



Halton Clinical Commissioning Group

**Provider Service Closure
1) Market Oversight and
Management**

April 2015

INFORMATION SHEET

Service area	<p>Halton Borough Council Adult Social Care Communities Directorate.</p> <p>Halton Borough Council Integrated Safeguarding Unit</p> <p>Halton NHS Clinical Commissioning Group</p> <p>Adult Social care Provider Organisations</p>
Date effective from	TBC
Responsible officer(s)	Quality Assurance Manager
Date of review(s)	TBC
Status: <ul style="list-style-type: none"> • Mandatory (all named staff must adhere to guidance) • Optional (procedures and practice can vary between teams) 	Mandatory for all Halton Borough Council Adult Social Care Staff
Target audience	<p>Halton Borough Council Commissioning Managers</p> <p>Halton Borough Council Quality Assurance Team and Contract Team</p> <p>Halton Borough Council Adult Social Care Teams</p> <p>NHS Halton Clinical Commissioning Group</p> <p>Continuing Health Care Team</p> <p>Adult Social Care Providers</p> <p>Adults who use services, their families and carers</p>
Date of committee/SMT decision	TBC
Related document(s)	<p>Care Act</p> <p>Mental Capacity Act</p> <p>Data Protection Act</p> <p>Human Rights Act</p> <p>Deprivation of Liberty Safeguards</p> <p>Mental Health act</p>
Superseded document(s)	Halton Borough Council Home Closure Protocol 2004

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Equality Impact Assessment Completed	Need to do new one
File Reference	

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1.0	POLICY AIM	PRACTICE
1.1	The possibility of interruptions to residential, supported living and domiciliary care and support services causes uncertainty and anxiety for the person receiving services, their carers, family and friends. Interruptions to services can occur as a result of many different factors, including business failure, significant safeguarding issues or quality compliance issues that fail to be rectified.	<p>The associated policies, listed below, should be considered alongside this document.</p> <ul style="list-style-type: none"> • Provider Service Closure 2. Managing a Planned Service Closure • Provider Service Closure 3. Managing an Unplanned Service Closure
1.2	This policy provides guidance on how Halton Borough Council (HBC) delivers its responsibilities in managing the provider market, so to mitigate disruptions where ever possible, and achieve the best possible outcomes for individuals using services.	
1.3	<p>This policy document (<i>Provider Service Closure 1. Market Oversight and Management</i>) is part of a suite of policies that direct :</p> <ul style="list-style-type: none"> • provider market management, oversight, intelligence and prevention of service disruption for residential and domiciliary providers(through planned or unplanned service closure) • management of a planned service closure (residential, supported living and domiciliary) • management of an unplanned service closure (residential, supported living and domiciliary) 	
2.0	SCOPE OF THE POLICY	
2.1	<p>This policy details how HBC meets its responsibilities, in relation to the Care Act, in the following areas</p> <ul style="list-style-type: none"> • Care Quality Commission (CQC) • Market oversight and intelligence • Responding to identified risks in service continuity • Decommissioning • Provider Default • Responsibility of the provider • Responding to economic failure of the provider 	
2.2	This policy applies to services in which there are funded and/or self-funding individuals.	
2.3	The aim of this policy is not to replace individual service business continuity plans, nor to stop providers failing, bail out or interfere with commercial decisions. If failure cannot be avoided this policy describes the procedure to	

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2.4	<p>be followed to ensure that HBC ensures a well-managed transition.</p> <p>It is a requirement of every HBC commissioned service provider to have a 'tried and tested' Business Continuity Plan that is reviewed.</p>	
3.0	Care Quality Commission (CQC)	
3.1	<p>Market oversight is a new regulatory duty for the CQC from April 2015. The purpose of this duty is to protect people in vulnerable circumstances from the effects of a provider failing. The CQC will do this by:</p> <ul style="list-style-type: none"> • Monitoring financial sustainability and assessing the likelihood of business failure of difficult-to-replace adult social care provider organisations. • Identifying and responding to risks in respect of financial sustainability. • Providing early warnings of business failure to local authorities. • Assisting in coordinating a response in the event of business failure. 	<p>The Care and Support (Market Oversight Criteria) Regulations 2014 set out the entry criteria for a provider to fall within the regime.</p> <p>Further guidance as to how this new CQC regulatory duty will be issued in due course by the CQC. Contact HBC Quality Assurance Team for further information.</p>
3.2	<p>Regulations set out the entry criteria into the CQC regime. It will be for CQC to apply those regulations and decide which providers are included. It will include providers who, because of their size, concentration or specialism, would be difficult to replace if they were to fail, and so where the risks posed.</p>	
3.3	<p>The Care Act gives the CQC the power to request information from any care provider they think is likely to fail. The CQC will share this information with the local authority to help minimise the negative effects of the provider failing, and to ensure a smooth process that provides continuing care to individuals.</p>	
3.4	<p>It is proposed by the current Government that CQC will notify authorities with information relating to a provider's potential to fail, if CQC believes the whole of the regulated activity that the provider is registered for is likely to fail, not parts of it. For example, if the financial viability of the whole of the provider business is under question, not just the viability of one of its residential/nursing homes.</p>	
4.0	Market Oversight	
4.1	<p>The Care Act 2014 sets out Halton Borough Council's duties to promote the efficient and effective operation of the local care and support services market.</p> <p>The risk of disruption to services can be reduced through commissioning and</p>	<p>Department of Health Care Act Briefing Note 'Managing provider</p>

	<p>monitoring practices. This section describes the mechanisms in place within HBC to gather market intelligence, to identify where there are risks that may lead to service disruption, and what remedial actions may be used.</p> <p>HBC Adult Social Care Commissioning and Procurement Process</p>	<p>failure and other service interruptions’</p>
4.2	<p>Market intelligence is contained in the <i>Market Position Statement</i> which is produced by HBC Adult Social Care Commissioners annually. The Market Position Statement aims to encourage a dialogue with Providers about the development of the local Adult Social Care market.</p>	<p>See ‘Adult Social Care Market Position Statement HALTON’ available from</p>
4.3	<p>It brings together evidence from a number of sources, including the Halton Joint Strategic Needs Assessment (JSNA) and Commissioning strategies relating to Adult Social Care, as well as Census data, population projection information and evidence from various national papers, strategies and plans, to provide</p> <ul style="list-style-type: none"> ✓ Strategic Context. ✓ Key Messages and Statistics. ✓ A portrayal of predicted changes in local demographics. ✓ Information about the Size and Structure of the Adult Social Care Market in Halton. ✓ The current position of the three main areas of service provision; Care in Residential and Nursing Care; Care at Home; and Carers. ✓ An indication of Halton Borough Council’s future commissioning intentions and work on safeguarding. ✓ Our expectations of Providers and the support we can offer. 	<p>HBC Adult Social Care Commissioning Team</p>
4.4	<p>Commissioning of domiciliary care contract arrangements have to go through a robust procurement process tendering against a specification in which value for money and quality are considered, and adheres to the principals of E.U law on procurement. This process is independent from the Quality Assurance and Commissioning arrangements.</p>	
4.5	<p>Residential care contracts are commissioner led, based on negotiations with providers to meet local needs. During 2015 an accreditation standard for potential future providers will be developed by HBC.</p>	
5.0	<p>Quality Assurance Monitoring</p>	
5.1	<p>The HBC Quality Assurance team gather intelligence and information on Providers via quality and contract performance monitoring. This intelligence can be shared with relevant stakeholders in order to build understanding of the market and its potential weaknesses, enabling appropriate action to be taken.</p> <p>Contract</p>	

<p>5.2</p>	<p>Contracted providers who offer services on behalf of HBC must sign up to a contract. All Provider services must be registered with the Care Quality Commission, where there is a regulatory requirement.</p> <p>Quality Assurance Team checks and monitoring</p>
<p>5.3</p>	<p>The aim of HBC Quality Assurance Team is to ensure commissioned care, support and preventative services are contracted, of good quality, monitored, quality assured and safe.</p>
<p>5.4</p>	<p>The Quality Assurance Team undertake a series of checks, which include:</p> <ul style="list-style-type: none"> • A review of the latest CQC report, to ensure that the Provider is compliant with the regulatory requirements. • Ensure that there is a business plan and business continuity plan in place • Ensure that annual financial accounts are undertaken
<p>5.5</p>	<p>The Quality Assurance Team is responsible for the contract management, performance monitoring and quality assurance of all Adult Care Health and Wellbeing commissioned provider services. This responsibility is met by a number of measures which includes contract management performance monitoring and an annual Quality Assurance review. Contract management activities include:</p> <ul style="list-style-type: none"> • contract administration • annual contract checks • performance monitoring • Contract remedies <p>Performance monitoring</p>
<p>5.6</p>	<p>The team gather intelligence and information on providers relating to key performance indicators which will demonstrate to the Council and providers how they are performing against the contract, and provides early warning of potential risks though the following:</p> <ul style="list-style-type: none"> • Performance Information Return - Provider self-assessment • Dashboard - Collates risk statuses from CQC, health and safeguarding • Electronic Core Monitoring (domiciliary care) – Monitors provider activity <p>Scheduled and unplanned monitoring</p>
<p>5.7</p>	<p>The Quality Assurance team undertake an annual monitoring visit of all Providers, including consultation with service users and staff.</p>

5.8	Residential care providers have unannounced monitoring visits.
5.9	Quarterly contract meetings are held with domiciliary care providers
5.10	Other professional stakeholders (including CCG Pharmacy, HBC Care Home Team, Infection Control and Environmental Health) also undertake audits and forward findings onto HBC Quality Assurance Team (and Project Lead where there is a Professionals Meeting in place for escalated risk situations).
5.11	<p>From 2015, the <i>Hull University Early Indicators of Concern model questionnaire</i> will be used as part of the HBC quality monitoring process to identify good practice and also where there are specific cultural, leadership or management issues that are risk factors to the organisation. This will enable the Quality Assurance Team to work with providers in employing preventative measures to be taken to address cultural or leadership issues escalating.</p> <p>HBC Risk Matrix – early warning signs</p>
5.12	Intelligence gathered is weighted by risk considering the category, volume and impact on adults using that service. This is captured on a Risk Matrix and informs the schedule of monitoring visits or meetings.
5.13	A traffic light system is utilised to benchmark the level of contract monitoring activity that will be required:
5.14	Green Providers are good. It is estimated that they will need two contract monitoring activities each year. The annual survey and a follow up meeting or visit to evidence progress against any action plan and discuss emerging issues.
5.15	Amber Providers are adequate. This means that they will have some issues that require improvement and action to be taken but does not identify a significant level of risk. These will have at minimum of three visits annually
5.16	A red Provider is poor. These are services where there is one serious /significant risk or a range of issues that evidence significant performance or quality failure that requires frequent evidence of improvement through monitoring visit, meeting with the provider.
5.17	The QAT will undertake a project management approach facilitating a Multi-Disciplinary Team meeting. There is a responsibility to gate keep and streamline the collation, analysis and distribution of information and act as a point of contact.
5.18	A detailed log of activity is maintained that will provide a chronological

	oversight of the service and the prevailing issues and progress. Clear roles and responsibilities of MDT (members) is agreed and updated on a regular basis. Support Plans, Emergency Contingencies and/or MDT minutes to be embedded or linked into the chronology/Log.	
5.19	The risk status of a Provider is agreed by the Commissioning Divisional Manager. Sustained failure or heightened risk is discussed with senior operational managers.	
	CQC and HBC Engagement Meetings	
5.20	HBC meet with CQC local Inspection Team on a quarterly basis to share local information, including emerging themes and issues. HBC Quality Assurance Team share performance information and monitoring reports with CQC inspection officers, and will undertake joint Provider visits where emerging issues arise, or when provider compliance issues may lead to CQC enforcement action or threaten the ongoing operation of a CQC regulated service.	
	Provider Forums	
5.21	There are quarterly meetings of all HBC commissioned Registered care providers to enable wider discussion to take place amongst providers in each of the sectors (residential, supported living and domiciliary). This is facilitated by the HBC Quality Assurance Team and provides opportunity to identify and discuss emerging issues across each of the sectors.	
	Safeguarding	
5.22	HBC have a responsibility to identify early warning signs, through Safeguarding issues reported to the initial Assessment Team and 'care concerns' which are reported to the Quality Assurance Team.	
5.23	The Safeguarding lead will escalate risk and convene a multi-disciplinary team to initiate a response, where safeguarding issues have been found to pose a risk to continuity of the service.	
6.0	Responding to identified risks	
	Escalating risk	
6.1	The decision to suspend a service must be agreed by an Operational Director	
	Actions to prevent service closure	







<p>6.2</p>	<p>In the event that market intelligence / provider notification highlights that there are significant risk factors that may disrupt service, HBC will convene an Multi-Disciplinary Team (MDT) known as a Professionals Meeting, with stakeholders appropriate to respond to the given situation, which will :</p> <ul style="list-style-type: none"> • Meet with the provider to develop an action plan to address the specific risk issues identified via Safeguarding and/or the risk matrix. • Within the action plan consideration may be given to: changing the model of service delivery, negotiation with HBC around staffing requirements, issue a new or amended contract. • Identify staffing resources required where staffing is an issue, working with the provider, other providers and HBC to identify a solution. • Ongoing monitoring of the agreed action plan. <p>Partnership working</p>
<p>6.3</p>	<p>The Professionals Meeting frequency is determined by the Project Lead, but meetings are likely to be required on a fortnightly basis. As the lead authority for any service closure within Halton, HBC take responsibility for identifying meeting membership, organisation of meetings, coordinating and distributing information to and from partners, develop a time line of issues, ensure that information is cascaded to relevant stakeholders.</p>
<p>6.4</p>	<p>The primary aim of the group is to look at an offer of support to the service in order to maintain continuity where possible, monitor progress, discuss emerging issues, share essential information, agree action and time frameworks and monitor for sustained improvement.</p>
<p>6.5</p>	<p>The 'time line' document is an evidence/action/outcome document that the group utilise to monitor risk when in the escalation phase. The time line is coordinated by a 'Professionals Meeting Project Leader', identified by the HBC Divisional Manager, and is shared and discussed within the professional meeting. Please see Appendix 1 Time Line Document</p>
<p>6.6</p>	<p>Attendees at the meeting will include representation from all Local Authorities who have individuals using the service at that time, HBC Quality Assurance Team, CQC, Halton CCG Chief Nurse, CCG Commissioners, 5 Boroughs Partnership, Health safeguarding lead, Continuing Health Care Leads, Care Home Liaison Team, Pharmacy, CPNS, District Nurses, GP Practice Manager/s. The chair of the meeting (HBC Divisional Manager) will determine the membership of the group by the nature of the risk and the agencies involved in that service at that time.</p>
	<p>Emergency Contingency Planning</p>

<p>6.7</p>	<p>Where risk has been escalated to red there is an Emergency Contingency Planning document that should be completed for the service. Please see Appendix 2. This document should be used to outline identified risk and remedial actions. The Professionals Meeting Project Lead, identified by the HBC Divisional Manager, has responsibility for ensuring that the actions are undertaken.</p> <p>Options</p>
<p>6.8</p>	<p>The Professionals Meeting will, working with the service provider where possible, identify options for next steps to prevent service closure. Evidence from the 'time line' will be used to inform these options. Options may include informing service users and carers where risks have been identified, identifying other support that could ensure continuity of the service, or identifying a 'turn around' team to intensively support the service where this is feasible. A risk plan for each option will be required.</p> <p>Provider offer and charter</p>
<p>6.9</p>	<p>All providers are required to work collaboratively with HBC to prevent service closure of another provider, where possible. During 2015 a Charter/agreement will be developed for providers to sign up to, indicating their willingness to support HBC in managing a crisis situation with another provider (on a voluntary basis), where it would not pose a risk to the delivery of their core business.</p>
<p>6.10</p>	<p>In the event of a closure or crisis situation, the providers who have pledged their support to the Charter/agreement will be the organisations initially contacted for assistance to provide a short term solution to avoid, or respond to, a critical situation. Examples of support may include access to beds, staffing, training, equipment, rearrangements of service packages to free up staff/beds. The provider 'offer' would be specific to each situation and dependant on the provider's capacity etc at that point in time.</p>
<p>6.11</p>	<p>Providers will be required to evaluate what their 'offer' may be when signing up to the 'charter'. The offer framework will be held by HBC Quality Assurance Team.</p>
<p>6.12</p>	<p>A framework of agreed fees with contracted services is held by the Quality Assurance Team, and HBC will negotiate with each provider the cost of mobilising additional specific support to prevent or respond to a crisis situation.</p>
<p>7.0</p>	<p>Provider Default</p>

<p>7.1</p> <p>7.2</p> <p>7.3</p> <p>7.4</p> <p>7.5</p> <p>7.6</p>	<p>Withdrawal of HBC contracts are the final stage, once preventative actions have been exhausted. Withdrawal of contract may occur in the following instances:</p> <ul style="list-style-type: none"> • Where significant and sustained improvement is not seen within 3 months, against the identified requirements in specific areas and against the set time scales. • The provider is unable to demonstrate the <i>ability</i> to make identified improvements within the required timescales. • There is significant/immediate risk to safety of adults using the service, staff or others. <p>Notice of default will be provided in writing, outlining the precise manner in which the provider is deemed to be in default, the action required to undertake to remedy the default, a period of 10 days to commence the necessary action.</p> <p>HBC may, itself, provide or procure the provision of the relevant part of the service from a 3rd party, until the breach has been remedied to reasonable satisfaction of the council.</p> <p>HBC may deduct from any sums due or otherwise charged to the provider, the reasonable costs of any service so provided together with relevant administrative costs.</p> <p>HBC can stop or suspend future referrals of service users to the provider until satisfied that the default has been remedied.</p> <p>Termination may create the need to arrange alternative services for existing service users, possibly at short notice. The disruption this creates must be balanced against the Council's/CCG's duty of care to the people it supports. A HBC Divisional Manager will be identified and be responsible for:</p> <ul style="list-style-type: none"> • Co-ordinating the process with the involvement of staff from departments and agencies • Ensuring that the service provider is notified of the actions to be taken • Ensuring that other agencies are informed. 	
<p>8.0</p>	<p>Decommissioning of a service</p>	

8.1	<p>The ongoing review of provider services is essential to ensure that they continue to meet any changing local needs, or respond to changes being implemented through national policy.</p>	
8.2	<p>The decommissioning of services is one way in which these challenges can be met so as to ensure they reflect changing priorities and budgets, as well as to effectively deal with poor service performance and / or safeguarding concerns.</p>	
8.3	<p>Decommissioning is generally a result of a longer process of contract management, however, there may be occasions when decommissioning has to take place in response to unanticipated events. Even in these circumstances decommissioning should always be well planned and managed through contract management processes such as provider and commissioner contingency and business continuity plans.</p>	
8.4	<p>Unanticipated decommissioning may take place where:</p> <ul style="list-style-type: none"> ➤ The current provider is failing to deliver the service. This could be due to poor performance/quality of service or where a provider has breached a contract, for instance as a result of a safeguarding failure; ➤ The current provider seeking early termination where they decide they can no longer provide the service as a possible result of financial difficulties; ➤ The current provider changing the nature of the service they provide without notice to the Council or strategically as part of a business plan review refocusing their core business; 	
8.5	<p>A detailed options appraisal will be conducted on the service that is being considered for closure. It is important to fully evaluate the potential impact of decommissioning on demand in other areas of service or sectors. HBC will always take a strategic approach to decommissioning. Any decommissioning plans must include details of alternative service provision, risk mitigation measures and comprehensive impact assessments including equalities impact assessments.</p>	
8.6	<p>For service users, the decision to decommission a service may mean they start to use an alternative provider or that support is provided in a different way. Safeguarding the welfare of current and potential service users must be a key priority throughout the decommissioning process, as the withdrawal of funding or change in the service they receive may have a significant impact on their lives. This may require a phasing out period that is specific to service-users especially where there is very specialist input.</p>	

9.0	Responsibility of Providers	
9.1	Providers have a contractual responsibility to notify HBC of any potential risks to business continuity.	
9.2	Risks may include staffing problems, such as an inability to recruit specialist/qualified staff, issues with bed occupancy, financial viability, non-compliance / breach of regulations and potential enforcement actions from CQC.	
9.3	There is a statutory duty of candour on social care providers to report concerns that their staff are mistreating patients under social care legislation to be published this month. This would mean social care providers would have to tell health regulators if they thought their employees might be harming or neglecting service users.	
10.0	Economic Failure of the provider	
10.1	<p>Administration and Insolvency</p> <p>An Administrator represents the interests of the creditors of the provider that has failed and will try to rescue the company as a going concern. In these circumstances, the service will usually continue to be provided, and the exercise of Halton Borough Council's <i>temporary duties</i> may not be called for.</p>	<p>Please refer to the 3rd policy document in this suite of policies, for details of HBC <i>Duty to meet needs</i> in the event of business failure :</p> <p><i>Provider Service Closure 3. Managing an Unplanned Service Closure</i></p>
10.2	It is not for HBC to become involved in the commercial aspects of the insolvency, but should cooperate with the Administrator if requested.	
10.3	HBC will, insofar as it does not adversely affect people's wellbeing, support efforts to maintain service provision (by, for example, not prematurely withdrawing people from the service that is affected, or ceasing commissioning arrangements).	
	Appendices	

	<table border="1"><tr><td data-bbox="242 165 762 421">Appendix 1</td><td data-bbox="762 165 1279 421">Time Line Document  Time Line.docx</td></tr><tr><td data-bbox="242 421 762 595">Appendix 2</td><td data-bbox="762 421 1279 595">Emergency Contingency Plan  Emergency Contingency Planning</td></tr></table>	Appendix 1	Time Line Document  Time Line.docx	Appendix 2	Emergency Contingency Plan  Emergency Contingency Planning
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