



South Tyneside Council



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# **Provider Quality Concerns Versus Adult Safeguarding Concerns Practice Guidance**

**Adult Social Care & Commissioning**

**21<sup>st</sup> October 2024**

# Introduction

This guidance considers issues regarding the interface between quality of care and safeguarding in health and social care settings. It sets out how commissioners work with providers so that adults receive high quality, safe services, and details how good communication and effective contract monitoring can support providers to take early action to reduce risk and safeguard adults.

Every care provider should aim to provide effective, high-quality care and support for every individual. When the provider's standards fall short there will be concerns over the quality of care. A quality of care concern is not safeguarding and does not merit a safeguarding concern being submitted. However, if concerns regarding the quality of care are allowed to continue unaddressed then there is a risk of the poor care becoming normalised, leading to abuse and neglect, and a safeguarding concern.

The [South Tyneside Safeguarding Adults Threshold Guidance Tool](#) should be used to support responses to concerns at an appropriate level and ensure a consistent approach across all agencies.

Effective partnerships between safeguarding and commissioning functions, together with an understanding of their interdependent roles and responsibilities, are essential to support a positive culture of cooperation and information sharing. Working in partnership, can assist with early identification when health and social care providers are at risk of not meeting required standards that might lead to wider concerns and the need for safeguarding interventions.

## Quality of service issues and adult safeguarding concerns

The Care and Support Statutory Guidance outlines that safeguarding enquiries are not a substitute for:

- Providers' responsibilities to provide safe and high-quality care and support.
- Commissioners regularly assuring themselves of the safety and effectiveness of commissioned services.
- The Care Quality Commission (CQC) ensuring that regulated providers comply with the fundamental standards of care or by taking enforcement action.

Providers are accountable both to commissioners and to adults using their services and are expected to have a robust quality assurance framework in place that evidence's commitment to prevention and early intervention. There is a clear responsibility on providers and commissioners to ensure safe, quality services that will reduce the need for safeguarding interventions.

# When do concerns about quality require a safeguarding concern to be raised with the local authority?

Care providers are responsible for taking appropriate action in line with their own policy and procedures for incident reporting. This should reflect the [Care Quality Commission's Fundamental standards](#).

Care providers need to consider whether any incident or concern should be raised as a safeguarding concern and reported to the local authority, and to other organisations such as their regulator, the Care Quality Commission and commissioners. The care provider will also need to consider if it does not raise an incident/concern as a safeguarding concern how that will be recorded, and who this incident needs to be reported to.

Incident procedures cover a wide range of issues including minor incidents that may happen as a result of issues to do with practice, or the quality of care provided. It is the provider manager's responsibility to ensure that these are addressed proactively and effectively through internal processes and to ensure the service they provide meets the required standards of care.

Providers must consider, depending on the nature of the incident, whether it may be necessary to notify relevant parties such as relatives, or any external agencies or organisations, due to contractual or regulatory requirements.

When an incident occurs, and abuse or neglect is suspected providers should raise a safeguarding concern.

## The Role of CQC

The Care Quality Commission (CQC) monitors, inspects and regulates care and health services to make sure they meet fundamental standards of quality and safety and publish their findings, including performance ratings to help people choose care services.

The Care Quality Commission is responsible for setting fundamental standards of safety and quality by registration of services and by the ongoing monitoring of a provider's compliance and information relating to the quality of care and support services should always be shared with them.

The Care Quality Commission can deploy a range of enforcement powers where registration requirements are not being met in services with poor or inadequate standards of care. Where the Care Quality Commission identifies safeguarding concerns about an adult, they advise the local authority by raising a safeguarding concern.

When care providers and the local authority are aware of safeguarding concerns in regulated services, they will inform the Care Quality Commission.

The Care Quality Commission may attend safeguarding meetings or provide the lead with relevant information required to support safeguarding activity. They may also request the minutes of safeguarding meetings.

Further information is available within the 'Statement on the Care Quality Commission's Role and responsibilities for Safeguarding Children and Adults' 2015.

## Quality monitoring in social care and health

Where care and health services are commissioned by either the local authority, or an Integrated Care Board (ICB), each respective agency has a responsibility for monitoring the quality of those services; where they are commissioned jointly agreements will determine the quality monitoring arrangements. Through their Quality Monitoring teams the local authority and ICB gather relevant information and trends from complaints, safeguarding enquiries, assessment teams, safeguarding leads, and whistle blowers. Quality Monitoring teams work closely with other professionals and the Care Quality Commission, to share information in order to build a picture of care services. This information can be used to help support providers to maintain and improve quality of the care they provide. This information can also be shared with Lead Enquiry Officers to support risk management and decision making.

The South Tyneside Provider Intelligence forum is a partnership group that is co-ordinated by ASC &C and includes the CQC, NHS, Police and ICB. The forum meets monthly and shares information about local care providers. This group provides valuable local intelligence about providers and any concerns that there are about the safety and quality of their services.

Responses relating to the quality of care and support services which sit outside of the safeguarding enquiry process will be led and coordinated by the responsible commissioning organisation, in close partnership with the managers of those services, the Care Quality Commission and any other agencies or organisations that need to be involved or informed.

Where it is unclear which agency's commissioners would have responsibility for leading and coordinating a response relating to quality, this should not cause a delay in responding to issues about quality of care. In these situations, the local authority commissioners will take responsibility for convening the Provider Intelligence forum to determine which agency is most appropriate to coordinate any ongoing quality assurance response.

The table below gives a guide as to which organisation takes a lead for quality monitoring in relation to specific services:

Type of service	Organisation responsible for monitoring quality
Primary Care such as GP's, dentists and pharmacies	ICB covering the area where the service is situated.*

NHS Services (other than those above) such as Acute Hospital Trusts, Mental Health Trusts, Community Health Trusts (such as Community Nurses, Occupational Therapists, Physio Therapists), Ambulance Trusts	ICB covering the area where the service is situated.
Health services that are independently run e.g. hospices with charitable status	Independently run specialist health services that are likely to provide adults with specialist health or mental health care needs will need to be determined on a case-by-case basis as agencies that commission these services will vary.
Independently run care services. These services include all independent sector care and support services including care homes (with and without nursing), day services, domiciliary care services, supported living and other support services	Services commissioned by the local authority, the ICB or those that are jointly commissioned. The commissioning authority in partnership with the Care Quality Commission. Where a service is jointly commissioned, it is the responsibility of health and social care to jointly monitor or agree who will monitor in partnership with the Care Quality Commission.
Care and support services operated by the local authority	Relevant local authority.
Social Work/Assessment Services	Relevant local authority.
Prisons / Detention Centres	<u>Home Office – National Offender Management Service</u>
Where an adult employs personal assistants or other staff	Adults, or their representatives, can seek advice and support regarding this from the local authority. The local authority has a responsibility to provide an appropriate response to the adult and must ensure the adult, or their representative, is provided with adequate advice and support.

\*NHS England is responsible for performance concerns relating to Primary Care, this includes General Practice, Community Pharmacies, Community Dentists and Opticians. If a safeguarding concern is raised in relation to Primary Care services, the relevant ICB should be informed. The safeguarding team within the ICB will review the concern raised and decide whether it is appropriate to refer to NHS England. They will inform the local authority of any decisions made and outcomes.

# Raising concerns & consent

The views and wishes of the adult should always be sought prior to passing information regarding a safeguarding concern to other organisations. However, this does not override professional responsibilities for passing information to relevant agencies, in order to protect an individual and others using the service.

The following table is not an exhaustive list. It is guidance giving examples of scenarios regarding concerns about the quality of care and support services and the type of response that may be required.

<b>POOR CARE / QUALITY ISSUE</b> <ul style="list-style-type: none"> <li>Information should be made available to agencies responsible for commissioning and regulating the service.</li> <li>The service will respond to the issue using their own incident management processes.</li> </ul>	<b>SAFEGUARDING CONCERN</b> <ul style="list-style-type: none"> <li>Information should be shared with agencies responsible for commissioning and regulating the services.</li> <li>Safeguarding concerns should be raised with the local authority.</li> <li>The service remains responsible for ensuring the safety of an individual adult and others using the service.</li> </ul>
Assessed need not documented in care plan e.g. Management of behaviour or liquid diet due to swallowing difficulties. Provider identifies this and addresses it before any harm occurs.	Failure to specify in care plan how an assessed need must be met and inappropriate action, or inaction, results in injury e.g. The adult experiences pain or choking.
An adult falls and injury occur. Appropriate medical intervention sought and given, and existing falls risk assessment and care plan reviewed.	An adult falls and injury occur. No specific assessment of falls risk in place, no appropriate medical intervention sought or given, and no plan made to review the care plan.
The adult's care plan not followed. Provider identifies this and changes care practice and involves the adult in the process.	Failure to follow care plan results in the adult experiencing abuse or neglect.
An adult does not receive necessary help to eat or drink on one occasion, or the food offered by the care provider is poor-quality and unappetising.	Care provider continues to offer poor quality or unappetising food or culturally unacceptable food, or nutritionally inadequate or there are recurring events in which an adult(s) does not receive the necessary help to eat or drink. The adult experienced hunger, dehydration, or constipation.
Incontinence needs not met on one occasion. No harm appeared to have occurred.	Recurring event or is happening to more than one adult. The adult suffered abuse or neglect e.g., Loss of dignity and self-confidence, pressure ulcer development.

An adult does not receive their medication on one occasion, or an error occurs on one occasion. The adult's doctor or pharmacist was contacted for advice regarding the impact of the error.	Medication error on one or more occasions that caused the adult(s) to suffer due to the nature of the medication e.g., Insulin for a diabetic. Recurring event or happening to more than one person. Adult(s) experienced abuse or neglect e.g., Pain, health deterioration, side effects.
An adult is discharged from hospital without adequate planning.	Discharge planning procedures not followed, and adult suffers as a result, or recurring event e.g. Increased risks, no care provision, information not communicated to care provider, medication not administered.
Domiciliary care call missed on one occasion for one adult, with minimal impact on the adult.	The adult does not receive a care call, and no other contact is made to check their wellbeing and safety resulting in them experiencing or being at risk of abuse or neglect, and /or numerous calls missed, or more than one adult affected.
A staff member is reported to have talked to a colleague about an adult using the service in an unprofessional way. Or staff member has talked to an adult in an unprofessional or hurtful way. Apology made to the adult and the provider addresses conduct with the staff member.	A staff member is reported to have shouted at or spoken rudely to or sworn at an adult.
Identified one-to-one support not provided to one adult on one occasion, with minimal impact on the adult.	Recurring event, resulting in the adult experiencing or being at risk of abuse or neglect and putting other adults at risk, and / or unnecessary restraint used.
Staff not managing (aggressive) challenging behaviour of one adult, on one occasion. No ongoing risks evident to the adult or others care plan reviewed or amended.	Recurring event, adult of harming self and others due to inaction. Inappropriate use of restraint.
One adult susceptible to pressure damage is not assessed on one occasion, but no skin damage is present.	One adult not assessed, wounds visible and abuse or neglect evident e.g., adult(s) suffered pain. Advice is not sought, and a referral is not made to the Tissue Viability Nurse and pressure damage occurs.

# The role of the local authority on receipt of a safeguarding concern

On receipt of a safeguarding concern the local authority will make a decision as to whether the adult at risk criteria is met and a safeguarding enquiry is required.

On receipt of a safeguarding concern regarding a care and/or health provider the local authority will need to inform the relevant quality monitoring team within the local authority, the ICB and CQC. If the concern was regarding a concern about the delivery of health care. The local authority should also feedback the outcome of any safeguarding concerns or safeguarding enquiry to the relevant quality monitoring services and commissioners.

The Organisational Abuse Procedure sets out arrangements for responding to allegations of organisational abuse where safeguarding concerns are identified as serious matters within an organisation.

The local authority may cause all, or part, of an enquiry to be carried out by another professional or organisation who may be best placed to do this. This is referred to as “causing others” to enquire. A Making Safeguarding Personal approach requires that the most appropriate professional is identified to carry out an enquiry e.g. health professionals may undertake enquiries relating to management of medication or pressure damage. Care home managers may be best placed to enquire about something that may have happened to one of their residents as a result of abuse or neglect by one of their staff.

## Where it may not be appropriate for a provider to undertake an enquiry

In most cases, the local authority will cause the care provider to undertake the safeguarding enquiry (and provide the support that the adult may need) where it is regarding a person receiving care and support from that provider, unless there is a compelling reason why it is inappropriate or unsafe for the organisation to do this. For example, there could be a conflict of interest, concerns about ineffective previous enquiries, multiple concerns or a matter that requires investigation by the police.

Where there is a conflict, the provider may still be required to provide information and be involved in the enquiry, but not be formally caused to undertake it.

## Responding to organisational abuse

Organisational abuse is a broad concept and is not just applicable to high profile cases, for example Winterbourne. It is an umbrella term defined as, “*the mistreatment or abuse or neglect of an adult at risk by a regime or individuals within settings and services that adults at risk live in or use, that violate the person’s dignity, resulting in lack of respect for their human rights*” (Care and Support Statutory Guidance, 2014).



Organisational abuse occurs when the routines, systems and regimes of an institution result in poor or inadequate standards of care and poor practice which affects the whole setting and denies, restricts or curtails the dignity, privacy, choice, independence or fulfilment of adults at risk. Organisational abuse can occur in any setting providing health and social care. A number of inquiries into care in residential settings have highlighted that Organisational abuse is most likely to occur when staff:

- receive little support from management,
- are inadequately trained,
- are poorly supervised and poorly supported in their work, and,
- receive inadequate guidance.

The circumstances in which an enquiry into organisational abuse may be required can include, but are not limited to:

- Safeguarding concerns with evidence of criminal neglect, ill treatment, network of abuse or death.
- Where it is suspected that a number of adults have been abused by the same person, or group of people in the same setting.
- Where there are indicators from safeguarding activities relating to an individual adult that other adults are at risk of significant harm.
- Where patterns or trends are emerging which suggests serious concerns about poor quality of care from a provider.
- Where a provider has failed to engage with other safeguarding activities resulting in continued harm or continued risk of harm to one or more adults.
- Where there is evidence that despite contract monitoring, quality improvement and / or Care Quality Commission action planning there remains insufficient improvements within the service, resulting in continued harm or continued risk of harm to one or more adults.

Responses to organisational abuse should involve key partner agencies and senior managers (Assistant Director) from the earliest stage, please see ASC&C Provider Safeguarding policy. This is essential in ensuring the appropriate personnel and resources are identified to carry out the enquiry. The level and nature of the concern will influence which organisations need to be involved and the required level of authority to make decisions on behalf of those organisations.

Many enquiries into organisational abuse will involve consideration about a number of adults who are at risk. It is vital that the enquiry includes the consideration of the views and outcomes of any individual adult involved and incorporates these into any wider strategic learning within the enquiry, whilst at the same time ensuring the confidentiality of specific individuals is maintained.

It is good practice in any enquiry for providers to be fully involved from an early stage to promote effective partnership working and bring about the best outcomes for adults with care and support needs.

Other funding authorities/ICB's will also be involved in safeguarding concerns and enquiries involving a person placed by that organisation, and of any decisions for suspending

placements due to safeguarding concerns.

Communication with adults, who use the service, and their representatives, needs to be considered and in the majority of cases this would be taken forward by the provider. In a residential setting, residents and their families may become anxious about increased activity, such as seeing more visiting professionals, and have the right to be informed of concerns, though care should be taken not to raise anxiety. Information sharing should always include adults who use services and their representatives so that they are able to make informed choices and retain their independence. Please see South Tyneside ASC&C Organisational Abuse Procedures.

## Duty of candour

The intention of the duty of candour under the Health and Social Care Act 2008 is to ensure that providers are open and transparent with people who use services and other 'relevant persons' (people acting lawfully on their behalf) in relation to care and treatment. It also sets out some specific requirements that providers must follow when things go wrong with care and treatment, including informing people about the incident, providing reasonable support, providing truthful information and an apology, as appropriate.

The duty of candour applies to all NHS trusts, foundation trusts, special health authorities and all other health and care service providers and registered managers.

## Policies this procedure relates to:

### Provider Intelligence Forum terms of reference



Provider Intelligence  
Forum ToR.pdf

### Safeguarding adults in care homes NICE guidance

[www.nice.org.uk/guidance/ng189](http://www.nice.org.uk/guidance/ng189)

### South Tyneside ASC&C Organisational Abuse Procedures



ASC&C  
Organisational Abuse