

Lambeth Provider Concerns Policy 1.1 - October 2023

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1. Introduction

This policy sets out Lambeth’s approach to identifying, managing, and resolving provider concerns in the provision of Adult Social Care services.

Provider concerns refer to issues that affect an individual or group of people who receive care from a Local Authority commissioned care provider. The Provider Concerns process should be used where there are patterns of incidents, near misses, and/or safeguarding concerns that indicate that a provider is unable to provide care and support in a safe environment that respects the human rights of people in receipt of that care, and/or has not made changes to reduce the number of incidents surrounding the same or similar situations

A provider concern is distinct from a safeguarding concern, though the two may often occur together. [Safeguarding concerns](#) can be raised regarding adults within any care setting. Where safeguarding concerns are raised about an individual these should be progressed via a Section 42 Enquiry where they meet the criteria as set out in the Care Act, Section 18. The outcome of any individual Section 42 Enquiry related to such a care provider should be fed back through this Provider Concerns process.

This is a working document which will be reviewed regularly to ensure it reflects best practice, learning and the shifting national/local context. The first scheduled review will take place in September 2025, with additional reviews as required.

2. Organisational Abuse

Organisational abuse (or organisational safeguarding) is a broad concept and is not just applicable to high profile cases such as [Winterbourne View](#). It is an umbrella term defined as:

The mistreatment, abuse, or neglect of an adult at risk by a regime, group, or individual within settings and services that adults at risk live in or use, which violates the person's dignity, resulting in lack of respect for their human rights.

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 or part thereof and denies, restricts or curtails the dignity, privacy, choice, independence or fulfilment of adults.

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.

This policy and associated processes aim to prevent or minimise organisational abuse in care settings.

3. Early Identification

Hull University (Abuse in Care Project, 2012) identified over 90 individual indicators or warning signs for concern. A summary of factors which can increase the likelihood of abuse occurring within care settings are drawn from these indicators:

- management and leadership;
- staff skills, knowledge and practice;
- residents' behaviours and wellbeing;
- the service resisting external involvement and isolating staff or service users;
- the way services are planned and delivered;

- the quality of basic care and the environment.

Where there is proof or suspicion of organisational abuse by omission, for example the abuse and neglect highlighted in the Winterbourne View and the Old Deanery reports, or omission to provide care and support that puts adults at risk of or experiencing abuse or neglect, Lambeth will take action, channelled through this Provider Concerns process.

4. Principles

The following principles guide and should be upheld by the Provider Concerns process:

- The safety and wellbeing of adults using the service is paramount;
- Strong partnerships that acknowledge the expertise of others;
- Openness, transparency and proportionality to achieve positive outcomes;
- Joint accountability for risk between commissioners, safeguarding leads, providers, the police, the local authority, the ICB and other stakeholders who may be involved whilst acknowledging distinct roles and responsibilities;
- Prudent targeted use of resources;
- Information shared responsibly between all agencies, including the provider;
- Cooperation between agencies.

Our response to concerns depends on levels of risk and impact on service users. There are no hard and fast rules, and each case should be considered on its own merit. The provider concerns process can challenge the capacity of one service or organisation, therefore it is important that there is a shared approach, breaking down barriers between services and organisations to provide a joined up, one team approach.

5. What is a Provider Concern?

A provider concern arises when there is a sign or indication that a service has an area or number of areas that do not meet standards and there is a risk to the health and well-being of service users, or a risk could arise if the issue is not addressed.

The provider concerns process can relate to both contracted providers and non-contracted providers. It is important to acknowledge the difference between individual safeguarding concerns, assessment and investigations within a provider setting to that of concerns impacting on a larger group of individuals within that setting.

Additionally it is important recognise the difference between issues that would be dealt with through routine quality and safety assurance processes and what should be escalated under the Provider Concern Process and could ultimately constitute organisational abuse.

6. The Provider Concerns Process

This policy and its associated documents set out a range of circumstances as to when a provider concerns process should apply, and how a provider concern process should be managed. Examples of circumstances that could warrant the initiation of a provider concerns process are:

- A disproportionate number of safeguarding concerns raised for similar issues, within a few months of each other, concerning individuals who are receiving care from the same provider or in the same service

- A combined number of safeguarding concerns across a set of services operated by the same organisation
- Inappropriate recruitment processes or staffing levels
- Lack of, or inadequate care plans
- Concern about the viability of a provider as a going concern

In order to clarify these matters further we need to consider and establish what the working threshold level is for applying the provider concerns process. This is best achieved through the assessment of risk and is something which we will look at in more detail in the sections to follow.

6.1 Provider Concerns Process

For a detailed overview of the provider concern process, including a step by step guide to managing a provider concern once it has been identified, please refer to [Appendix 1: Provider Concerns Process](#), and [Appendix 2: Provider Concern Process Flowchart](#).

6.2 Provider Concerns Thresholds

It can be difficult to decide when a provider concerns process is required. When making this determination, consideration should be given to the extent and nature of risks that exist, the impact on the individuals affected, and the possible impact of failure to address and reduce risks.

[Appendix 2: Provider Concern Process Flowchart](#) and [Appendix 3: Provider Concerns Threshold Table](#) provide a summary and demonstrate combined threshold levels. These should be used for guidance on establishing when a concern process is required, and for determining appropriate levels of concern.

It is important to view each situation individually, collating inter-agency intelligence and utilising established risk assessment processes. Risk can and should be considered and monitored throughout the process. Risk assessments should cover safeguarding considerations and compliance information; and include a specific risk analysis of the provider and the current situation.

As part of the risk assessment process, information should be gathered from all relevant agencies, and a joint decision taken on whether to take the matter forward through the provider concerns process. It may be beneficial to use this information to assess the level of concern prior to initial decision making. The collection of information must not delay initial conversations or the addressing of any urgent risks.

For many concerns, information will be reported and shared at Lambeth's Provider Surveillance Group Meeting, which brings together members from a range of partner organisations (see [Appendix 4](#) for terms of reference for this group).

Where concerns are developing but not yet serious, routine contract monitoring and assurance meetings can be used for decision making, escalating to an appropriate officer if required.

6.3 Determining the Severity of a Concern

The provider concerns process, as detailed in Appendix 2, has different routes depending on the severity of a concern. Concerns are classified as Minor, Moderate and Major, based on the number

and seriousness of the risks identified. The level of a concern can be determined using the risk scores set in [Appendix 3](#) and the table below:

Table 1: Concern Classification

Concern Level	Minor	Moderate	Major
Risk Score	<p>Combined risk score ≤ 3</p> <p>AND</p> <p>No single risk with a score of 3 or higher</p>	<p>Risk score between 4 and 6</p> <p>OR</p> <p>A risk of 3, where it is one 3 risk</p> <p>AND</p> <p>No single risk with a score of 5</p>	<p>Risk score ≥ 7</p> <p>OR</p> <p>A risk with a score of 5 is present</p>

The risk score of the service can be determined by assigning a risk score of between 1 and 5 to each issue or risk identified, in line with those given in [Appendix 3](#), and adding the scores of the individual risks together to give an overall risk score.

[Appendix 3](#) contains a series of examples of issues, but does not cover all situations. It should be used as a guide to assess the severity of other issues and risks by comparing them to those listed.

Professional judgement should always be used when determining the severity of a provider concern. Each situation should be considered individually, considering the risks present in that specific situation. If, in your judgement, the risks present in a service do not match the calculated risk score, you can assign a higher concern level, in consultation with relevant colleagues.

Any concern that reaches the threshold to be classified as moderate or major should be escalated to the Lambeth Provider Surveillance Group (see [Appendix 4](#) for details).

7. Roles and Responsibilities

7.1 Host authority

The local authority in the area where abuse or neglect has occurred is the host authority.

The host authority is responsible for:

- Liaising with the regulator if any concerns are identified about a registered provider;
- Determining if any other authorities have made placements, alerting them and liaising with them over the issues in question / under investigation;
- Coordinating action under safeguarding and has the overall responsibility to ensure that appropriate action is taken and monitoring the quality of the service provided;
- Ensuring that advocacy arrangements are in place where needed, and care management responsibilities are clearly defined and agreed with placing authorities;

- Ensuring that there is a chair and administration of meetings, and provides a clear audit trail of agreements, responsible leads for particular actions and timescales;
- Taking on the lead commissioning role in relation to monitoring the quality of the service provision.
- Proactively sharing intelligence on confirmed and possible provider concerns with all relevant stakeholders through the Provider Surveillance Group Meeting (See [Appendix 4](#) for Terms of Reference for this group).
- Determining the severity of a concern and, at the appropriate stages of a provider concern process, whether to put enforcement measures in place, including formal or informal embargos on new placements.
- Informing ADASS, the CQC, and any other relevant bodies when formal enforcement measures are put in place, and when these are lifted.

7.2 Placing authority

The local authority that has commissioned the service for an individual/s delivered by a provider where there is a provider concern.

The placing authority is responsible for:

- Duty of care to people it has placed that their needs continue to be met;
- Contributing to safeguarding activities as requested by the host authority, and maintain overall responsibility for the individual they have placed;
- Ensuring that the provider, in service specifications, has arrangements in place for safeguarding;
- Ensuring that the placement continues to meet the individual's needs;
- Undertaking specific [mental capacity](#) assessments, or best interest decisions for, individuals they have placed;
- Reviewing the contract specification, monitoring the service provided and negotiating changes to the care plan in a robust and timely way;
- All usual care management responsibilities;
- Assessments under the [Deprivation of Liberty Safeguards](#);
- Keeping the host authority informed of any changes in individual needs and/or service provision.

7.3 Care Quality Commission

The [Care Quality Commission \(CQC\)](#) acts independently to register, monitor, inspect and rate care providers, and to take action to protect service users. It is a key partner for local authorities in information sharing and working to tackle areas of concern. The CQC has the authority to take appropriate enforcement action where providers are found to be slipping but have not yet breached quality and safety standards. This supports the CQC's approach to inspection and enforcement which is based less around compliance of set outcomes, and instead focuses on five key questions about care, the Fundamental Standards:

- Is it safe?
- Is it effective?
- Is it responsive?

- Is it caring?
- Is it well led?

Where there has been a recent inspection it may be helpful for providers to share pre-publicised reports, to support the principle of openness and transparency. In some instances providers may be addressing issues identified by inspections and [adult safeguarding](#) and it makes sense to address both through agreed joint processes.

The CQC's expertise and experience in monitoring and improving care services should be made use of in any provider concerns process, and officers should ensure to include them in all relevant actions and communications, coordinating joint approaches as required.

7.4 Local authority

In most cases, the local authority will lead on provider concerns issues and actions in consultation with partners and in particular regulators. The principle on who is best to lead on an enquiry should always be determined by the issue, who the lead commissioner is, and the knowledge and expertise required.

7.5 Clinical Commissioning Group

[South East London Integrated Care Board](#) (SEL ICB) should be informed where there are a disproportionate number of individual safeguarding concerns regarding people within a health commissioned service, or of any provider-level concerns and processes put in place to address them. The ICB may progress these concerns through their own processes.

7.6 Police

As with all criminal matters the police are the leads and must be consulted about any additional proposed action.

7.7 Frontline workers

In any provider concerns investigation or subsequent quality improvement process, actions will be identified to be carried out by frontline workers, whether working for the provider, the Local Authority, health partners or other organisations.

Actions should be allocated as required by each individual situation, ensuring that the best qualified person to assess or assure the issue is identified. A system whereby professional knowledge and skills complement each other is the most effective way to safeguard people.

8. Defining Roles, Responsibilities and Process

Many different professionals and agencies work with service users and care providers, and may be able to identify concerns as or before they arise. We will look at the key groups of professionals involved at a local level, how they interact with the process and consider how they operate to safeguard individuals, improve the quality and safety of services, and identify concerns.

Adult Social Care Professionals play an active role in reviewing and supporting those living in care settings or in receipt of care and support at home or in the community, ensuring services are appropriate and contributing towards protection planning and undertaking reviews.

Where care and support reviews are required as part of a Provider Concerns process it is important the reviews are focused on the concerns that have been raised and that findings are fed back in to the process.

Where care planning or delivery for an individual is failing, or quality and safety standards are not met, practitioners should raise the issues with the care provider. Where issues are related to contract compliance or quality and safety concerns the practitioner must inform commissioners as appropriate and work with them accordingly.

Lambeth's Community Duty Service are often the first to receive information about issues, incidents and potential safeguarding concerns at care providers. As well as ensuring information is recorded and passed on for investigation of potential safeguarding concerns, where concerning patterns or trends occur with particular providers, this will be reported to relevant commissioners for investigation and action.

Safeguarding Adults Managers are responsible for coordinating and monitoring the investigation of safeguarding concerns. Safeguarding reports can be used to identify any emerging patterns or trends of concern to the relevant commissioners.

9. Adults who use Services/Carers/Advocates

In a provider concerns process, as with Section 42 enquiries, it is essential that service users are meaningfully involved and encouraged and supported to:

- Tell us what outcomes they want
- Raise complaints and concerns
- Question when:
 - Care is not provided according to care plans
 - Care is not delivered when expected; or
 - Care is not provided with dignity and respect

Where there are patterns of complaints and concerns these may indicate poor quality service or a safeguarding concern, and thus suggest the need for a provider concerns process.

10. Differentiating between Poor Quality Care and Potential Cause for Concern

Provider concerns arise when there is a sign or indication that a service or provider has an area or number of areas that do not meet standards, and there is a risk to the health and well-being of service users, or a risk could arise if the issue is not addressed.

Individual errors or instances of poor quality care do not necessarily constitute cause for a provider concern, and it is important to differentiate between the two when reviewing incidents or deciding whether to initiate a provider concern.

10.1 Poor care

Poor care refers to one-off issues related to individual human error, which are distinct from concerns at a service or organisational level. The determination that an issue is poor care, rather than a provider concern should be made considering the nature and cause of the incident, any other incidents occurring in the service, and the provider's response. Instances of poor care may reach the threshold for a safeguarding concern, without necessarily requiring a provider concern process.

Examples of potential instances of poor care include:

- Individual, one-off medication errors (although this could have had very serious consequences)
- An isolated incident of under-staffing, resulting in a person's incontinence pad being unchanged all day
- Poor quality, unappetising food
- A single missed visit by a care worker from a home care agency

10.2 Potential causes for concern

Potential causes for concern, include instances of:

- A series of medication errors
- An increase in the number of visits to A&E, especially if the same injuries happen more than once
- Changes in the behaviour and demeanour of adults with care and support needs
- Nutritionally inadequate food
- Signs of neglect such as clothes being dirty
- Repeated missed visits by a home care agency
- An increase in the use of agency or bank staff
- A pattern of missed GP or dental appointments
- An unusually high or unusually low number of safeguarding alerts
- Failure to implement the Duty of Candour, as set out in Lambeth's safeguarding guidance to providers of adults services.

There should be careful analysis to understand the causes and effects of any harm or neglect, whether intentional or otherwise, and to make sure that this is factored into the decision making and provider concerns process.

Appendix 1: Provider Concerns Process

Click here to view [Provider Concerns Process](#)

Appendix 2: Provider Concerns Process Flowchart

Click here to view [Provider Concern Process Flowchart](#)

Appendix 3: Provider Concerns Threshold Table

Click here to view [Provider Concerns Threshold Table](#)

Appendix 4: Provider Surveillance Group Terms of Reference

Click here to view [Provider Surveillance Group Terms of Reference](#)

Appendix 5: Lambeth Provider Failure Policy

Click here to view [Lambeth Provider Failure Policy](#)