

Appendix: Market Failure Outline Document

Contents

- 1) Executive Summary
- 2) Current / related documents
- 3) Key legislation
- 4) Stakeholders
- 5) The care market in Coventry
- 6) Scenarios / scope of risk
- 7) Council response to managing market failure

Appendices

- 1) Coventry City Council's approach to quality assurance
- 2) Regionally developed risk tool to identify step by step approach

1) Executive Summary

This document aims to detail the fundamental steps to be taken should a provider of social care and / or health services fail within the market place in Coventry.

This is in light of enhanced duties under the Care Act and is further highlighted through market failure across the care and support sector over the past 5 years (most notably Southern Cross and a range of smaller home support / care home providers) in the City.

Key to this approach are agreement and collaboration with partners (CRCCG / UHCW / third sector / private providers) to mitigate risks to vulnerable people in Coventry who may or may not be funded by a statutory body.

Inevitable longer term holistic market impact will be a factor to consider where providers, depending on scale and / or specialism, fail and cease to provide services within Coventry. This work programme will be fundamental to the Market Position Statement (2015) through market shaping and integral to future contracts and payment mechanisms to mitigate provider failure through a more robust arrangement to support provider growth in the City.

2) Current / previous related documents

Draft market failure contingency plan

In light of the Southern Cross scenarios in 2009, the City Council led on developing a market contingency plan which focussed, in the main, on planning for that particular case (although it gave a template for a wider contingency plan).

The work was shared with colleagues from Health (then known as PCT) and was agreed as a principle by Cabinet Member and Council. However, no formal sign off of the document was obtained and thus the plan has not been widely publicised and / or circulated.

Business continuity plans (BCP)

BCP's are a pre-requisite of every organisation contracted to the City Council (across all sectors). These plans vary in detail but all will have a focus on provider assurances to facilitate a range of actions should an incident (small or large) require so.

BCP's are checked as part of the annual monitoring regime by City Council contract officers.

In line with provider BCP's, there will be scenarios, as identified within this document, where the Council will need to mobilise actions and support swiftly. This Market Failure Outline Plan will be used, through market engagement and planning, a mechanism to react to such scenarios.

3) Key Legislation / duties

Care Act

- Local authorities have a temporary duty to ensure that, when a care provider fails (unable to continue to provide care due to market failure), people's needs are met – regardless of funding arrangements
- This level of intervention may vary dependent on individual circumstances of individuals and there may be instances where the local authority can charge individuals for arranging 'emergency care'
- Specific duty on CQC* to mitigate the risk of provider failure is present in the Act, although it is focussed on supporting providers through sustainability plans and business reviews as opposed to stepping in to prevent failure.
- The Act allows CQC to request financial information from providers for the first time whilst ensuring that information sharing across all stakeholders is in place.

*CQC specific duties

- Market oversight – oversee financial sustainability of providers that would be difficult to replace if they fail

- Duty of Candour – ensure that providers are open and transparent when things go wrong and expect actions to be in place to ensure improvements

It should be noted that CQC have, in some cases, instigated restrictions on placements on providers which is a new power that they have as part of their enforcement process. This can have a detrimental effect on Council and CCG plans in particular around capacity management during pressure periods throughout the year. However, a clear balance between provider capacity and client safety needs to be paramount to any decisions.

4) Key Partners / stakeholders

Coventry and Rugby Clinical Commissioning Group (CRCCG) – where clients have an element of health funding attached to them (usually nursing / CHC provision) then market contingency plans will need to be implemented jointly and risks and finances shared accordingly.

However, it should be noted that all people receiving a social care service (funded or not funded by the Council) will have a health need and GP involvement thus peoples health needs should be a consideration regardless of whether health / CHC funding is in place.

CRCCG also fund community health services (provided through CWPT) which will need to be mobilised in certain scenarios.

5) The Care Market in Coventry

The following section provides an analysis of the care market (care homes / home support and supported living) based on the national tools developed by Cordis Bright and using the Council's own intelligence.

The analysis is detailed as: -

Current Social Care Market for Supported Living

	National			Regional			Local			Total
	Large	Medium	Small	Large	Medium	Small	Large	Medium	Small	
Providers / schemes within the local market	11	0	0	32	8	1	0	14	3	<u>69</u>
Funded packages / number of people funded by Host LA	18	0	0	123	14	2	0	48	4	<u>210</u>
Number of providers / schemes with at least one service with a CQC 'inadequate' rating	0	0	0	0	0	0	0	0	0	<u>0</u>
Number of providers / schemes with 20% or more of their services with at least one CQC 'inadequate' rating	0	0	0	0	0	0	0	0	0	<u>0</u>

Current Social Care Market for Housing with Care

	National			Regional			Local			Total
	Large	Medium	Small	Large	Medium	Small	Large	Medium	Small	
Providers / schemes within the local market	9	0	0	1	0	0	10	0	0	<u>20</u>
Funded packages / number of people funded by Host LA	237	0	0	23	0	0	255	0	0	<u>515</u>
Number of providers / schemes with at least one service with a CQC 'inadequate' rating	0	0	0	0	0	0	0	0	0	<u>0</u>
Number of providers / schemes with 20% or more of their services with at least one CQC 'inadequate' rating	0	0	0	0	0	0	0	0	0	<u>0</u>

Key points

- The Council buys a significant proportion of it's care home placements small local organisations which are in the main from spot purchase arrangements
- The Council's block contract arrangements are with large national organisations (Anchor / MHA)*
- Home support provision in the City is split, in the main, across small local and large national organisations
- Housing with Care provision provided by Coventry City Council accounts for over half of the funded provision (Local – Large)

*this includes Council run provision

6) Scenarios / scope of market failure

The below table details those stakeholders with a regulatory and/or quality assurance interest in each service type, who will need to be involved should market failure materialise and what type of resource is required.

Service / Provider Type	CCC	CRCCG	CWPT	CQC
Residential (national)	Financial / Operational	Operational	Operational	Oversight
Residential (local)	Financial / Operational	Operational	Operational	Oversight
Nursing (National)	Financial / Operational	Financial / Operational	Financial / Operational	Oversight
Nursing (Local)	Financial / Operational	Financial / Operational	Financial / Operational	Oversight
Extra Care (national)	Financial / Operational	Operational	Operational	Oversight
Home Support (National)	Financial / Operational	Operational	Operational	Oversight
Home Support (local)	Financial / Operational	Operational	Operational	Oversight
Day Service (National)	Financial / Operational	Operational	Operational	Oversight
Day Service (Local)	Financial / Operational	Operational	Operational	Oversight
Sheltered (non-social care)	Information	None	None	None
Third Sector (Large)	Information	Information	None	None
Third Sector (small and local)	Information	Information	None	None

Scope of risk mitigation by organisation

The following section aims to outline the pro-active process of managing a provider where significant risks are presented which may impact on their ability to continue providing services.

CCC

Initial scope

- Identify key issues
- Engage with provider through senior level meetings including CQC where applicable
- Identify all people in receipt of services including private clients and out of city placements
- Action plan developed, implemented and monitored on a weekly basis
- Instigate at Provider Escalation Panel
- Instigate large scale investigation if required
- Identify social care resource for reviews of all people
- Communication plan including letters to users / carers, media response as appropriate
- Member briefings
- Liaison with OOC placing authorities
- Initial checks for alternative capacity

Continuous scope should provider continue to be on the verge of failure

- Liaison with CQC at a greater level to jointly work on provider failure
- Communication (face to face meetings) with users and carers where applicable
- Reviews of all clients including mobilisation of advocates and IMCA / DOLS assessments (and Best Interest processes where applicable)
- Ensure ICT / Council systems are set up to react to potential changes
- Liaison with providers regarding their own ICT systems and use of e-systems
- Engagement of wider provider market to ascertain definitive capacity and the ability to : -

- a) Accept current cohort of users
 - b) Potentially TUPE staff over
-
- Ensure measures are in place for continuity of care for current clients through staff levels and competencies
 - Explore the potential of using the existing building

CRCCG

Initial scope

- Joint meetings with City Council
- Joint communication plan where necessary
- Identification of review resource for health funded clients
- GP engagement
- Identification of nursing team (tissue viability / falls / health checks etc)
- Identify risk to UHCW re: capacity and discharges for both current and future intended placements
- Ensure continuity of medication supplies as appropriate

Continuous scope should provider continue to be on the verge of failure

- Mobilisation of nursing team to work jointly with CCC social work teams

CQC

- Joint meetings with Council
- Establish and communicate de-registering position
- Ensure compliance notices are in place and implemented

7) Examples of failure and actions

The following section details the high level actions and decisions that will need to be taken should market failure occur. These scenarios are detailed as: -

Provider Type	Key Factors	Risk Management Process
Care Home	Building closed down	Approach 1
Housing with care	Building still available	Approach 1
Home Support	Branch closed immediately	Approach 2
Day Centre	Building closed down	Approach 1

Approach 1

Issues	Options	Key Involvement / Factors
Accommodation	Source alternative accommodation	<ul style="list-style-type: none"> - Building availability within CCC and private market - Cost of building (rent / charges etc) - Suitability of building and adaptations needed - Where no capacity exists an option to use cross border accommodation
	Use existing building	<ul style="list-style-type: none"> - Suitability of building and adaptations needed - Arrangements with current landlord (this may be a creditor) - Risk assessments to be undertaken (CCC Health and Safety to be mobilised)
	Re-provide service in another building (e.g. HWC or another vacant care home)	<ul style="list-style-type: none"> - Building availability within CCC and private market - Source increased staffing levels - Health input mobilised - Suitability of building and adaptations needed - Change of tenure / tenancy arrangements – cost implications and

		arrangements to be formalised
Staff	CCC / CCG TUPE staff	<ul style="list-style-type: none"> - Policies and processes to be implemented swiftly - Council / CCG terms and conditions – do they become permanent statutory services employees with same conditions? -
	A new provider takes over the staffing	<ul style="list-style-type: none"> - Agreement of which provider takes over and agreed mobilisation period - Which terms and conditions and policies and procedures are used? Existing or new providers? - The need to line up providers within procurement processes for this type of scenario -
	Enhanced rates for new provider	<ul style="list-style-type: none"> - Short term enhanced rates for new provider - Agreed cost split between CCC and CRCCG
Clients	Reviews	<ul style="list-style-type: none"> - Social Care reviews on all residents including private clients where needed - Options appraisal / risk assessments - Advocates / IMCA arrangements in place
	Health and well-being checks	<ul style="list-style-type: none"> - CCG / CSU health reviews on all residents

Approach 2

Issues	Options	Key Involvement / Factors
Staff	CCC / CCG TUPE staff	<ul style="list-style-type: none"> - Policies and processes to be implemented swiftly - Council / CCG terms and conditions – do they become permanent statutory services employees with same conditions?
	A new provider takes over the staffing	<ul style="list-style-type: none"> - Agreement of which provider takes over and agreed mobilisation period - Which terms and conditions and policies and procedures are used? Existing or new providers? - Integrate calls within new providers existing staff group - The need to line up providers within procurement processes for this type of scenario
	Enhanced rates for new provider	<ul style="list-style-type: none"> - Short term enhanced rates for new provider - Agreed cost split between CCC and CRCCG (where joint packages exist)
Clients	Reviews	<ul style="list-style-type: none"> - Social Care reviews on all residents including private clients where needed - Options appraisal / risk assessments - Advocates / IMCA arrangements in place
	Health and well-being checks	<ul style="list-style-type: none"> - CCG / CSU health reviews on all residents

Holistic actions across all approaches

Clear communications strategy – consistent across stakeholders, clients and families. To involve: -

- a) Letters to clients and families
- b) Meetings with clients and families
- c) Cabinet Member briefing
- d) Local media press release / plan for press release
- e) Provider engagement throughout
- f) Shared information across neighbouring authorities

Safeguarding / Large Scale Investigation protocols instigated. To involve: -

- a) Information gathering of users needs
- b) Mobilisation of CCC / CRCCG / CSU operational teams and / or nursing / therapist staff
- c) Current provider engagement
- d) Contract and commissioning site visits (daily)

Planned pro-active work

Market analysis

The Council and CCG are aware of and have up to date information regarding market capacity across all sectors within Coventry. In addition to this information regarding capacity in Warwickshire is readily available and up to date.

Market engagement to support major events

A focussed engagement exercise has taken place with a selection of key providers in the City from which the Council has developed a framework of providers (across all sectors) who have committed to mobilise support at short notice should the need arise.

Market programme to instigate

The following section details the key actions from the above scenarios and the options / procurement methods to ensure that Coventry has a sustainable market able to deliver quickly when / if a provider fails.

Area / Issue	Key Project to initiate	Timescale
Care Home contingency	Care Home procurement	November 2016
Home support contingency	Home support procurement	July 2016
Housing with care contingency	ABCS programme / new developments (Village / Tile Hill)	End of 2016 for Village and Tile Hill project
Day Centre contingency	Internal provision / contracted provision	Capacity exists within existing provision
Advocacy support (general)	New pilot project with Age UK / Grapevine	Part of current contractual arrangements
IMCA / IMHA / Dols support	Within existing contracts	Part of current contractual arrangements

Sign off of process

CCC

- Market Management
- Cabinet Member
- Care Act Implementation Board
- Joint Adult Commissioning Board

CRCCG

- CDG
- Joint Adult Commissioning Board

Appendices

- 1) **Risk Based Approach to Quality and market analysis**
- 2) **Regionally developed risk tool to identify step by step approach**

- 1) Joint Quality Assurance and Risk Based Approaches

The City Council quality assurance processes deliver a transparent monitoring process across contracted providers within Coventry. Key areas within this process focus on the quality of in addition to environmental / accommodation standards.

The quality assurance approach is working towards a model which has the fundamental principle of a risk based approach where providers are targeted by the Council to manage risk within the market. This approach is a significant change from a uniform approach to quality monitoring and allows a degree of flexibility within the team to react accordingly where providers are presenting, or are on the verge of, sub-standard levels of quality.

It is intended that key data sets and intelligence will inform this risk based approach. These include, but are not limited to: -

- Provider capacity / size / type and City Council / CCG spend
- Number of complex clients / spend across CCC and CCG
- Provider history through officer intelligence e.g. previously on placement stops / on-going issues and concerns (including formal complaints)
- Numbers and severity of safeguarding incidents
- Approach and evidence around pressure ulcer management
- CQC rating
- Stakeholder views and evidence (e.g. District Nurses / Social Workers / CSU staff / Families)

The factors considered vary across service types (i.e. different factors for a care home as opposed to a home support provider – a home support provider may be judged on number of high cost packages / high hours linked to staff workforce and skills).

Each area / domain has been rated in terms of significance and an overall rating given to each provider. This will form the basis of contract monitoring / management work / visits.

This approach also allows for a focussed approach on specific areas. For example, the ability to target those providers with holistic spend/ income of over £1 million per annum.

By using this approach, it is envisaged that the Council will be able to reduce the volume of scheduled monitoring visits whilst focussing resources to specific providers / areas.

Links to key groups

A monthly report of quality assurance is presented to Market Management Group which will outline the work within the team on specific providers which highlights providers presenting significant risks.

In addition to this, officers will present an analysis of the whole care market with recommendations around those areas / providers which present new risks and will be targeted within the next month.

The Risk Based Approach, both the concept and workplan, has been presented to Quality and Audit Sub-Group of Adult Safeguarding Board

Key points of approach

- Supports the Care Act changes in particular the identification of provider failure and the early identification of emerging issues within the market
- Approach focusses on pro-active work to manage market risk

- Emphasis on this approach being a Coventry City Council led process. Senior Management – through Market Management – will determine the influence factors and set programme of monitoring
- The tool is only the indicator for information – key to the process being a success are officers challenging views and data to identify risk areas
- The process is a fluid methodology. It is dependent on data / information being updated on a monthly basis – this will be built into a role within commissioning
- Enables a joint approach across CCC and CRCCG with stronger data sharing protocols and data analysis to identify risks

Summary of risks and how this translates to action

Low Risk

- A single annual check and a verification visit
- Service user feedback / questionnaire

Medium Risk

- A site visit by commissioning immediately
- A health visit immediately
- A focussed user feedback / engagement exercise with users and / or carers
- Notification to CQC for information
- Discussion at PEP
- Quarterly visits planned in from that point of identification and follow ups as necessary
- Instigation of action plan and ICP / Health and Safety and Medicines Management review as appropriate
- A meeting with the owner to go through all key points identified in the tool

High Risk

- A site visit by commissioning immediately

- A meeting with the owner to go through all key points identified in the tool
 - Weekly visits by commissioning
 - Gathering of more detailed information from stakeholders i.e. health information / hospital admissions
 - Potential reviews of residents by social care / health
- Consideration of Large Scale Investigation process with all parties

2) Regionally developed risk tool to identify step by step approach

PROVIDER FAILURE CHECKLIST						Appendix B	
Area	√	or	x	-	Date Planned	Progress	Date Completed
Communications						Establish legal status and full details/intentions of existing provider/Administrator/Receiver.	
						Check that the actions of other local authorities affected by the failure do not affect our plan.	
						Establish urgent dialogue with potential alternative provider(s).	
						Set up a Communications/Project Group with relevant representatives.	
						Secure permission to make urgent payments (if not already covered).	
						Confirm the full contact details for new/alternative provider.	

				Telephone call to our customers using predefined script by appropriately briefed workers.	
				Telephone call to private customers using predefined script by appropriately briefed workers.	
				Letter to our customers to confirm new provider and transfer arrangements.	
				Letter to private customers to confirm new provider and transfer arrangements.	
				Telephone call to existing staff.	
				Approach In-house services (e.g. Re-ablement) to allocate capacity and other external providers.	
				Inform new providers re In-house and external cover providers' contact details.	
				Communication to members/unions/Health/CQC.	
				Communication to internal teams and other relevant managers.	
				Staff consultations/measure letters for new provider.	
				Change resource/service directory to show new provider details.	

Provider				Administrators to confirm if existing office can continue to be used/rented etc.	
				Address use of ICT systems e.g. continued temporary use and access issues.	
				Payment of staff through the Administrator or the provider (new or old).	
Management				Issue letters of Intent to new provider.	
				Sign actions letter from Administrator and return.	
				Issue contract to new provider (and subsequently chase).	
				Issue service Proposals to new provider.	
				Update client record system for all customers.	
				Ensure new provider set up on finance systems.	
				Ensure team administration and finance officers made aware of changes.	
				Inform CQC re registration change and ensure provider complies.	
				Check and implement if required the need to underwrite risk of staff challenge by staff on T&C's.	

				Ensure new provider entered on Contracts Register system.	
Data				Confirm to existing provider that the Council is acting as intermediary for data exchange.	
				Transfer of customer information to new provider.	
				Transfer of staff information to new provider.	
				Check and implement any retention of information needed by the Council.	
Finance				Compile a list of all outstanding invoices.	
				Compile details of any counter charges.	
				Audit Administrator's accounts i.e. what paid against what they require - seek unused amounts.	
Legal				Prepare defence against factoring company as required.	
Market shaping				Discussion with other providers re building capacity/viability in the affected area.	
Review				Arrange for process from lessons learnt/pre-planning for future.	