

## **Protocol for Suspension of Placements in Residential, Nursing Care, and Care Packages with Supported Living and Domiciliary Care Agencies**

Herefordshire Council and Herefordshire Clinical Commissioning Group (Commissioners) are committed to promoting quality within the care and support market. Wherever possible the Commissioner would seek to work with providers to support quality improvement. The principle to be followed is to enable a culture of continuous improvement within local service provision, rather than a culture of responding to concerns.

However the Commissioner will always place the safety of vulnerable adults foremost and as such will always suspend a contracted service where the following criteria are met:

- Significant safeguarding concerns are raised
- Care Quality Commission (CQC) registration is removed
- Quality concerns are identified and fail to be addressed in line with agreed action plans
- The provider is in substantial breach of contract

The Commissioner operates a process to share information around concerns with the Care Quality Commission and Healthwatch for the purpose of safeguarding vulnerable adults and supporting quality improvement within the care market.

The purpose of this Protocol is to make the process for a suspension of services open and transparent to Commissioner staff, Providers and partner agencies.

Suspension of services is seen by the Commissioner as a last resort and, apart from the most serious of circumstances, it is the intention of the Commissioner to work with Providers via an agreed Service Improvement Plan to improve the service to a level where suspension can be avoided. If it is not possible to avoid suspension of placements, the Commissioner and partners will work together with the provider to ensure that standards are improved so that the suspension of placements is in place for the minimum possible time period.

The Commissioner will consider suspension if there are major grounds of concern which prejudice the effective operation of the Provider or are so serious as to prejudice the Provider's future viability as a contractor. This will include:

### **Safeguarding**

A service user has suffered significant harm or is at risk of suffering significant harm and there is a strong indication that the management of the service was either compliant/complacent or negligent in supervision, or procedure relating to the incident.

Examples:

Failure to provide appropriate pressure area care or report in line with local protocols (at 'grade 2' or above)

Failure to provide prescribed medication or adequate nutrition.

Evidence of institutional abuse.

Failure by the management of the service to report or appropriately act on safeguarding adults concerns. For example, failure to suspend an alleged perpetrator where a safeguarding adults investigation is required.

Disregard to dignity or respect of service users.

Negligence in record keeping that contributed to significant harm or risk of harm to service users.

If the service responds appropriately to a single allegation of abuse and has followed all required procedures, a suspension of placements will not routinely be considered. However an accumulation of concerns will lead to a suspension of placements if it is thought that preventative measures are not being taken.

### **Contract Management**

Where for example:

A default notice has been served

A serious contracting concern has been received

The Provider has failed to adhere to the agreed Service Improvement Plan

There are concerns regarding the Provider's viability and ability to continue to provide a service

Given that the concerns surrounding suspension of placements potentially affect wider practices and management of the service, any investigations must be carried out by person(s) who are not employed by and are independent of the interests of the agency to whom placements have been suspended.

### **Process**

The decision to suspend placements will be taken by the Commissioners Director of Adults Wellbeing or Herefordshire Clinical Commissioning Group (HCCG) Chief Nurse. If the Director(s) are not available then the decision should be made by the Assistant Director Operations & Support or the Assistant Director Adults Wellbeing Commissioning & Contracts or other Senior CCG Officer

Evidence of concerns brought to the attention of any Commissioner Staff member should be reported immediately to the Quality & Review Team or HCCG quality team using a Quality Concern Notification (QCN) form (see the Policy).

It may be appropriate to withhold placements until all information is gathered in order to make an informed decision on whether to suspend placements. This temporary withholding of placements is an internal process and should not be communicated to the Provider and should not last more than 48 hours. This timescale can be extended in extenuating circumstances, by the agreement of either the Director of Adults & Wellbeing/ Herefordshire Clinical Commissioning Group (CCG) Chief Nurse or the Assistant Director Operations & Support or the Assistant Director Commissioning & Contracts or Senior CCG Officers.

Relevant information and any decision taken to suspend placements will be shared with all relevant parties. This may include the Multi Agency Quality Assurance Panel

The provider will be notified of the suspension immediately by the appropriate officer and provided with written confirmation of the decision on the same day.

The Commissioner Team managers will be responsible for cancelling any placement including respite or short term breaks already arranged within the suspension period.

The named contact for all service users will be informed of the suspension in writing. This includes people who fund their own services. The letters will be sent out within 5 working days of the decision to suspend placements/service. Where residents have been placed by another local authority it will be necessary to consult with them regarding notifying relatives.

It should be noted that the suspension only applies to those placements funded by Herefordshire Council or Herefordshire CCG (either through funded nursing or continuing health care) and those who fund their own services will have the choice to access services from the Provider. If Herefordshire Council are aware of such a placement then it is the commissioner's duty to fully inform the service user and their named contact of the suspension and record this conversation. The provider must inform all staff, residents and prospective residents about the suspension in writing.

An initial Service Improvement Plan detailing action required to address areas of concern with timescales, must be produced by the appropriate Quality & Review Officer and agreed with the provider within 5 working days of the suspension.

The Service Improvement Plan will be jointly reviewed weekly with the Provider, and will include safeguarding and any other relevant parties.

Failure to comply fully with the Service Improvement Plan could result in a permanent withdrawal of any further commissioning of this service.

All communication regarding the suspension must be recorded on a contact sheet and all meetings must be formally minuted. All records must be saved electronically to the Provider's file.

Updates on progress against the Service Improvement Plan will be reported to the Multi Agency Quality Assurance Panel on a monthly basis

If a service still fails to comply with the required improvements and timescales of the Service Improvement Plan then a termination of contract and movement of service users to alternative provision will be considered.

### **Definition of a Suspension**

Where the Commissioner, in consultation with other agencies where appropriate, has established serious concerns relating to the quality of service delivery, the Commissioner has a duty of care not to commission any new care services from that provider until satisfactory resolution to the extant concerns is obtained

## **Types of Suspension**

**Unconditional Suspension:** This refers to the cessation of new placements in a residential/nursing home, commissioning of new care packages from a domiciliary care provider etc. for an unspecified period of time.

### **Conditional Suspension:**

1. Number of Placements e.g.: Suspension imposed on the basis of a limited number of placements/care packages per week etc.
2. Contract Type e.g.: Suspension imposed on dementia beds but placements allowed on older people residential beds etc.
3. By room; Suspension placed as a result of a serious breach of regulations, identified through the monitoring procedures e.g.: rooms without radiator covers, incorrect water temperatures etc.
4. Health and Safety Breaches e.g.: Suspension placed as a result of enforcement action by Environmental Health, Health Protection Agency etc.

**Contract Non-Compliance Suspension:** The Commissioner has in place a contract compliance process which will determine the quality standards for care services. Where there are serious non-compliance issues a suspension will be placed against a care provider which may not relate to a safeguarding of vulnerable adult investigation.

### **Types of non-compliance suspension:**

1. Repeated requests for information to evidence contract compliance
2. Service Improvement Plan not submitted even though revised timescales agreed
3. Service Improvement Plan not met even though revised timescales agreed
4. Service Improvement Plan improvements not sustained within a reasonable time period

(This list is not exhaustive)

**Self-Imposed Suspension:** To support the best interests of service users, a provider may place a self-imposed suspension upon their own organisation following formal notification and agreement with the Commissioner.

NB: If the care service is sold to an alternative provider, the full suspension will remain in place until the Commissioner is satisfied that the new provider meets the contract criteria before care services are commissioned.

**Termination:** Will refer to situations where the Commissioner has issued termination of contract, alternative care provision has been sourced, and service users have been relocated to a different provider. Even though termination of contracts has been issued, the full suspension will remain to prevent further placements/contracting arrangements.

## **Appeals**

If the suspension is related to a contractual issue, the Provider will be given 28 days to appeal against the decision.

Any appeal must be made in writing to the Commissioner in the first instance who will respond within 7 days. If there is further dispute from the Provider then the Commissioners Director of Adults Wellbeing or Herefordshire Clinical Commissioning Group (CCG) Chief Nurse or the Assistant Director Operations & Support will consider the appeal and respond within 7 days.

The decision of the Commissioners Director of Adults Wellbeing or Herefordshire Clinical Commissioning Group (CCG) Chief Nurse or the Assistant Director Operations & Support will be final.

N.B. There is no appeals process for suspensions relating to safeguarding.

## **Lifting of suspensions**

While a suspension is in place the situation will be reviewed on a weekly basis. If at any point during the review process it is considered that the Provider has made significant improvements and this can be evidenced against the Service Improvement Plan, then the Commissioners relevant manager will make a recommendation to the appropriate Commissioners for the suspension to be lifted, providing relevant information to support this decision.

Where Providers have made improvements, consideration will be given to a complete removal of the suspension or where appropriate a phased lifting of the suspension, where the numbers of new placements would be restricted. Close monitoring will be required to make sure that the improvement is sustained.

Relevant information and any decision taken to lift suspension will be shared with all relevant parties.

## **Suspension of Placements by another Local Authority/other NHS body**

If the Commissioners are notified of a suspension of placements by another local authority the process is as follows:

The Commissioners appropriate officer gathers information that details the circumstances of the suspension and informs the Quality & Review team. A database of current suspensions is held by the Quality & Review team.

The process for local suspension should be followed as detailed in this protocol.

If a Commissioners funded resident is an alleged victim of abuse then it must be investigated in accordance with the Commissioners Safeguarding Adults West Midlands multi agency policies and procedures, which can be viewed via the Herefordshire Council website.

It is the responsibility of the Commissioners relevant team manager to make an appropriate decision regarding the review of service users.

A decision on lifting any suspension will follow our own local process.

