcomes.
  - II. Require improvements in outputs and outcomes to be delivered as necessary and as specified in contracts with ASC providers.
  - III. Provide monitoring and improvement information to ASC providers.
  - IV. Support a market that delivers a wide range of sustainable high-quality care and support services that will be available to the community.
- 1.3 All future contracts will include stipulations for providers to adhere to the Quality Assurance and Suspension Policy. All placements and packages purchased without a

contract or framework, will also be expected to adhere to this policy, depending on location of accommodation or main premises.

## Principles

1.4 The Council's aim to build a robust, fair and cooperative quality assurance framework, is not only based on particular schedules, points in time to audit and inspect, or based on contract monitoring stipulations, but also to ensure that council officers, service managers and their staff are assessing and monitoring quality on a daily basis.

1.5 Adult Social Care quality assurance principles in the table below, when working with our marketplace are based on mutual goals that all parties must meet and follow:

Individual Voices	Individuals accessing services are the most important voices when understanding quality of their care. This includes their families, friends and representatives as well. That is why it is necessary to gain feedback and recommendations from those at the heart of these services.
Cooperation	Providing an objective and welcoming environment, where providers can be transparent and feel supported that their quality concerns, while ensuring 'individuals' are safe and in good quality services.
Leadership	Leading by example in our approach to delivering quality services, setting achievable and realistic outcomes, while providing professionalism.
Culture	A person-centred and strength-based approach, that is fair, equal, respectful and proactive.
Workforce	A workforce that is sustainable and professional with appropriate skills and qualifications. Sufficient training, supervision and assessment of induction programmes that include updated recommendations from regulatory bodies and educational organisations.
Participation	All providers are to participate in quality assurance activities: <ul style="list-style-type: none"> <li>• All commissioned services</li> <li>• Non-commissioned services within Wolverhampton city borders</li> </ul> <p>This includes self-assessments, desktop exercises including requesting further evidence and monitoring visits</p>
Outcome-based	Improving performance, mitigating risk and measuring impact is necessary to understand if commissioning and quality interventions are creating and enabling better quality.

Community Partners	The Council must not work in isolation, that's why our relationships with other authorities, the third sector and our market are so important in building pathways and partnerships.
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## Purpose

- 1.6 The social care market is not isolated from the impacts of global changes and crisis's, this includes the authorities that monitor the businesses supplying services. Changes in procurement legislation, a global pandemic and conflicts impacting the economical parameters over the past several years, requires changes in ways of working with our partners with the city and surrounding boroughs.
- 1.7 The new assurance approach in relationships with our service providers and the mechanisms to measure risk ensure a more robust and concise system, enabling the following outcomes:
- A. **Accountability** for our Providers but also for the Council through evidence-based monitoring and a quality board
  - B. **Culture change** with between Parties by building relationships with our Providers through partnership and cooperation
  - C. Monitoring will be **fair**, as **objective** as possible using data and intelligence as our guide (i.e., self-assessments, scoring mechanisms)
  - D. **Supporting** and **guidance** on quality assurance through best practice recommendations and prevention methods
  - E. **Understanding** and **transparency** of triggers that may lead to a Provider Failure and supporting them to increase quality of service
  - F. Reduce unnecessary **monitoring visits** that take up significant capacity, ensuring visits only occur as a targeted exercise when there is a serious concern or build-up of various concerns that cannot be monitored through a desktop exercise
  - G. **Pro-active** when there is a suspension in place to ensure it is lifted as soon as possible during reviews and rectifications

- H. **Identifying risk** sooner through automated RAG and scoring mechanism leading to **Prevention** in escalating risk and provider failure (insolvency)
- I. **Streamlined** and real time data updates enabling a more accurate analysis from Council systems as well as from the market from self-assessments and contractual outcomes and data outputs, in-line with local and national digital goals

## Strategic Aims

- 1.8 City of Wolverhampton Council's 'Our City: Our Plan 2023/2024'<sup>1</sup> outlines a new approach to working with partners and local communities using a 'place-based' approach that uses a co-operative initiative to create resilience and sustainability. The plan sets out 6 priorities shaped by local people:
- 1) Strong families where children grow up well and achieve their full potential
  - 2) Fulfilled lives for all with quality care for those that need it
  - 3) Healthy, inclusive communities
  - 4) Good homes in well-connected neighbourhoods
  - 5) More local people into good jobs and training
  - 6) Thriving economy in all parts of the city
- 1.9 The QAF enables the council and our providers, to work together with transparency and through collaboration. The aim is to identify concerns and issues to support the services to mitigate risk, ensure safety and prevent a provider having a 'suspension' in place.
- 1.10 Three cross cutting principles within the plan in clause 1.5 include climate consciousness, fairness and equality and for infrastructure to be driven by digitalisation. Digitalisation will include reporting and provider submissions through contract and quality monitoring forms and/or software platforms. All planning for new digitalised systems will include partner and provider support and engagement. Wolverhampton's digital strategy (2022) can be found at <https://digitalwolves.co.uk/pdf/Digital-Wolverhampton-Strategy-March-2022.pdf>

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<sup>1</sup> City of Wolverhampton Council. *Our City: Our Plan 2023/2024*. Available at: <https://www.wolverhampton.gov.uk/sites/default/files/2023-03/Our%20Council%20Plan%202019-2024%20%28Mar%2023%29.pdf>

## **Applicable To**

- 1.11 City of Wolverhampton Council employees in Adult Social Care and supporting departments.
- 1.12 Partner organisations and regulatory authorities including Integrated Care Board (ICB) and Care Quality Commission (CQC).
- 1.13 Providers that have a premises in the City of Wolverhampton, where the Council is the host authority, will be expected to complete self-assessments pertaining to their service area, will be expected to comply with the provider failure procedure and suspension process. Where the provider does not have a premises in the city borders, the Quality Assurance Framework's self-assessments and provider failure procedure is not applicable, but the suspension process does apply.
- 1.14 Providers that are hosted by another local authority, will be requested by the Adults Commissioning Team for quality assurance data and information from the relevant authority commissioning team where there is current ongoing packages and placements in place. As well as any provider under a new contract or framework commissioned after the publishing of the policy and any purchasing of a placement that is not aligned or attached to a contract or framework
- 1.15 Information and data can be shared with other regulatory authorities, officials and the Integrated Care Board (NHS).

## **Responsibilities**

- 1.16 The Director of Adult Social Care has overall responsibility for ensuring that this policy is managed appropriately in accordance with these agreed standards, with delegated authority given to the Deputy Director of Commissioning and Transformation.
- 1.17 The Head of Commissioning is responsible for:
- I. Directing and reviewing this standard.
  - II. Publishing and promoting the adoption of this standard.
  - III. Ensuring compliance with published standards, procedures, working practices and technology changes.
- 1.18 All City of Wolverhampton Council ASC and Public Health (PH) staff, internal and external Providers of social care services, and external agencies (sub-commissioned



services) working with those Providers are responsible for familiarising themselves with and ensuring that they comply with this standard.

## **2.0 Adult Commissioning Team (ACT)**

- 2.1 The core duties of the ACT across the council are to contract manage and monitor adult social care services commissioned to providers based on the QAF, individual contracts and frameworks. Each Commissioning Officer and Quality & Contract Officer will oversee their service area while utilising this framework to ensure quality standards and compliance and follow the suspension process, as and when required.
- 2.2 One of the Council's core services is ensuring the wellbeing of children, young people, and adults, however in this policy the focus is on adult social care services. The ACT can provide guidance and recommendations on quality and safety to providers who work with Wolverhampton individuals that are funded by social care and public health or self-funded, however, this cannot be provided for business- and growth-related concerns.
- 2.3 There should be a differentiation of quality assurance assessments from contract key performance indicators submissions. However, the Commissioners may request to discuss any queries during contract monitoring meetings that could also include contractual discussions.
- 2.4 Complaints about the service from a commissioned or non-commissioned provider that resides in the City of Wolverhampton, should always be addressed with the Provider first through their 'complaints process'. Providers will be monitored on their complaints process and number of complaints through the quality monitoring process. If a professional, individual accessing a service, family member or general public do not agree with the final outcome of a complaint of a provider, post appeal, can then make a complaint to the Council through our 'Customer Feedback' webpage - <https://www.wolverhampton.gov.uk/contact-us/customer-feedback>.
- 2.5 The ACT work to drive up the quality of services within the City of Wolverhampton and ensure that there is a wide range of high-quality providers within Wolverhampton's demographics, whose services will ensure individuals are able to maintain a good quality life. The ACT monitors, reviews and supports the Wolverhampton's third-party sector, as well, ensuring that those who receive services are safe.

- 2.6 A key priority for improvement is safeguarding adults at risk of abuse and neglect. Wolverhampton has adopted the West Midlands regional adults safeguarding policy and procedures<sup>2</sup>. The Council seeks to identify issues before they become safeguarding matters and work with providers to improve standards before there is a serious incident. This is achieved through an effective quality assurance programme.
- 2.7 The objectives of the Senior Commissioning Officer, Commissioning Officer and Quality & Contract Officers are:
- I. To support safe commissioning of social care services of Wolverhampton,
  - II. To be quality centred with an effective and innovative market base,
  - III. To monitor and respond to intelligence that may indicate that there is a problem with service delivery (i.e., service growth/decrease, quality and contract monitoring submissions, CQC reports, whistleblowers, complaints, safeguarding alerts, information from other agencies/Local Authorities),
    - this includes carrying out reviews and monitoring the progress of improvement and action plans,
  - IV. To offer challenge, support, information and guidance to services to improve the quality of services being delivered across Wolverhampton and consistently deliver effective outcomes which meet needs of people.

## Legislation

- 2.8 The City of Wolverhampton Adult Commissioning Team are guided by the following institutions and policies that help shape safety of services provided to our individuals, equality to ensure good services are available to those in need and the most up to date technology and programmes.

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<sup>2</sup> Warwickshire County Council. *Adult Safeguarding: Multi-agency policy & procedures for the protection of adults with care & support needs in the West Midlands*. Available at: <https://www.safeguardingwarwickshire.co.uk/images/downloads/West-Midlands-Policy-and-Procedure/WM Adult Safeguarding PP v20 Nov 2019.pdf>

2.9 Care Act 2014<sup>3</sup> includes the following Parts and Schedules that all providers and local authorities must adhere to:

Part 1 – Care and support  
2 – Care standards  
3 – Health  
4 – Health and social care  
5 - General

Schedule 1 – Cross border placements  
2 – Safeguarding Adults Board  
3 – Discharge of hospital patients with care and support needs  
4 – Direct payments: after care under the Mental Health Act 1983  
5 – Health Education England  
6 – Local Education and Training Boards  
7 – The Health Research Authority  
8 – Research ethics committees: amendments

2.10 The Council has a number of duties and requirements under the Care Act 2014 to “promote individual well-being” and “promoting diversity and quality in provision of services”. This includes a duty relating to “suitability of living arrangements” 1: 2: (h) and “has a variety of high quality services to choose from” 5:1(b).

2.11 City of Wolverhampton Council also has a duty under (s18) to meet the adult’s assessed care and support needs (provided qualifying conditions are met).

2.12 The regulations that govern home care and residential social care for adults are set down in the Health and Social Care Act 2008 and associated Regulations, including;

- The Health and Social Care Act 2008<sup>4</sup> (Regulated Activities) Regulations 2014
- Care Quality Commission (Registration) Regulations 2009<sup>5</sup>

2.13 Statutory duties for public health were conferred on local authorities by the Health and Social Care Act 2012. Local authorities are, since 1 April 2013, responsible for improving the health of their local population and for public health services including most sexual health services and services aimed at reducing drug and alcohol misuse.

2.14 Care Quality Commission are the independent regulator of health and social care across England. All providers offering health and care services must be registered and inspected according to the regulator’s fundamental standards<sup>6</sup>:

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<sup>3</sup> UK Government. *Care Act 2014*. Available at: <https://www.legislation.gov.uk/ukpga/2014/23/contents/enacted>

<sup>4</sup> The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. Available at: <https://www.legislation.gov.uk/ukdsi/2014/978011117613/contents>

<sup>5</sup> The Care Quality Commission (Registration) Regulations 2009. Available at: <https://www.legislation.gov.uk/uksi/2009/3112/contents/made>

<sup>6</sup> Care Quality Commission. *The fundamental standards*. Available at: <https://www.cqc.org.uk/about-us/fundamental-standards>

- Person-centred care
- Dignity & respect
- Consent
- Safety
- Safeguarding from abuse
- Food and drink
- Premises and equipment
- Complaints
- Good governance
- Staffing
- Fit and proper staff
- Duty of candour
- Display of ratings

2.15 National Institute for Health and Care Excellence set out priority areas for quality improvement<sup>7</sup> and is an important source for services to utilise guidance around treating and managing specific conditions and diseases, technological appraisals and diagnostics.

### Partnership and Intelligence

2.16 Collating intelligence and information will support the commissioning and quality assurance teams to early identify risk levels to enable early intervention and mitigation. Professionals, whistleblowers, individuals, families and the public are able to inform the council of any provider quality issues and complaints after the Provider complaints process has been exhausted via the Adults Commissioning Team's generic email address [peoplequalityassurance.&compliance@wolverhampton.gov.uk](mailto:peoplequalityassurance.&compliance@wolverhampton.gov.uk).

2.17 Intelligence and information support the councils monitoring of services through:

- Gaining a holistic view of quality stipulations so we can recognise and learn from good practice and identify areas that require improvement,
- Being open and transparent across the partnership about risk and areas in need of improvement,
- Identifying priorities for the commissioning and quality teams and partners to feed into social care strategies,
- Evidencing continuous improvement over time, how long this takes and what is required to be successful.

2.18 Information sharing meetings between ICB, CQC, the Royal Wolverhampton NHS Trust (RWT) and the Council takes place at meetings and through email. Meetings are set

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<sup>7</sup> NICE. *How to use quality standards*. Available at: <https://www.nice.org.uk/standards-and-indicators/how-to-use-quality-standards>

weekly, fortnightly or monthly, depending on levels of concerns on quality or urgent issues.

- 2.19 Joint visits can be carried out with partnering authorities and organisations who can provide specialist skills in nursing (ICB) and infection control and district nursing (RWT). This also includes Environmental Health, Housing, Fire Service, etc.
- 2.20 Safeguarding enquires will be carried out by the council's social work team and managed by a Multi Agency Safeguarding Meetings (MASM) if required. The Commissioning Officer in the FCT may be requested to contribute to the enquiry.
- 2.21 Quality monitoring of our services is outlined in clauses 2.24 to 2.29. Expectations, with all contract monitoring outlined in each individual contract service area.
- 2.22 ASC dashboards include brokering services, operations assessments, commissioning (spend and service area information) and quality assurance (self-assessments, CQC ratings, concerns and issues and risk) to enable council teams to access 'real time' data of their services.
- 2.23 NHS Tracker listing care home voids, that was created during the covid era to ensure commissioners to have intelligence on bed voids and purchasing opportunities.

### **Adult Social Care Quality Assurance Expectations**

- 2.24 The Council expects that all providers have in place effective quality assurance and monitoring in compliance with their own regulatory and governance requirements. The Council will therefore seek assurance from providers through evidencing that they can demonstrate:

- ✓ Individuals are safe
- ✓ Services are innovative and effective
- ✓ Good practice is always adhered to

This will be enabled through quality assurance self-assessments of individual care services within the borders of Wolverhampton will be required to complete whether they are commissioned by the Local Authority or not.

- 2.25 Commissioning Officers and Quality & Contract Officers will monitor and assess regularly as standard practice, following the methodology in table below, to ensure

accuracy and objectivity in their daily tasks to ascertain risk levels and prevent provider failure:

<b>Monitoring and assessing</b>	Evidence and intelligence
	Consider and evaluate evidence against quality standards
	Review quality and identify anything that falls short, any strengths and weaknesses
<b>Knowledge and improvement</b>	Outline actions to address strengths, weaknesses and concerns
	Inform services of recommended actions to meet standards
	Follow up to ensure actions and mobilisation, its impact and outcomes

- 2.26 Clauses 2.33 to 2.39 include the social care quality assurance themes that providers will be requested to answer through a list of overarching quality assurance queries through annual reviews (business related, all services) and quarterly assessments (service specific, some services do not apply) based on CQC’s KLOE (key lines of enquiry) themes through a self-assessment document or software platform. Quality assurance queries will vary depending on service type, particularly residential and accommodation services and those carried out in the individual’s home and/or community. Officers may then request evidence to the answers through documentation or pictures. Where significant or serious risk has been identified, a premises monitoring visit (if applicable) may occur with other authorities included as a joint visit (i.e., ICB or RWT).
- 2.27 Quality performance outcomes will be used as a guidance to best practice, however, if improvements to outcomes are not achieved over a reasonable period of time, this could lead to targeted monitoring, or suspension.
- 2.28 Any quality or performance KPIs listed in your current service contract/s that are duplicated or similar to the new quality questionnaires listed in this policy, will be omitted from your contract monitoring submission request.
- 2.29 Quality expectations may be revised based on changes to legislation, demography, individual’s needs, demand and crisis situations.

## **General, Business and Leadership**

- 2.30 General information regarding the business information including registration details, service type, accommodation type and latest CQC ratings. Information requests will vary depending on service type and whether the business is CQC rated.
- 2.31 A request for relevant insurance policies, GDPR guidance and health and safety company and any action plans.
- 2.32 Management and leadership structure, retention and stability.

## **Key Lines of Enquiry – Residential / Accommodation**

- 2.33 Clauses 2.33 to 2.38 relates to those services that are residential (i.e., nursing and residential care homes), supported living and sheltered housing.
- 2.34 A safe service and living environment:
1. Safeguarding
  2. Health and safety
  3. Policies and procedures
  4. Leadership and staffing
  5. Recruitment
  6. Medication
  7. Accidents and incidences
- 2.35 Services that are effective in producing its desired outcomes for individuals:
8. Training
  9. Food and nutrition
  10. Access to NHS Commissioned Services
  11. Physical environment
- 2.36 Are services caring and supportive to its cohort:
12. Care and support
  13. Activities
- 2.37 Are services responsive to the needs of its individuals, specialist cohort and enables a voice to all:

14. Care planning and risk assessments
15. End of life (not applicable to Supported Living Accommodation)
16. Complaints and compliments

2.38 Ensuring a well-led service includes checks and balances are in place through assurance checks and scheduling and auditing tools:

17. Quality assurance and auditing

### **Home Care and Community Care**

2.39 The eleven themes below relate to those services that are carried out in the individual's home environment or a community setting where the individual does not reside (i.e., home care, reablement, day opportunities, advocacy, prevention, etc).

1. Safeguarding
2. Policies and procedures
3. Leadership and staffing
4. Recruitment
5. Medication
6. Accidents and incidences
7. Training
8. Care and support
9. Care planning and risk assessment
10. Complaints and compliments
11. Quality assurance and auditing

### **Monitoring Visits and Feedback**

2.40 All services will receive written feedback from the Adults Commissioning Team after annual and quarterly quality assurance self-assessments and/or on premises monitoring visits. Unannounced monitoring visit for care homes, supported living and sheltered housing will take place when there is a high risk of quality and safeguarding concerns.

2.41 Services that are carried out in the individual's home or community where there is no accommodation required, will be required to complete desktop self-assessments only and will only require an office monitoring visit in the case of a serious concern of data protection and record keeping.



## **Supporting our Social Care Providers**

- 2.42 The Adult Commissioning Team are at hand to provide guidance and to aid and support improvements and change to rectify quality issues, particularly in times of crisis to help prevent provider service failure and business closure while ensuring an acceptable level of service and safety. The commissioning team must not provide financial and business advice to managers or proprietors. Officers within the authority must be objective when assessing the quality of their services and not interfere with the free market.
- 2.43 As part of a quality improvement initiative, Providers are encouraged to develop their own action plans and rectification schedules that should be shared with the Council that may not part of the official suspension process, however, lack of completion of rectification in a timely and reasonable manner could lead to an escalation of quality concerns.
- 2.44 Where a suspension of a provider on the grounds of quality contribute to a financial failure of the business, the Council will not accept liability and shall have no obligation to contract with a provider if that provider is unable or unwilling to offer an acceptable quality of service. Where the imposition or impact of suspension be such that the provider threatens or is forced into closure, Provider Failure Procedures in section 7 will apply.
- 2.45 The Provider Failure Procedures will also apply where the Council takes a decision to offer service users a move away from a specific service, and this leads to the provider making a decision to withdraw from the market.

### **3.0 Provider Failure Procedures (See Appendix 1 for Action Plan)**

- 3.1 Where care Providers exit the market in a way that adversely impacts on their ability to manage the closure of the service in a planned way, these procedures aim to give the Council and Providers clear guidelines on how any failures can be mitigated and managed to minimise the risk to people who use our services.
- 3.2 Where there are concerns about a Provider's sustainability in the market, the Head of Commissioning and Senior Commissioning Officer for their specific service area, will set up a Service Failure Working Group and will be responsible in leading to:

1. Identify where a provider is displaying signs of failing and agree the approach as a support and guidance on improvements.
2. Review the progress and take actions if targets are unmet or unsatisfactory.
3. Agree on a deadline in each case, where support is withdrawn, and the Council makes the decision to relocate residents/users of the service if it's a care home or accommodation based or move to another service if home care or a community package.

This group may will include stakeholders listed in clause 4.11 below, as well bring other CWC services into these conversations to provide guidance and support, including Legal Services.

3.3 For all the closure situations addressed in this section the Council has various responsibilities and legislative measures to adhere to regarding their duty of care to individuals in receipt of care across Wolverhampton. That each Provider has a 'business continuity' plan in place to ensure the continued provision of their service to individuals in case of a crisis, financial failure or force majeure. This includes all social care Providers within Wolverhampton borders as a 'host' authority, whether or not they are currently commissioned by the local authority.

3.4 Section 48 Temporary Duty on Local Authority of the Care Act place a requirement on local authorities to ensure there is continuity of care in the event of care provider business failure. The City of Wolverhampton Council is required to meet needs regardless of:

- a) whether the relevant adult is ordinarily resident in its area,
- b) whether the authority has carried out a needs assessment, a carer's assessment or a financial assessment,
- c) whether any of the needs meet the eligibility criteria.

The Care Act 2014 imposes legal responsibilities for Local Authorities to oversee the financial stability and ensure that the needs of people continue to be met if their care provider becomes unable to carry on providing care because of business failure.

3.5 If the individual is not ordinarily a resident in Wolverhampton, the Council is still required to meet the needs, and we must do the following:

- a) meet the needs of the individual which are being met under arrangement made by another local authority, co-operate with that authority,
- b) must meet all or part of the cost of which was paid for by another local authority by means of direct payments, co-operate with that local authority,
- c) may recover from the other local authority the cost it incurs in meeting those needs of the individual or carer<sup>8</sup>

3.6 The Council has a duty under the Civil Contingencies Act 2004 to have appropriate emergency plans in place to prevent, reduce, control and/or mitigate the effects of emergencies in the local area. The local authority has a duty of care for individuals within the borough to ensure they are cared for during an emergency incident and in the recovery phase from an incident and has a responsibility to identify vulnerable individuals and premises during an emergency to ensure they are given additional consideration and care.

3.7 The Council has a responsibility for ALL residents within the City that are moved to another service regardless of whether they are funded by the Council or not. All Care Homes that Wolverhampton Council places residents in are required under their contractual terms to have fit for purpose business continuity plans in place. The Council has the right to request and scrutinise plans as they see fit.

3.8 The business or service will be expected to use their continuity plans to manage any emergency that arises. If the continuity plans fail to deal with an emergency situation, then the Council may need to step in to assist as the duty of care for residents still remains with an emphasis on:

1. Contingency planning
2. Identifying needs and suitability when moving
3. Timelines for moving
4. Settling in a new environment

3.9 The Council recognises that the best way to mitigate business failure is to prevent this from happening through early dialogue with Providers. A number of measures can be taken to delay or eliminate the closure prior to any final closure:

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<sup>8</sup> Care Act 2014. *Section 48: Temporary duty on local authority*. Available at: <https://www.legislation.gov.uk/ukpga/2014/23/section/48/enacted>

- Provider must give sufficient notice to the Council and engage in an early dialogue.
- Understanding financial viability
- Suspension history and number of safeguarding referrals and concerns

All the above would need to be outlined in an action plan and risk assessed by the identified project lead within Commissioning. These procedures provide a framework, which outlines the management responsibilities in relation to the unplanned closure of a social care service or business.

**Unplanned Business / Service Failure or Closure**

3.10 Whether or not there is a robust action plan produced by the Provider during an unplanned failure leading to closure, there is still likely to be an interim period in a serious emergency where all individuals will be moved to another service is being established. During this interim period the local authority will work with health partners and other agencies to ensure the safe transition period of the individuals. This plan outlines the arrangements to responding to this type of incident.

3.11 The following situations may arise which could lead to the failure, unplanned closure or temporary closure of a care home in Wolverhampton. During such cases, the Provider will have contingency plans already in place to mitigate risk and must always inform the Director of Adult Social Care, Deputy Director of Transformation of Commissioning and the Head of Commissioning, as well as the CQC Lead. The following failures include:

- A. Business Continuity Failure – this includes a failure that affects the entire business such as loss of staff, loss of heating, water, electricity, etc.
- B. Major Incident – fire or flood a failure that affects the entire business and where emergency services must be contacted in the first instance.
- C. Failure of Facilities – when one specific service area fails and may not require a full closure of moving of individuals.

3.12 Understanding and mitigating risks of all individuals affected:

RISK	MITIGATION
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1. An emergency relocation of vulnerable individuals will produce an unacceptable and dangerous risk to individuals.	All Parties must ensure that relocation is done in a safe manner through planning and understand the individual's health and social care needs.
2. Individual's health condition(s) may deteriorate due to the shock of an unplanned move.	A swift move that provides extra care on relocation to provide any rehabilitation and reablement requirements, or nursing services on hand that may support deterioration and shock.
3. Poor emergency plan which has not considered individual preference.	At point of relocation has been established as must, the social care team discusses choice of new placements and planning move with the individual and their families.
4. Potential lack of suitable beds available with other local providers.	Agree short-term placements until a permanent location can be established.
5. Financial risks to securing alternative provision.	Contingency budget planning within the authority and negotiation with new Providers.
6. Lack of communication leading to actions taking place without the Council's knowledge	Council to ensure that early engagement takes place and officers are part of the planning process.
7. Potential negative media coverage may lead to increased alarm and anxiety.	Provider and Council work together to agree on communications plan and content.
8. Reputational risks of Provider and purchasing local authority.	Ensuring a robust plan is actioned and reviewed daily.

**Rapid Unplanned Business / Service Failure or Closure**

3.13 A business or service could have to close at short notice following a CQC compliance inspection which identifies that residents are at risk, or the service is in breach of the regulations. Alternatively, a business or service could have to close at short notice because of circumstances that consider the business either no longer financially viable to support individuals or because there has been a breach in Health and Safety that could put residents at risk leading to a temporary closure.

3.14 If a business or service closure is unavoidable, the registered or service manager, local authority and health commissioners must try to manage the pace of the closure in order to reduce the risk to the wellbeing of its individuals. It would be expected that although the service will have a rapid closure that there will be sufficient time to put measures in place to ensure individuals in receipt of service are relocated temporarily in a new home or service until rectifications to the service has taken place or that a permanent new residence or service is established. This will need a co-ordinated response between the Local Authority, ICB (if applicable) other Local Authorities and the Care Provider. This plan outlines the arrangements in place to respond to this type of event.

3.15 The following situation may arise which could lead to the rapid failure/closure or temporary failure/closure of a business or service in Wolverhampton:

- Bankruptcy of the service provider,
- CQC inspection may result in a 28-day closure notice,
- Breach of safety law resulting in enforcement action, including a prohibition,
- Notice, such as the HSE, Environmental Health or Fire Service.

3.16 Understanding and mitigating risks of all individuals affected:

<b>RISK</b>	<b>MITIGATION</b>
1. The moving of vulnerable individuals over a short period of time is a dangerous and unacceptable risk which the rapid home failure/closure presents.	Commissioning and Provider management team working closely with Personalised Support Team (PST) and social work teams to match placements with individuals' specific needs.

<p>2. Individual's health condition(s) may deteriorate due to the stress of a potential move.</p>	<p>A swift move that provides specialist care on relocation to provide any rehabilitation and reablement requirements, or nursing services on hand that may support deterioration and shock. Planning with our Health partners to ensure continuity of care.</p>
<p>3. Poor emergency plan which has not considered individual's preference.</p>	<p>At point of relocation has been established as must, the social care team discusses choice of new placements and planning move with the individual and their families. Where there isn't a support system outside of the home for the individual, independent advocacy must be considered.</p>
<p>4. Potential lack of suitable beds or packages with another home care service available with other local providers.</p>	<p>Agree short-term placements until a permanent location or service can be established.</p>
<p>5. Financial risks to securing alternative provision.</p>	<p>Contingency budget planning within the authority and negotiation with new Providers.</p>
<p>6. Lack of communication leading to actions taking place without the Council's knowledge.</p>	<p>Council to ensure that early engagement takes place and officers are part of the planning process.</p>
<p>7. Potential negative media coverage may lead to increased distress and anxiety.</p>	<p>Provider and Council work together to agree on communications plan and content.</p>
<p>8. Failure/Closure of an establishment which operates numerous services, or the failure/closure of more than one establishment at the same or similar time.</p>	<p>Inform other LA's that maybe affected by failure/closure.</p>

9. The Landlord, where applicable, may change and / or a change of property use may be enforced.	Immediate engagement with new Provider to understand future service and business intentions.
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**Programmed Failure and/or Closure of a Service or Business**

3.17 A service or business may have to close under a structured and programmed closure because of circumstances that deem it to be no longer financially viable to support individuals or a business decision is taken by the owner to close for a range of professional or personal reasons.

3.18 Where closure relates to financial concerns, the Provider will most likely appoint an Administrator for the responsibility of managing the closure particulars and its assets while the service or business is being sold. The individuals may stay with the service or may change due to changes in registration and/or fees. The Council will be involved in the process, however, as the business is private, it is the businesses responsibility to ensure any individuals are relocated or change to the new service except for council funded residents. This may change if the relocation or service change exercise fails, where the Council will then step in to ensure all individuals are safely relocated or the service is reallocated as the host authority and responsibility under the care act. All circumstances must be coordinated between the Provider, Council and in cases of a nursing home closure, the ICB.

3.19 Understanding and mitigating risks of all residents affected:

RISK	MITIGATION
1. Moving individuals to a new home and their belongings or service may pose an increased risk to their well-being, so all measures should be taken to ensure any closure is dealt with in a planned and systematic way.	All Parties working together to ensure each individual's specific condition/s are considered and needs are met during transition. This must also include family, friends, and representatives during this process. Where there isn't a support system outside of the home for the individual, independent advocacy must be considered.

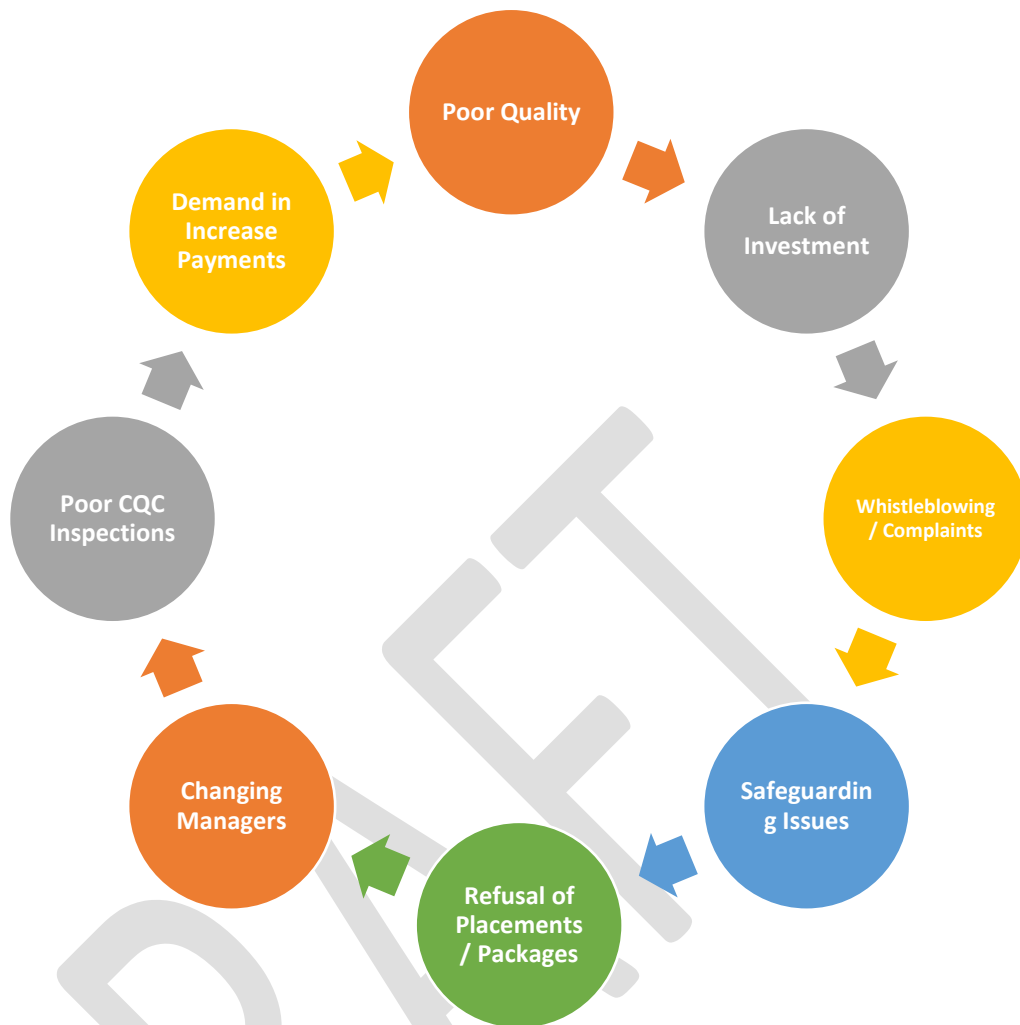


<p>2. Further financial deterioration of the administration process if local authorities stop placing individuals in the affected businesses facilities. This is not in any stakeholders' interests, as further deterioration will make negotiations more difficult and lengthier, increasing the uncertainty for individuals, families and staff.</p>	<p>Provider and Council ensure that the services continue to offer the same levels of care for each individual's needs and renegotiate fees, if applicable. If registration changes, then the Provider and Council work together to ensure moving of individuals and belongings to appropriate accommodations or services.</p>
<p>3. There may be risk of heightened anxiety amongst public, staff and trade unions over the uncertainty of the services future.</p>	<p>Planned communications between the Provider and Council in a public forum, whilst keeping individuals, families, representatives, staff and unions updated on all new occurrences and planned timelines.</p>
<p>4. The Council has no responsibility in regard to the staff or union/company issues which remain a private sector concern. However, the Council must ensure that individuals, families and representatives are reassured that social welfare of vulnerable people will remain our highest priority.</p>	<p>The Council work with the Provider to ensure regular communications and updates.</p>
<p>5. There is likely to be an inaccurate perception that a service or business is going into administration will result in the service being closed and people relocated or reallocated.</p>	<p>Parties to reassure individuals, families, representatives and the public regarding planning and any significant changes.</p>
<p>6. There is a financial risk that the administrator will increase fees which would put an increased financial pressure on commissioners and self-funders.</p>	<p>Council to start financial arrangements at beginning of process with the aim of renegotiations, if applicable.</p>

7. The service staff may be aware of their employers' difficulty and are therefore likely to be concerned about their jobs.	Provider communication updates with staffing whilst keeping the Authority in the loop regarding staff levels.
8. The primary risk of a programmed failure/closure situation is staff migration together with the inability to replace, consequently reaching critical staffing levels.	See mitigation #7.

### Provider Failure Checklist

- 3.20 Quality of care and financial sustainability is crucial to the market. When a business financial position deteriorates, the quality of care it provides tends to be reduced. Poor care can be a sign of financial problems which can lead to lower levels of training for staff and consequently to lower levels of care quality.
- 3.21 The Adults Commissioning Team will take the lead to analyse the financial sustainability on an on-going basis. A cooperative approach working as a partner with our Providers will encourage and enable transparency regarding financial stability whilst allowing the Council to provide guidance regarding increase in quality of services and understanding contracts and frameworks for their service area. This, in turn, will increase likelihood of good performance and overall stability across services.
- 3.22 There are various causes of business failure, which include:
- ✓ Financial,
  - ✓ Regulatory, including safeguarding,
  - ✓ Operational, mismanagement,
  - ✓ Unforeseeable circumstances that prevent the provider fulfilling the contract or unexpected circumstances,
  - ✓ Strategic exits from the market to reshape business objectives.
- 3.23 Commissioners will watch for signs of business failure that do not tend to happen in isolation but appear through various issues within the business. Some examples include:



3.24 When these signs appear, it is within the Council’s and Providers interest to work in partnership to mitigate further deterioration through transparency, communication, action planning (see Appendix 1 for action checklist), and breathing space for rectification, development and transformation, if the business is deemed salvageable.

**Provider Financial Sustainability**

3.25 If a social care Provider declares or the Council identifies that they are having financial difficulty under no circumstances should any financial assistance be made to the provider without the prior approval of the Section 151 Officer in conjunction with Legal Services. Nor should any Officer enter an agreement that is or may be classed as a loan at nil interest.

***This procedure should be read in conjunction with the Financial Procedure Rules contained within the Council’s Constitution.***

3.26 This duty applies temporarily until the local authority is satisfied that each person's needs will be met by a new provider or in a different way. The local authority may make a charge for arranging care and support in these situations.

Read the whole factsheet here: <https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets/care-act-factsheets#factsheet-10-market-oversight-and-provider-failure>

### Initial Notification

3.27 The Head of Commissioning from the Adults Commissioning Team will notify the following Officers, immediately, with details of the Provider, provision type, commissioning particulars including spend, number of packages/placements, any contractual arrangements and safeguarding and quality concerns:

- Director of Adult Social Care
- Deputy Director of Commissioning and Transformation
- Head of Operations (Adult Social Care)
  - Who will notify the Section 151 Officer
- Head of Procurement
- Head of Legal Services
- Head of PST

3.28 The Head of Commissioning will assess current risk of the Providers business viability and a timetable of likelihood of business failure. And will also be the first point of contact with the Provider and person of responsibility within the council. The Head of Commissioning will set up a meeting with the Provider to discuss the financial position and include leads in Operations and Procurement, with each lead requesting various bits of information from the Provider through the commissioning Lead.

3.29 The Commissioner will communicate to the Provider that it is their responsibility to seek alternative funds to support their cash-flow and that under no circumstances should the Provider be offered financial assistance by Council Officers without the prior approval of the Section 151 Officers in conjunction with Legal.

### Outcome of Review

3.30 The Commissioner will lead in developing a report on any meetings with the Provider with evidence and documentation and will ensure that the Provider has evidenced they have explored all options to raise funds to mitigate failure/closure and detail current

financial position of the service or business and reasons for current position. This report must be developed in conjunction with Operations, Legal and Procurement and must consider likelihood of failure.

- 3.31 The report is then submitted to the Director of Adult Social Care, Section 151 Officer, Legal Lead and Deputy Director of Commissioning and Transformation, as well as to the Quality Assurance and Suspension Board as information.
- 3.32 If the Leads agree that that the Provider has explored all options for raising funds and financial assistance is still required to ensure the safety and wellbeing of individuals in receipt of care, then proposals should be drawn up by the Head of Commissioning with the Operations Lead. Options such as making payments in advance for services could be explored with the exception of a loan at nil interest.
- 3.33 Any options must be presented to the Section 151 Officer, DASS and Legal Lead for approval and any payment must be made to provider with written approval from the Section 151 Officer. Legal (if considered necessary) shall draw up documentation detailing the arrangements to be signed by both the Provider and Legal Representative for the Council before any payment is made.

***Any payments made must be in line with Financial Procedures Rules contained within the Council's Constitution.***

- 3.34 The Head of Commissioning will hold regular meetings with the Provider to monitor progress and will update officers on progress and any concerns. If at any point of this process it becomes evident that the Provider is at risk of failure the Provider Failure Procedures will be activated

## **4.0 Provider Suspension Stipulations**

### **Principles**

- 4.1 City of Wolverhampton Council is committed to ensuring that our individuals receive social care services that are the best quality, is innovative and costed fairly, while meeting regulatory guidance measures, regardless of the setting. The Council will act to promote good practice and to protect our individuals against inadequate or substandard care for social care funded eligible and self-funder individuals.

- 4.2 As a Council, we are committed to encouraging new businesses across social care and aim to work collaboratively and in partnership with our providers to ensure services are quality assured and contractually compliant.
- 4.3 'Provider suspension' means that the Council will not agree to fund new placements or may agree to move individuals to other services, if deemed appropriate, and within the service area's contract. Particularly if the service is rated 'inadequate' by the regulating authority.
- 4.4 The Council recognises that a suspension of new business, places providers at a commercial and reputational risk through the suspension process, however the Council's main priority will always be the safety of vulnerable individuals.
- 4.5 The Council will therefore take decisions to impose or remove suspensions by the Director of Adult Social Care or above or when delegated authority is granted to the Deputy Director of Transformation and Commissioning. The decision will be taken on the basis that suspension (or lifting of suspension) is a proportionate response to the concerns identified and in the best interests of present and potential individuals.
- 4.6 Service risk levels will have varied trigger points that could lead to a suspension based on level of risk, number of complaints and issues, vulnerability of the resident cohort and impact of the suspension on the individuals, i.e., suspension where a termination of contract is required could be phased or staggered due to moving of individuals, services, and dwelling.

### **Scope of Policy**

- 4.7 This policy applies to all contracted providers of Adult Social Care. It includes residential care, home care, supported living, extra care and all other contracted services and grant-funded activities across all ages. The policy also applies to 'in-house' services provided by the Council.
- 4.8 For services within Wolverhampton borders that are not commissioned currently by the Council and quality issues and concerns have been report and identified, or where the provider is unwilling to cooperate with a quality assurance assessment or monitoring visit, the Council may wish to embargo the service.
- 4.9 The policy will apply to individual care services. In exceptional cases, where there is evidence that the provider or group (parent company) operates multiple care services

and that there are systemic issues across the organisation(s), the policy can be applied at the level of the service provider (i.e., to all services owned and operated by the provider or group).

- 4.10 This policy deals only with issues arising from quality of care, safety, and competency; as well as issues arising from other aspects of delivery, for example failure to meet key performance indicators, are dealt with in the individual service contracts and/or framework.

### **Stakeholder Map**

- 4.11 The following list details all the key stakeholders who need to be considered and involved whenever this plan is activated:

**Director of Adult Social Care** for their service areas will make the strategic decisions for the Council in response to the event, focusing on strategy, reputation, finance and legal.

**Deputy Director of Commissioning and Transformation** within Adults or Children's social care service areas can be delegated to make Service Director level decisions outlined in the quality assurance and suspension policy.

**Head of Commissioning (Adults)** will take a strategic overview in terms of market development and have the main responsibility for supporting the Senior Commissioning Officer, Commissioning Officer and Quality & Contract Officer and the review team. The Head of Commissioning also has the responsibility to ensure that all current information is communicated to external and internal partners including Procurement, Operations and Legal Services. The Head of Commissioning also convenes and chairs the Quality Escalation Meetings and have overall responsibility for the management of the suspension process and the development of any Action Plan agreed with the service, escalating concerns where appropriate.

**Senior Social Work Manager (Adult) Multi Agency Safeguarding Hub** will chair and co-ordinate a Multi Agency Safeguarding Meetings (MASM), as and when needed. The participants of this meeting will consider and make recommendations on actions arising from adult services safeguarding concerns and investigations.

**Operational (Social Services) teams** will have responsibility for individual Care Management and Assessment. Operational teams have a significant role to play in

reporting concerns and/or changes in service quality, including improvements, to the Adults Commissioning Team. Operational team members may also be asked to undertake adult services safeguarding investigations.

**Providers and their management team** have a responsibility to work co-operatively with council staff, the Regulator (where applicable) and other partners in order to improve the service to a good level.

**Procurement** identifies how the service is contracted and what the terms of the contract are.

**Integrated Care Board (ICB) Commissioner** will review those users of services who are Continuing Healthcare (CHC) funded.

**ICB Quality Nurse Advisors (QNA)** will work with services, particularly those residential services with nursing, to improve clinical standards within the services to an acceptable level. QNAs will take the lead in carrying out investigations into breaches of clinical standards, for example 'root cause analysis' of G3 and above pressure areas and STEIS reviews.

**Matron – Planned Care Adult Community** and District Nurses with the Royal Wolverhampton NHS Trust (RWT) will work with all health and social care services across Wolverhampton providing nursing care to those services that do not have a registered nurse in situ.

**Senior Infection Prevention Nurses** with the RWT is a specific Public Health funded roles working directly with care homes, supported living, and home care services, supporting good infection prevention practice, managing incidences through education and auditing. *\*This named role may change based on future funding provisions.*

## Reasons for Suspension

- 4.12 Suspension of new business will be considered in cases where the service in question:
- Is unable to provide a safe, good quality standard of care for its individuals,
  - Is or is likely to put individuals at risk by failing to maintain a safe, good quality care service,



- Is, or is at the risk of, putting individuals at risk because the service is unable to meet the needs of its individuals including for specialised support where appropriate,
- Is rated as 'high' risk using the Quality Assurance Dashboard risk register scoring mechanism, for failure to complete 'quality assurance self-assessments' and/or no significant improvement of their quality of service for at least 12-months,
- Is the subject of enforcement action by the Regulator,
- Has multiple safeguarding issues or a significant allegation which leads to a serious criminal investigation,
- The service had not responded appropriately or co-operated with an enquiry then consideration would be given to suspend the service,
- Home Care ONLY - Is in receipt of a 'Notice' or 'Notices' as defined by clauses 21.4 to 21.8 under Termination of Default of the Framework Agreement for the Provision of Home Care Wolverhampton 2019.

4.13 New business will be suspended in all cases where the service in question:

- Is of overall 'inadequate' quality in the judgement of the Regulator (CQC etc),
- Is placed in 'special measures' by the Regulator or is the subject of a Regulatory Management Review Meeting (MRM) where the recommendation is that 'special measures' are appropriate,

unless and by exception the Director of Adult Social Care and/or Deputy Director decides that there are compelling reasons not to suspend.

4.14 Suspension may be continued, once it is approved, where the service:

- Has been required or requested to make improvements have not been met, quality assurance KPI's continue to be non-compliant, there has been an increase in service complaints and/or issues, and where an action plan from the provider has been requested and has yet to complete any action plan,
- Requires time to demonstrate that any improvements are sustainable,
- Requires time to embed new staff, leadership, structures or working practices,
- Refuses to make changes to improve the service,
- Is ineffective at making or sustaining improvements,
- Where an inspection or review by the Regulator results in the service being placed in 'Special Measures'.

4.15 Suspension may also be continued where concerns arise from any source, including safeguarding referrals, monitoring and/or quality assurance activity and other Local Authority suspensions.

### **Suspension Route**

4.16 The decision to recommend suspension of new business can arise through one of the following routes:

- a) Safeguarding Adults
- b) Information from the relevant Regulatory body
- c) Adults Commissioning Team
- d) Public Health (PH) Governance arrangements
- e) Mutual arrangements with/information from other Authorities and partner organisations

4.17 A recommendation under (a) and (b) above will be made either by a Multi Agency Safeguarding Meeting (MASM) which is chaired by the Senior Social Worker from MASH.

4.18 A recommendation for an emergency suspension under (a) and (b) above may be made directly to any appropriate the Director of Adult Social Care by a Deputy Director, Head of Service, Senior Commissioning Officer, Commissioning Officer, and Senior Social Worker.

4.19 A recommendation under (c) and (d) above may arise through a Quality Escalation Meeting, or as a result of the outcome of a formal inspection by a regulatory body (for example, the Care Quality Commission, or their equivalents for services in Scotland, Wales and Northern Ireland).

4.20 Where a service is placed in 'special measures', the Council will fully suspend business with the service or continue with any existing suspension until such time as 'special measures' are removed unless and by exception the Director of Adult Social Care and/or Deputy Director of Transformation and Commissioning, decides that there are compelling reasons not to suspend (i.e., if a service has been independently reviewed by the Wolverhampton team and found to be acceptable). The Director and/or Deputy Director may also decide to move towards termination of existing contractual relationships.

- 4.21 Commissioning Officers may also recommend suspension under (d) and Public Health (PH) governance officers under (e) as a result of evidence obtained during monitoring, or in the event that a service has failed to make improvements under an action plan, leaving the individuals at risk.
- 4.22 Another LA or partner organisation may make a decision to suspend new business or terminate contractual relationships with a care service that they have lead responsibility for (f). The Council will support that decision and will also suspend business with the service as appropriate unless and by exception the Director of Adult Social Care or Deputy Director of Transformation and Commissioning decides that there are compelling reasons not to suspend (as above).

## **Types of Suspensions**

### Full Suspension

- 4.23 A full suspension is where the Council decides not to contract any new business with a particular service or provider. Full suspensions are designed to support services with a 'breathing space' to rectify issues they cannot evidence safe and good quality of care and where they may receive assistance from the Council and others (including the ICB and RWT as appropriate) to become safe, competent and compliant.
- 4.24 Any decision to impose a full suspension will be monitored regularly by the Families Commissioning Team for their service areas and reviewed monthly during the Quality Assurance & Suspension Board from the date of decision. The decision will be taken by the Director of Adult Social Care and/or Deputy Director of Transformation and Commissioning during the mentioned board meeting, following recommendation by the teams or structures.
- 4.25 If a full suspension is in place for longer than 3 months with very few improvements being made, the Director/s may decide to extend the suspension with the aim that if all improvements have not been made within 12 months of total time of suspension, a termination of new contractual relationships could be recommended. The Quality Assurance & Suspension Board may, alternatively, mandate additional support or monitoring activity.
- 4.26 A full suspension may be lifted when the Director/s are satisfied that the service has made improvements such that the Council can be confident that the service is safe,

competent and compliant and likely to remain so. The Director/s will take into account recommendations and evidence provided.

4.27 The Director/s, where a decision to suspend was the result of either:

- A decision by a partner agency or other LA, or
- As a result of an 'inadequate' rating by the Regulator, or
- As a result of 'special measures or enforcement action by the Regulator,

in exceptional circumstances, lift a full suspension before the Regulator or partner agency alters their assessment of the service's quality or reduce to a partial suspension as appropriate, if there is compelling evidence to do so.

4.28 The decision to lift a full suspension may include the imposition of conditions, including, where appropriate, those of a 'partial lift' where continuing restrictions are placed on new business.

#### Partial Suspension

4.29 A 'partial suspension' is a decision to restrict new business by limiting the number of new placements/packages within a specific time period or limiting the total number of individual placements.

4.30 Suspension can be recommended through any of the suspension routes. The decision to impose, agree or lift a partial suspension must be taken to the Quality Assurance & Suspension Board.

4.31 Partial suspension may also be appropriate in restricting new business to part of the service (i.e., one unit or specialism) but not to another.

4.32 Partial suspensions are usually used following improvements to a service that is in full suspension. In this case it is typically used to test admission assessments and readiness, ability to meet individual's needs and the sustainability of improvements made within an action plan.

4.33 Example of partial suspension:

- I. The service is limited to X new placements in each calendar month for the next X weeks or months.
- II. The service is limited to X number of new admissions to a total of Y individuals.

- III. The service is limited admission of individuals other than those diagnosed with dementia, or with needs assessed as 'with nursing'.
- IV. A service with both residential and nursing units may have their 'with nursing' unit(s) suspended, but not their 'residential' unit(s) or vice versa.

4.34 Any decision to impose a partial suspension will be monitored regularly by the Adults Commissioning Team for their service areas and reviewed monthly during the Quality Assurance & Suspension Board from the date of decision. When conditions are met, i.e., if a service is limited to X new placements, the decision to suspend the service will not be reviewed until X new individuals have been admitted.

4.35 The outcome of a partial suspension review can be:

- I. To fully lift the suspension and remove all restrictions on new contracting.
- II. To extend the time period and/or restrictions of the partial suspension (with or without variation, depending on the evidence).
- III. To re-impose a full suspension of new business (if the evidence shows that individuals remain at risk or experience poor quality of service).

#### Emergency Suspension

4.36 Emergency suspension is a type of imposed suspension used pending investigation of allegations of abuse where individuals are alleged to be at risk of, or have suffered, serious harm including those where it is appropriate to involve the Police, or where there are clear and immediate doubts about the ability of a service to continue to operate, i.e., where there is evidence that the proprietor of the service is experiencing financial difficulties impacting on the safety of individuals.

4.37 Emergency suspensions can be approved on a time-limited basis or pending a specific outcome, i.e., the conclusion of a Police investigation or the production of evidence that the proprietor can meet financial obligations.

4.38 Emergency suspension must not be used where the normal processes of full or partial suspension would safeguard individuals from abuse; there must be evidence that individuals are at immediate risk, that the concerns are sufficiently serious to require an instant, precautionary response, and that emergency suspension is a proportionate, appropriate response.

- 4.39 Emergency suspensions can be approved on a 'without prejudice' basis and should be signed off by the Directors/s within 24-48 hours.
- 4.40 A Director/s may approve an emergency suspension without reference to other colleagues. The decision must be notified to any other appropriate Director by the Adults Commissioning Team's Head of Service and/or Senior Commissioning Officer and to other colleagues and partner organisations.
- 4.41 The approval of an emergency suspension will be reviewed within 4 weeks. The review will involve the Quality Assurance & Suspension Board. The review will recommend either:
- Impose a suspension, either full or partial, or
  - Agree a 'mutually agreed' suspension, either full or partial, or a lift the suspension.
- 4.42 Further decisions regarding suspensions for services following an emergency suspension will be taken in accordance with the relevant section of this policy.

## **Suspension Arrangements**

### Mutually Agreed Suspensions

- 4.43 Social Care service providers may elect to request a 'mutually agreed suspension'. Mutually agreed suspension is typically a response to a care quality issue/s that the service has recognised and is working towards resolving, i.e., lack of a registered or service manager or staffing levels to meet new admissions or packages.
- 4.44 Agreement of a mutually agreed suspension implies a positive management response to difficulties that a service is experiencing.
- 4.45 A 'mutually agreed suspension':
- I. Applies to all placements, not just those funded by the Council,
  - II. Is 'owned' jointly by both the Council and the service provider. Once agreed, a suspension cannot be lifted without the agreement of both parties,
  - III. Can be full or partial,
  - IV. Must be recorded in a 'Memorandum of Understanding' see Appendix 2.

- 4.46 The decision to accept a mutually agreed suspension is taken by the Deputy Director of Transformation and Commissioning and reported to the Quality Assurance & Suspension Board for comments. The Deputy Director may impose conditions or specify a set of circumstances in which the suspension can be lifted or varied (for example from a full to a partial).
- 4.47 Mutually agreed suspensions are notified to other LAs and partner organisations in the same way as imposed suspensions.
- 4.48 Where a suspension is mutually agreed, the service itself will be responsible for informing individuals and other relevant parties (i.e., representatives, relatives) as appropriate.
- 4.49 There is no requirement for the Council to seek mutually agreed suspension before considering whether an imposed suspension is appropriate.

#### Imposed Suspensions

- 4.50 An 'imposed suspension' is where the Council takes an independent decision to cease to commission new business with the provider. This decision is not 'owned' by the service or provider.
- 4.51 Typically, the decision to impose a suspension is taken when the service does not give confidence that a mutually agreed suspension is a sufficiently robust response to identified concerns. This may be due to the service not accepting the Council's findings or evidence, does not agree with the officers' amendments and additions to an action plan, or is unable or unwilling to propose a mutually agreed suspension.
- 4.52 Suspension may also be imposed if, in the opinion of the Director/s or Board, the provider or service does not have the management structure, and/or the capacity necessary to deliver sustainable improvement/s to the service.
- 4.53 An 'imposed suspension' relates only to new council funded placements or new business activity. Existing placements are not affected. The right of other partner agencies, individuals funding their own care or other local authorities to use the service is not affected. The Council may, at its discretion, also choose to exempt planned respite or short-term emergency care for existing individuals. This will be considered on a case-by-case basis.

4.54 Where a suspension is imposed, CWC and other LA's will be informed on a weekly basis. Providers will be requested to officially inform individuals, their families or representatives with the communications signed-off by the Council within 48-hours of suspension. This also applies to lifting, or partial lifting of suspensions. If a suspension is politically sensitive or under exceptional circumstances, the Council will draft communications and send to relevant persons, partners and organisations.

### **Termination of New Contractual Relationships**

4.55 Termination of new contractual relationships will be considered where the Council feels that after a time of suspension of 12 months or more, and improvements have not been achieved from an action plan and all other reasonable efforts to support the service to improve to an acceptable quality level have been exhausted.

4.56 Termination of a contract will require the involvement of Procurement and Legal Services to ensure that it is done according to the correct contract clauses.

4.57 This means that the Council will no longer agree to new placements or any new contractual relationship with the service (or, exceptionally, the provider) for a minimum of 3 years.

4.58 The Council shall consider a 'termination of new contractual relationships' with the service in the event that:

- a service spends more than 12 consecutive months in suspension, or
- a service spends more than 18 calendar months in any three-year period in full suspension, or
- a full suspension is re-imposed following a partial lift of suspension, or
- a service is fully suspended more than three times in a rolling three-year cycle.

4.59 The Council may also, at its discretion, consider terminating new contractual relationships with all services operated by the provider or group where there is evidence that problems are systemic (i.e., in the case of a provider or group with multiple services, evidence that more than one service is unsafe).

4.60 The decision to terminate new contractual relationships will be taken at Director level during a Quality Assurance & Suspension Board meeting.



- 4.61 In the event of a termination of new contractual relationships, where the proprietors establish a different legal entity but with the same, or similar, management, board or partnership make-up, the Council reserves the right to consider whether any change in legal makeup or status also constitutes a change in provider. Therefore, if a company owned by Miss A, Mrs B and Mr C. become subject to a 'termination of contractual relationships' and decide to re-register as a different legal entity, the Council would look at the individuals behind the company and apply the sanction if the directors continued in post.
- 4.62 The decision to terminate new business will be shared with partner agencies, other LAs and existing individuals, including relatives and representatives.

### **Personal Budgets**

- 4.63 Nothing in this policy should be taken as applicable to arrangements made by individuals under personal budget arrangements, which include Direct Payments and Individual Service Funds. The Council and its partner organisation would strongly advise individuals not buy services from services (or providers) which are in suspension, but personal budgets are a matter for individual choice. The Council or its agents will continue to administer personal budgets and to respect individual's wishes if they wish to purchase or retain the services of a suspended organisation.
- 4.64 The Council (Operational Teams) or its agents will inform individuals if a service that they purchase through a personal budget arrangement is placed in suspension and/or if the Council terminates new or existing contractual relationships with a provider.

## **5.0 Quality Suspension Process**

- 5.1 This suspension policy relates to quality assurance compliance only. Individual contracts and frameworks are managed and monitored through separate performance KPI's. The Adults Commissioning Team assess and manage provider quality and contractual compliance through various tools and partner meetings. Safeguarding's will be considered during this assessment as well as quality and concerns are raised via a variety of sources including, but not limited to:
- a) Social Services Operational Teams
  - b) Other health professionals
  - c) Whistleblowers

- d) Service Managers
- e) Service Staff
- f) Individuals, families, and representatives

5.2 FCT manage and facilitate the provider quality escalation and suspension process, drawing in professional guidance and accountability by Council internal stakeholders and other authorities within Wolverhampton borders and the western Midlands region.

### **Quality Assurance & Suspension Board**

5.3 A significant revision to the previous Policy on Suspension of New Business with Social Care Services (2015), includes a quality and suspension board, led by the Director of Adult Social Care (Chair) and includes the Deputy Director of Transformation & Commissioning (co-Chair) and core participants including:

- Heads of Social Care
- Senior Commissioning Officers

As well as guest participants and teams as and when requested pertaining to each escalated case:

- Commissioning Officers
- Quality and Contract Officers
- Social Workers
- Procurement
- Legal

5.4 The board provides accountability and scrutiny to any suspension recommendation and decision along with robustness to the adherence of the processes included in this policy. The board is accountable to the Adult Leadership Team, Corporate Leadership Team, CEO of the City of Wolverhampton and Portfolio Holders and Councillors.

5.5 The board has agreed 'terms of references' on how the board conducts new cases, reviews of cases, decision mechanisms and quorum stipulations. The board meets with a standardised agenda and records minutes, actions and decisions.

5.6 A Quality Escalation Brief is submitted for each individual case and presented by the Senior Commissioning Officer, outlining areas for concern, evidence with chronology and

recommendations. Based on the case content, the board will discuss the recommendation and make a decision on the following outcomes:

- a) Ongoing monitoring – where risk is present, but does not mitigate suspension at that time but warrant increased monitoring and queries
- b) Improvement plan - where suspension is not warranted but improvements have been identified
- c) Suspension – type and arrangement
- d) Continued suspension
- e) Lifting of suspension
- f) Termination of contract

All briefs are to be kept in a central commissioning folder for future audits and reviews. These could be used for future evidence and consideration to exclude providers from future tender exercises, or to be added to the Central Government Debarment list.  
Debarment list

- 5.7 A suspensions list with reason will be sent to relevant internal and external stakeholders, including other local authorities and will be published on the City of Wolverhampton website for individuals who are self-funders. Services that are not directly commissioned by the Council may also be 'Embargoed', if deemed appropriate by the regulatory bodies or the board.

### **Commissioning Processes**

- 5.8 Individual concerns raised by commissioners are considered on a case-by-case basis. Raising an individual concern may not automatically lead to monitoring activity in all cases. Examples of concerns include:

- 1) 'emergency' (for example, specific allegations of abuse or complaints), and/or
- 2) 'systemic' (for example, where the service cannot demonstrate that the staff and leadership team are adequately qualified, trained and experienced in order to meet individuals' identified needs, and/or
- 3) 'operational' (for example where an action plan has been in place for more than three months, the service has not shown adequate improvement and remains of inadequate quality).

- 5.9 The Quality and Contract Officer will analyse and collate all provider data and evidence and alert the relevant service area Commissioning Officer of a 'service of concern',

which may lead to an 'Escalation Meeting' with the Senior Commissioning Officer who may deem that a case is serious enough to submit to the board. with a 'Quality Escalation Brief'.

- 5.10 The Commissioning Officer may request additional information to the 'brief' from Operations, Procurement, etc, before submitting 7-days prior to the next board meeting.
- 5.11 Where an emergency suspension is required and there is no immediate board meeting scheduled, the commissioning officers can step outside of the Quality Assurance & Suspension Board process and submit a Provider Escalation Brief to the Chair and co-Chair via email to provide input and sign-off on recommendation.
- 5.12 Where ongoing monitoring only is agreed, the Commissioning Officer may be requested to provide updates on the case at a future meeting with timelines.
- 5.13 If an improvement plan without suspension is required, the Commissioning Officer will request a 'quality monitoring meeting' with the provider to discuss concerns and an 'improvement plan' with agreed timelines between Parties.
- 5.14 If a new suspension has been agreed at the board or through an emergency suspension, the Commissioning Officer develops an official letter to the provider outlining the following:
- 1) Quality concerns, issues and events
  - 2) Evidence with chronology – i.e., monitoring visit report, safeguarding investigation details and outcome, etc
  - 3) Suspension terms and conditions
  - 4) Request for an 'action plan' to rectify listed issues within 2 weeks from date of 'official letter'
    - a. 'action plan' template will be included with 'official letter' via email
  - 5) Commissioning Officer and Quality & Contract Officer review and agree or amend and return 'action plan' within 7 days
- 5.15 Any quality issues and events that take place post initial action plan will be reported with an updated 'brief' with recommendations, to the board at the next meeting. This may lead to a full suspension, if the initial suspension was 'partial' or a 'mutually agreed' suspension.

- 5.16 If a 'full' suspension is agreed by the board to be 'partially' lifted due to rectification of various tasks in the action plan, the Commissioning Officer will outline the revised suspension terms in an 'official letter' with recommendations timelines for completion of actions. The Quality & Contract Officer then notifies the council's placements and operations team of the suspension terms. Any online suspension notifications are also updated for public viewing.
- 5.17 If a suspension has been fully lifted, the provider will already have been in discussion with the commissioner on this potential option and an 'official letter' will follow stating the suspension has been fully lifted from the date of the letter. All notifications will be carried out as stated in clause 9.16.
- 5.18 Where a suspension is not applied, but issues have been identified that require rectifying, the Commissioning Officer notifies the provider in an official letter outlining these concerns and may request a monitoring visit in person on premises or desktop questionnaire.
- 5.19 Any communications to the provider regarding a new suspension, change of suspension or lifting, the individuals and their families must also be informed by letter from the Adults Commissioning Team.

### **Suspension Reviews**

- 5.20 The Commissioning Officer with the Quality & Contract Officer will officially review in a meeting with the provider any 'action plan' within 8 weeks of suspension. A review will include a quality monitoring meeting, premises monitoring visit as well as additional information request. Evidence for any rectifications will be requested with stipulated timelines for submission via email or agreed at a meeting or during a monitoring visit.
- 5.21 For safeguarding and protection issues, the Operational team may request to review period to 8 weeks.
- 5.22 These timetables are flexible and can be extended to take account of partner organisations' policies, for example the NHS 'Serious Incident' protocol stipulates a 45 day time limit to complete their investigation.

## **Reporting**

- 5.23 Results of commissioning activity is to be fed back to the Senior Social Work Manager as well as the Quality Assurance & Suspension Board during their monthly meetings.
- 5.24 Safeguarding and protection issues to be reviewed by the Multi Agency Safeguarding Meetings chaired by the MASH Manager.
- 5.25 Urgent or emergency updates on deterioration of the quality of a service, will be reported across all council departments along with partnering authorities and other local authorities by the Families Commissioning Team.

## **Continued Suspension**

- 5.26 Where no quality improvements have been made within 3 months, the Commissioning Officer, may request through the Quality Assurance & Suspension Board governance process, for a further 3 months suspension period, to allow time for the provider to make the necessary improvements to the service. The officers can offer support and provide guidance to services during this time, within a reasonable capacity.
- 5.27 Where improvement is made, the officers can recommend a full or partial lift of suspension during the next board meeting.
- 5.28 Where full suspensions are partially lifted, the officers will review the service within 8 weeks of official lifting. If improvements are sustained, the officers may recommend full lifting of the suspension.

## **Conditions**

- 5.29 The service may have conditions imposed upon it during a suspension, such as notifying the commissioning team if a new resident (howsoever funded) is admitted to the service, or if the provider ownership or manager changes, or if there are significant changes in the service's operational management or processes.

## **Completed Suspension**

- 5.30 Following the full lift of a suspension, services will remain under review with the Senior Commissioning Officer and will at least have one follow up visit and/or meeting to ensure that improvements are sustained within 12 months of the decision to lift the suspension.

5.31 Follow up visits will be unannounced and may include partnership authorities (ICB, RWT and other LA) and may be at any time or on any day.

### **Challenge and Appeals**

5.32 The following decisions below, can be challenged by the service or provider by an appeal in writing to the Director of Adult Social Care:

- approve a request to suspend (either fully or partially),
- extend a period of suspension,
- move to a partial (as opposed to a full) lift of suspension,
- terms and conditions attached to a partial lift of suspension.

5.33 Challenges or appeals must be made within 28 days of official notification of the decision to suspend.

5.34 The decision to suspend new business will stand during the process of appeal to ensure the safety of Wolverhampton individuals.

5.35 An appeals investigation must be carried out by a Director from another Council department that has not been a part of the original decision process.

5.36 An 'appeal' may be upheld on the following grounds:

- I. Inaccuracy on issues and evidence – a challenge to the issues and evidence that formed the basis of the request to suspend at any of the decision-making stages of approval, and/or
- II. Failure to follow due process – evidence that the steps in this policy were not properly adhered to by the Council, and/or
- III. Bias or improper conflict of interest – evidence that the process was adversely or materially:
  - a. influenced by any person including officers of the Council who were unreasonably prejudiced against the proprietor or service,
  - b. influenced by any person who may reasonably be thought to have a 'conflict of interest' and failed to disclose such a conflict of interest or having declared a conflict of interest failed to withdraw from the decision making in respect of the service.

5.37 Appeals will not be upheld if they rely on the grounds that:

- I. the decision to impose a suspension of new business will directly or indirectly harm the viability of the service or provider, or damage the reputation of the service or provider, and/or
- II. The CQC or other regulatory body or other non-regulatory inspection or monitoring visit or review has inspected or reviewed the service and reached a different overall conclusion or rating, and/or
- III. The proprietor's or service's opinion on the interpretation of the available evidence is more favourable to the service than the collective view of the Quality Assurance & Suspension Board.

5.38 Appeals will be acknowledged by the Commissioning Officer within 5 working days and a response within 21 working days from when the Council receives the appeal.

5.39 Appeals will be reviewed at the next Board meeting, where the Commissioning Officer submits an 'Appeal Suspension Brief' to include provider challenge with reasons and evidence. If the appeal outlines various complexity of evidence that is out of the ordinary, then more time may be needed to do a thorough investigation. The appellant will be advised if more time is needed and when they can expect to receive a response from the Council.

5.40 Where an appeal is upheld by the Board, the Council will ensure that this is acknowledged in its correspondence with partner organisations, individuals, relatives, and representatives, etc.

5.41 Where an appeal fails, the appellant may make a complaint under the ASC complaint's process.

## **6.0 Definitions**

6.1 Adult Social Care (ASC) includes residential care homes with and without nursing, supported living accommodation, home (domiciliary) care, extra-care providers, funded projects, day opportunities, very sheltered housing and other providers supplying a health and wellbeing service to Wolverhampton residents.

6.2 The City of Wolverhampton Council is also a signatory to "Multi-agency Policy and Procedures for the Protection of adults with care and support needs in the West



Midlands<sup>9</sup>. The Policy and Procedures were implemented April 2015 and reflect the changes in the Care Act 2014. It confirms the establishment of a statutory Adult Safeguarding Board.

- 6.3 The ratings established by 'The Fundamental Standards in Adult Social Care' replace the 'Essential Standards of Quality and Safety'<sup>10</sup> published by the Care Quality Commission. These are based on the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.
- 6.4 'Practice Guidance' means any document issued by Wolverhampton City Council, the Care Quality Commission, other partner organisations (for example, the ICB, the Health and Safety Executive) or relevant industry bodies (for example the Royal Pharmaceutical Society, Skills for Care or the Nursing and Midwifery Council) to interpret the 'Fundamental Standards' and guide ASC providers in the practical delivery of the service, or evidence based guidance where the 'Fundamental Standards' do not offer a practice standard in a particular area.
- 6.5 'Good quality' means compliance with the applicable regulatory standards and such other requirements, minimum quality standards and practice guidance as the Council shall from time to time specify.
- 6.6 'The Contract' means the contract between the Council and the care service provider.
- 6.7 'Provider' means the legal entity responsible for service provision. It includes the group of companies where a holding company has, for example, incorporated each service as an individual legal entity and registered each legal entity separately.

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<sup>9</sup> Policy and procedures for professionals. Available at: <https://www.wolverhampton.gov.uk/health-and-social-care/adult-social-care/protecting-adults-abuse/policy-and-procedures-professionals>

<sup>10</sup> The fundamental standards. Available at: <https://www.cqc.org.uk/about-us/fundamental-standards>

## Appendix 1: Provider Failure Action Checklist

In the event of any failure/closure of a Provider in Wolverhampton, the following Action Checklist should be followed.

	ACTIONS	RESPONSIBILITY
Identify Commissioning Lead and Team	<ul style="list-style-type: none"> <li>▪ Establish a Commissioning Lead who will co-ordinate, the relocation of individuals of the service.</li> <li>▪ Identify resource requirements and, if necessary, bringing in new resources.</li> <li>▪ Establish the use of existing social care teams or an identified dedicated team.</li> <li>▪ Identify safeguarding officer and Mental Capacity Act/ Best Interest Assessor/ Independent Mental Capacity Advocate (IMCA) Involvement.</li> <li>▪ Joint working with ICB on health-related issues.</li> <li>▪ Determine a meeting schedule.</li> <li>▪ Determine any additional members that need to be present.</li> </ul>	Commissioning Lead
Initial Response and Tasks	<p>Arrange to meet with Provider senior managers and agree a closure date whenever possible.</p> <p>Confirm the final closure date.</p> <p>Provider to provide an up to-date list of individuals accessing the services, family and representative including funding source (CHC/Self/Other).</p>	<p>Commissioning Lead</p> <p>Provider Allocated Manager</p> <p>Provider Allocated Manager, CWC Social Care Team</p>

	<p>A letter to be sent to all individuals accessing the service, family and representative by CWC Social Care Team explaining the position.</p> <p>Where there are individuals of the service from another local authority, the Commissioning Lead will ensure that they are informed of the impending closure.</p> <p>Engage with the CWC Care Management Team, other LA, etc, and work with the Provider to ensure that these workers have open and free access to the service during the relocation or reallocation period.</p> <p>Establish realistic timescales and allocate tasks.</p> <p>Establish what support is available to enable individuals to visit alternative homes and users of the service to another Care Provider.</p> <p>Arrange to meet with Provider and agree a closure date and timelines of relocation or reallocation of individuals whenever possible.</p>	<p>CWC Social Care Team</p> <p>Commissioning Lead</p> <p>CWC Social Care Team, Commissioning Lead and Provider Allocated Manager</p> <p>Commissioning Lead</p> <p>CWC Social Care Team</p> <p>Commissioning Lead, CWC Social Care Team and Provider Allocated Manager</p>
<p>Individual Service Users</p>	<p>Identify individuals who have complex needs who may need to be prioritised and Mental Capacity Act/ Best Interest Assessor/Independent Mental Capacity Advocate (IMCA) involvement.</p> <p>Are there any individuals of the service who may wish to relocate or be reallocated, earlier rather than late.</p> <p>Obtain contact details of the individual's main relative/carer and GP (where necessary).</p> <p>Ensure that there is full consultation and involvement in the relocation or reallocation process.</p> <p>Allocate support staff/key workers to individuals and their families.</p>	<p>Provider Allocated Manager and CWC Social Care Team</p>

	<p>Ensure that every individual of the service has access to a professional key worker who is qualified to undertake their assessment and care planning.</p> <p>Agree and develop a care plan for every individual of the service, in conjunction with them.</p> <p>Establish the extent of involvement with the individuals of the service of their family, friends and/or carers and work with them to ensure the best outcome for them.</p> <p>Agree with the individuals of the service the degree that family, friends or carers are involved in identifying an alternative home or community service and associated arrangements.</p> <p>Stress the importance of protecting friendship groups in the decision making.</p> <p>Ensure that self-funding individuals are offered the support of a Social Worker and all of the above considerations - though they are free to decline support.</p> <p>Obtain the individuals of the service consent to transfer of information and records.</p> <p>Review care plans as their quality will vary considerably, particularly where failure/closure has been enforced because of care practices.</p>	
<p>Operations / Human Resources / Legal Services / Business Intelligence Team</p>	<p>Identify those individuals of the service funded through CWC. Identify individuals of the service funded by other LA's.</p> <p>Identify self-funders and Health funded individuals of the service.</p> <p>Establish level of legal fees to be paid.</p>	<p>Operations Team</p> <p>CHC Team and Provider Allocated Manager Operations Team</p>

	<p>Calculate overall cost of relocation or reallocation of services.</p> <p>CQC advice on the use of care staff in Independent Homes.</p> <p>Establish immediate use of buildings, if large numbers of individuals cannot be relocated or reallocated to another service.</p> <p>Provide an up-to-date list of vacancies through PST for care homes and a list of home care Providers with capacity.</p> <p>Neither the Council nor the ICB will assume responsibility for the Provider during a period of administration, where it remains a private sector business under the administrator.</p> <p>Should the situation deteriorate to such a level where the Provider is transferred to receivership, financial advice will be established to support any takeover. Any and all costs associated with CWC or ICB support will be recharged, on a cost recovery basis, to the administrator.</p> <p>Seek HR / CQC advice on the retention of Provider staff through the use of short-term or casual contracts with CWC recruitment agency if temporary accommodation has to be delivered by the Council.</p>	<p>Operations Team</p> <p>CQC Lead</p> <p>CWC Social Care Team and Housing</p> <p>PST</p> <p>Operations Team, Legal Services, ICB and Provider</p> <p>CWC HR, CQC Lead and Provider</p>
<p>Relocation / Reallocation of Service</p>	<p>In the unlikely event that a full relocation or reallocation to a service is necessary:</p> <p>CWC Social Care Team has a duty to undertake individual assessments/re-assessments, including Mental Capacity Act (MCA) assessments where appropriate and refer for a IMCA service.</p> <p>ICB also has a duty to undertake assessments. This process is likely to be extensive and complex and may also give rise to reconsideration of health and joint funding with the Council.</p> <p>Identify the types of staff that would be required to undertake these</p>	<p>Care Management and Assessment team. (CMA)</p>

	<p>assessments and should the need arise on a large scale then this work will need to be prioritised.</p> <p>Where possible every effort should be made to fulfil personal requests such as home location or keeping groups of friends together; however it must be recognised that this may not always be possible. And consider relocation storage of belongings, items of furniture etc.</p>	
Communications	<p>CWC will prepare and maintain a local stakeholder briefing summarising the response strategy which will be circulated to elected members, MP's, GPs, Commissioners and the Provider Managers.</p> <p>CWC, in conjunction with the ICB, will prepare and distribute via the Provider Manager, a letter of reassurance to all individuals, their families, carers and representatives, which will include assurances about our planning, response strategy, commitment to continuity of care and a contact point should they have further questions or concerns.</p> <p>All agencies/departments will refer all media enquiries to the Communications Team.</p> <p>CWC will adopt a reactive stance to the media, in that we will not issue any press release but will respond to direct enquiries on a case-by-case basis. This may be reviewed, directly by the Director of Adult Social Care, if information circulated by local media becomes excessively derogatory.</p> <p>If requested, this plan may be summarised to the media in the form of our response strategy, however, will only be released in full under a Freedom of Information request.</p> <p>CWC will work closely with any agencies/partners to ensure that any information is shared with providers, individuals, families. Representatives and staff.</p>	CWC Communications Team

## Appendix 2: Memorandum of Understanding

Between

(Insert name of provider)

And

City of Wolverhampton Council

In re: (Name of Service)

### MUTUALLY AGREED SUSPENSION OF NEW BUSINESS

#### 1. Purpose

- i. To establish the way the parties to the Memorandum of Understanding (hereafter referred to as the “Memorandum”) will work together to improve the quality of service and/or safety of residents/service users at (insert name of service).
- ii. To clarify the roles and responsibilities of the parties to the Memorandum.
- iii. The parties are (insert name of provider) (“the provider”) operating (insert name of service) (“the service”) and City of Wolverhampton Council (“the Council”).

#### 2. Background

- i. The Council is committed to ensuring that its citizens experience the best quality social care, regardless of the setting.
- ii. The Council recognises that social care is a partnership with others and welcomes co-operation with service providers to improve the quality and safety of the services that it purchases.
- iii. The provider has recognised that the quality and/or safety of the service is in need of improvement. In order to give a ‘breathing space’ to allow for progress to be made against an agreed action plan, this document records that a suspension of new business has been proposed by the proprietor and agreed to by the Council.

#### 3. Mutually Agreed Suspension

- i. A ‘Mutually Agreed Suspension’ is an agreement between the Council and the proprietor that no new service user will be admitted into the service, no matter what the funding source or referral route.
- ii. This agreement applies to all service users,  
OR  
The service agrees restrictions on making new admissions as specified below.

- iii. The agreement requires the consent of both parties to terminate. The agreement shall not be considered terminated or varied by either party without the express written agreement of the other party.
- iv. The provider agrees that the council can share details of this agreement with its partner agencies, including but not limited to other local authorities, the Clinical Commissioning Group, the Care Quality Commission and the Royal Wolverhampton Trust.
- v. The suspension does not affect those people funded by Wolverhampton that already use the Service, or those people who are scheduled to receive respite as part of an agreed care package (delete as appropriate).

#### 4. Reasons for Decision

- i. The reasons for this decision are:  
(State reasons)

#### 5. Next Steps

- i. An Action Plan agreed with you will be monitored by (insert name), a member of the Quality Assurance and Compliance (QA&C) team who will also offer advice and guidance about how to achieve the necessary improvements. The action plan is attached as Annex A. (delete as appropriate)
- ii. The Action plan is a 'living document' which may be reviewed, revised, completed or expanded as further evidence becomes available. The action plan is a report by exception; the absence of a particular action does not imply that there are no other issues that the service may need to consider or address. The service manager must continue to take responsibility for all aspects of the service, not only those which are being monitored or on which a QA&C team member has given advice.
- iii. To monitor progress, we will gather information and data from different people and sources including:
  - a. People who use the Service and those who are important to or support the individual (e.g., relative, advocate)
  - b. The Manager and staff of the Service
  - c. Other Local Authorities and other partner agencies
  - d. Colleagues in care management and assessment teams
  - e. The Care Quality Commission
  - f. The Quality Nurse Advisor (if applicable)
  - g. Documents used in the Service including policies, procedures, care plans and daily records
- i.v The service will receive an initial quality monitoring visit within 6 weeks of the date of this agreement. Further follow up visits will take place periodically. Visits may be unannounced.

#### 6. Lifting the Suspension/Terminating the Agreement

- i. The proprietor should notify the council when the service has made substantial progress towards completion of the agreed action plan. Substantial progress means that the service has achieved a safe, competent and compliant level of quality in its delivery, and is confident of maintaining it. This may include the completion of any 'serious incident' or 'safeguarding' investigation, disciplinary action and/or 'root cause analyses'.



- ii. If the council concurs, it will seek agreement with the proprietor to lift or vary the agreement to suspend.
- iii. A suspension can be partially or fully lifted; a partial lift is used when there is evidence of some improvement but not all actions have been completed and/or we are testing the sustainability of the improvements.
- iv. Any partial lift will be time limited and reviewed as part of the on-going monitoring of the Service.
- v. If the service does not make adequate progress within 12 months, the council will consider its options via a Commissioning and Quality Conference; options will include extending the action plan, extending the period of suspension, moving to terminate all new business with the service (and with the provider) and in exceptional circumstances terminating all new and existing business with the service and/or provider.
- vi. This memorandum may be terminated by either party on 2 months' notice following full consultation with the other. In the event that the mutually agreed suspension is terminated by either party withdrawing its agreement to the memorandum, the council reserves the right to consider an imposed suspension of new business on the service.

7. Status of the Memorandum

- i. The memorandum is an operational document, entered into voluntarily by the parties concerned. The council and the proprietor have by signing the memorandum agreed to use all reasonable endeavours to comply with the terms and spirit of the memorandum.

Signed

Director of Adult Social Care  
City of Wolverhampton

( / / )

And

(Name of Signatory)  
(Position)  
For and on behalf of: (Name of Provider)

( / / )

DRAFT