

# WBSAB



## WESTERN BAY POLICY ON IMPLEMENTATION OF STATUTORY GUIDANCE ON ESCALATING CONCERNS WITH, AND CLOSURES OF, CARE HOMES PROVIDING SERVICES TO ADULTS.

### 1. INTRODUCTION

This protocol establishes arrangements adopted by the City and County of Swansea, Neath Port Talbot Council, Bridgend County Borough Council and ABMU. HB to implement Welsh Government Guidance on Escalating Concerns with, and Closures of, Care Homes Providing Services for Adults (2009).

Welsh Government Escalating Concerns Guidance is issued under Section 7 of the Local Authorities and Social Services Act 1970 and sections 12 and 19 of the National Health Services (Wales) Act 2006. Its purpose is to suggest ways in which Local Authorities and Local Health Boards can discharge their duties when managing concerns and closures of care homes that are registered to provide services to adults. The processes described in this document should be read in conjunction with the Welsh Government Escalating Concerns Guidance.

### 2. STRUCTURE AND CONTENTS

The sections that follow are structured in the following way:

Section 3 – Explains the purpose scope and arrangements for governance of Region procedures.

Section 4 - Explains the regional framework for discharging duties under Escalating Concerns Guidance.

Section 5 - Contains a basic flow chart of Escalating Concerns processes.

Appendices to these procedures are annexed as follows;

Appendix 1 Early indicators of Risk Guidance

Appendix 2 Risk Assessment Document

Appendix 3 Commissioning Officers contact list

Appendix 4 Notification of Escalating Concerns / Provider Performance

Appendix 5 Template for CAP / DAP

Appendix 6 key responsibilities as part of home closure

Appendix 7 Home Closure Checklist

Appendix 8 Roles and Responsibilities.

### **3. PURPOSE, SCOPE AND GOVERNANCE**

This protocol provides a framework for addressing concerns at all care homes providing services to adults. This includes services to older people and younger adults, and care homes providing services to people with a learning disability, physical disability or mental ill health.

The purpose of this protocol is to reduce risks to service users by raising standards to an acceptable level and maintaining service delivery. This protocol provides a framework for attempting to resolve performance failures but if this is not possible to achieve within a reasonable period, and having regard to limitations on resources, this protocol does not require commissioners to sustain a failing provider beyond the period of time necessary to ensure appropriate alternative arrangements can be made for vulnerable residents.

These procedures should only be used to address significant concerns at care homes which arise;

- (i) Due to a continued failure to meet required standards
- (ii) Due to serious concerns which may arise, for example, via an individual adult protection referral, or from a from a series of individual adult protection referrals in a home or group of homes managed by a particular provider. Serious concerns may include concerns about financial solvency as well as quality of care
- (iii) Or due to an actual or possible home or unit closure.

Where concerns of this nature exist, use of these escalating concerns processes may be required. This will involve:

1. Completion of a risk assessment to determine whether use of Escalating Concerns is the most appropriate option
2. Creation of a multi-disciplinary panel to share information and devise, co-ordinate, oversee and review progress with actions needed to address concerns
3. Creation of an action plan to specify responses and timescales needed to resolve poor performance or facilitate safe home closure.

Information on when and how to progress these stages is contained below in the section entitled “Regional Framework” and in the diagram illustrating the processes to follow at pages (TBC). This includes reference to indicators

which suggest that preventative steps should be taken to avoid Escalating Concerns.

To ensure that duties are discharged effectively, each Local Authority has mechanisms for ensuring senior management oversight of Escalating Concerns arrangements. This is a requirement under the Welsh Government Escalating Concerns Guidance. These mechanisms differ across each authority but in each case involve participation of senior and operational staff from Social Services, ABMU HB and CSSIW who will meet regularly to oversee and review use of these regional procedures. Each Local Authority is required to have terms of reference for any groups which are established to fulfil these objectives.

The application of Escalating Concerns arrangements at local authority level will be closely monitored by the Western Bay Safeguarding Adults Board, via the Multi Agency Monitoring Panel (Escalating Concerns) Sub Group. The purpose of this group is to address strategic issues that arise through the implementation of Escalating Concerns at a local level and to ensure the consistency of policy and practice across the three local authorities within the Western Bay Region. A copy of the terms of reference for this group can be obtained by contacting the Business Administrator for the Western Bay Safeguarding Adults Board at Neath Port Talbot Council, Neath Civic Centre, SA11 3QZ, 01639 763022 , Email:[d.edy@npt.gov.uk](mailto:d.edy@npt.gov.uk)

#### **4. REGIONAL FRAMEWORK**

Whilst the Welsh Government Guidance is intended for Commissioners, Social Services, ABMU HB or CSSIW may instigate use of Escalating Concerns procedures under this protocol.

#### **PREVENTING ESCALATING CONCERNS – USE OF CONTRACT MANAGEMENT AND CONTRACT MONITORING ARRANGEMENTS.**

Before invoking Escalating Concerns, agencies must consider whether sufficient steps have already been taken to address concerns with the provider. Effective Contract Management may be key to preventing Escalating Concerns issues from arising and will play a key part in the processes for achieving improvements required whenever Escalating Concerns is invoked.

ABMU HB and each local authority has contract management systems in place which specify the standards required from each care home and how these requirements will be monitored. Where possible these systems should be used to address performance issues so that improvements can be achieved without resorting to use of Escalating Concerns Guidance.

#### **IDENTIFYING EARLY INDICATORS OF CONCERN**

Some Providers may present a higher risk of performance failure. In these situations there may be indicators which make it possible to foresee the need to implement Escalating Concerns procedures. Guidance on identifying and responding to providers at high risk of falling into Escalating Concerns has

been annexed to this protocol. This establishes a list of criteria for deciding whether additional measures are required to prevent a care home from falling into Escalating Concerns. Please refer to **Appendix 1**.

## TRIGGERS FOR ESCALATING CONCERNS

In some cases it will be necessary to implement Escalating Concerns procedures. Welsh Government Guidance explains these circumstances as follows;

1. Where there are accumulating issues which affect quality of care.
2. Or, as a result of the seriousness of an individual concern or cluster of concerns. This may include a safeguarding referral, or concerns arising from a series of individual referrals in a particular home, or in a group of homes managed by a particular provider.

### 4.1 RESPONDING TO ACCUMULATING ISSUES.

Where accumulating issues are identified, there should already be interaction between relevant agencies and the provider. Where there is a continued failure to meet required standards an “Escalating Concerns Status” will have been reached.

Concerns about aspects of performance which have not previously been addressed with the provider should be shared with relevant agencies at the soonest opportunity including Social Services and ABMU HB Contracting Officers so that steps can be taken to prevent Escalating Concerns.

### 4.2 RESPONDING TO SERIOUS CONCERNS

In some instances concerns may be serious enough to warrant Escalating Concerns without any prior interaction with key agencies, or regardless of whether the provider has been given an opportunity to resolve the particular concerns. This may occur if action arising under Escalating Concerns is necessary to protect the safety and wellbeing of Service Users or to prevent, or to manage a home closure. Serious concerns may include concerns about systems and practices which *could* affect the welfare of service users, even if no specific individuals are suspected or can be proven to have suffered harm as a result of poor or inappropriate practice.

### 4.3 COMPLETION OF RISK ASSESSMENT TO DECIDE ON NEED FOR ESCALATING CONCERNS

To help decide whether concerns should be managed under Escalating Concerns any agency seeking to invoke these procedures should first complete a risk assessment. The risk assessment is designed to encourage staff to consider whether the concerns have already been raised with the provider and if so what actions have previously been agreed and to what extent these actions have resolved the issues. **(See Appendix 2)**.

This risk assessment should help to clarify whether previous attempts to resolve the concerns have failed, or whether concerns are serious enough to warrant escalating concerns even if there have been no prior attempts to resolve the problems. If there is any doubt about whether the concerns meet either of these thresholds it may be helpful to contact the relevant local authority contracting officer for further advice. A list of relevant contacts is located at **Appendix 3**.

Information used to complete the risk assessment should include any relevant information gathered as part of contract monitoring. This should include the following;

- (i) CSSIW Inspection reports (also compliance / enforcement notices and any other relevant information)
- (ii) Safeguarding information (including VA1s, minutes of individual strategy meetings and information arising any final strategy meetings)
- (iii) Information received from Social Services Care Managers (including outcomes from care management reviews)
- (iv) Complaints information (via corporate complaints, relatives, residents, members of the public or other)
- (v) Information received from ABMU HB nurse assessor teams (including outcomes from nurse assessor patient reviews)
- (vi) Information received from public health / environmental health departments
- (vii) Information received via the PAN Wales Commissioning Network
- (viii) Information on hospital conveyances received via ABMU HB
- (ix) Vacancy data
- (x) Information in the media or public domain.
- (xi) Information supplied by the Provider
- (xii) Information supplied by the SCWDP Coordinator or Training department

#### 4.4 INITIAL INFORMATION SHARING MEETING

If the completed risk assessment suggests issues should be dealt with under Escalating Concerns the completed risk assessment form should be circulated to all stakeholders (including but not limited to relevant personnel from Social Services, CSSIW and ABMU HB) by the agency seeking to invoke Escalating Concerns.

Responsibility for overseeing the completion of the risk assessment will rest with the line manager of the team seeking to invoke Escalating Concerns procedures. The team completing the risk assessment should also organise and make arrangements to chair a multi-agency Information Sharing meeting

to agree further action. This may lead to a decision to manage the problems under Escalating Concerns or address under contract management procedures. A minute of this initial Information Sharing meeting and a finalised risk assessment document should be completed. Arrangements for doing this should be agreed at the start of each meeting.

#### 4.5 NOTIFYING OTHERS OF ACTION UNDER ESCALATING CONCERNS

Welsh Government Escalating Concerns guidance emphasises the duty to share information about concerns affecting vulnerable adults with other statutory bodies, including other Local Authorities.

Neighbouring authorities will be consulted to ascertain the impact of suspected home closure. This may require commissioners from a neighbouring authority to participate in Home Operational Support Groups (see 4.11 below) to facilitate cross border placements.

A copy of the template for alerting other authorities to concerns can be found at **Appendix 4**. The relevant Social Services Contracting Officer will circulate this form via the Pan Wales Commissioning Network within two working days after the decision to place the home under Escalating Concerns has been made (unless placements have been suspended in which cases the PAN Wales alert must be sent as soon as practicable).

Each Local Authority will also ensure appropriate arrangements are in place for informing their own individual social work teams.

It may also be necessary to inform service users and where appropriate their relatives about action proceeding under Escalating Concerns. This may require providers to submit information relating to residents who are self-funding, or funded by other local authorities or commissioning bodies.

#### 4.6 NOTIFYING THE PROVIDER AND CONVENING AN INITIAL JOINT INTER AGENCY MONITORING PANEL

Arrangements for notifying the provider that issues will be managed under Escalating Concerns must be agreed at the information sharing meeting. It is normally the responsible individual and the home manager that should be notified.

It will be necessary to agree who will contact the provider and when. The provider may be notified by telephone, in person or in writing but notification must take place within two working days of the information sharing meeting.

Social Services and ABMU HB will create a Joint Interagency Monitoring Panel (JIMP) for each care home managed under Escalating Concerns processes.

Arrangements and responsibility for convening the initial JIMP meeting will need to be agreed at the initial information sharing meeting. This will include agreeing responsibility for Chairing, coordinating and taking minutes of future

JIMP meetings. The initial JIMP meeting must be convened within four weeks. The frequency of subsequent JIMPS are to be agreed by the JIMP panel.

Membership of each JIMP may differ depending on the key personnel involved with each care home but representation should include an officer from the relevant Social Services Care Management Team, a Safeguarding Officer, a Contracting Officer, and where appropriate a representative from the ABMU HB Nurse Assessor Team, ABMU HB CHC contracting team and from CSSIW. Other officers and other agencies may be invited to attend as appropriate.

#### 4.7 ROLE OF THE JIMP

The purpose of these multi-agency panels is to work jointly to co-ordinate actions needed to improve the quality of services provided. The JIMP meetings will provide a forum for sharing information and agreeing responsibilities, actions and timescales for achieving a satisfactory level of performance.

The initial JIMP meeting will be used to agree actions needed to manage any known problems, and or plan any further actions which are needed to investigate the scope or validity of any perceived concerns.

The JIMP panel will subsequently be responsible for developing an action plan to address any concerns (see below).

#### 4.8 DEVELOPMENT OF AN ACTION PLAN

The JIMP panel will responsible for developing an action plan for achieving timely improvements to services.

These action plans will take the form of a Developmental Action Plan (DAP) where information indicates that aspects of quality require improving.

Where concerns are more serious, a Corrective Action Plan (CAP) will be required. CAPS will be developed where a delay in taking action could result in enforcement action and a cancellation of registration.

Action plans may consist of both corrective and developmental elements. A template for producing an appropriate action plan is provided at **Appendix 5**.

Where possible, work to develop the action plans will commence from the date of the first JIMP. In some cases the JIMP panel may need to gather further information before the action plan can be developed. Developing, updating and measuring progress against the action plan will be undertaken at each JIMP meeting. Responsibility for monitoring specific areas of the action plan may be allocated to individual JIMP members. A member of the JIMP panel will be nominated to maintain accurate and up to date action plan documents.

Action Plans will be shared with providers and timescales for completing actions will be agreed. Where required Providers will be asked to produce their own action plan specifying how they intend to achieve the targets required.

Action plans will be removed when the panel is satisfied that sufficient progress with individual targets has been achieved. This will be decided at each JIMP meeting and on a case by case basis.

## CONTRACTUAL AND REGULATORY ACTION

Performance failures which result in Escalating Concerns will in most cases amount to a breach of the contractual terms for placing people in care home accommodation. Any actions required of the Provider to improve the quality of services are likely to equate to actions required for breach of contract.

Each agency may take any separate action, contractual or otherwise, which is deemed necessary to discharge their organisation's responsibilities. In the case of CSSIW, this may include regulatory or enforcement action. Each agency will inform the JIMP panel and share any relevant information where this occurs.

### 4.9 ENDING ESCALATING CONCERNS

Decisions to end action arising under Escalating Concerns must be based on whether sufficient progress with targets in the action plan has been achieved. It is not essential that all targets have been achieved. This will depend on the significance of, and degree of risk arising from any unmet targets.

Progress with the action plan will be monitored by the JIMP panel who will make a recommendation to the relevant senior Officer about whether Escalating Concerns can be brought to an end.

### 4.10 SUSPENSION OF PLACEMENTS – A CONTRACTUAL DECISION

Each local authority will make decisions to suspend placements in accordance with the relevant terms of its contract(s) for placing people in care home accommodation.

Each local Authority and ABMU HB will have individual arrangements for authorising suspension of placements. Placements at out of county care homes will be made in accordance with the placement status adopted by the host authority.

In some cases commissioners may disagree about whether suspension is required. In these instances individual commissioning organisations are free to take any contractual action deemed necessary to discharge their duties.

Suspension of placements may be communicated to the Provider verbally but must be confirmed in writing stating the grounds for default under the relevant contract and specifying a timescale in which to remedy the default.



Actions and timescales for remedying the default will be included in the relevant action plan and progress will be monitored by the JIMP panel.

Where a suspension has taken effect, each local authority reserves the right to withhold any additional fee enhancements or premiums payable for attaining specified quality standards. Decisions relating to suspension of these enhancements will be made in accordance with each authority's respective contractual terms.

Recommendations to remove suspensions of placements will be made by the JIMP panel and will be based on whether the JIMP panel is satisfied that the performance failures giving rise to the suspension have been remedied.

Each organisation has arrangements for authorising recommendations to remove the suspension of placements.

#### 4.11 CARE HOME CLOSURES

In the event of closure local authorities and health boards have no general legal power to take over the running of an independent sector care home. This means there is no direct legal power to take over care home running costs or deploy staff to take over the running of the home. These arrangements can be made as a last resort, with the cooperation of the service provider, and where essential to ensure the safety of residents.

Commissioners are required to establish a Home Operational Support Group (HOSG) to directly manage either voluntary or enforced closures.

The purpose of the HOSG is to ensure the needs of residents are met during the period of closure and to ensure the safe transition of residents to alternative accommodation.

Arrangements for conducting needs assessments for Service Users funded by other bodies will be established on a case by case basis. Coordination of this will be agreed at the initial HOSG.

#### CONVENING AN INITIAL HOSG

The timescale of the closure will affect the urgency of the initial HOSG meeting. In all cases an initial HOSG group will be convened as soon as practicable from the point when the commissioning body is first informed of a likely or intended closure. Arrangements for Chairing and minute taking will mirror requirements for JIMP meetings. Membership of the HOSG panel may be extended to include those who have a role to play in sustaining services at the home during the period of closure, or facilitating a move to alternative accommodation.

## DEVELOPMENT OF AN ACTION PLAN

The HOSG will complete an action plan detailing the steps to be taken, time frames and persons responsible for achieving each task required to enable residents to move to another home.

## NOTIFYING OTHERS OF CLOSURE

The CSSIW will notify the local authority and the ABMU HB as soon as it is aware of any planned closure, or has concerns that might lead to an enforced closure.

Commissioners must notify other Local Authorities and Health Boards who may be funding Service Users in the care home which is closing or is likely to close. Arrangements for doing this will be confirmed at the initial HOSG meeting.

Where information suggests home closure is merely a possibility, Commissioners must give careful consideration to notifying other Local Authorities who have placed residents at the home, taking into account the possibility of legal challenge if information shared were to threaten the financial viability of the home.

A table outlining key responsibilities as part of home closure is contained at **Appendix 6**.

A checklist for identifying tasks that may be necessary to undertake as part of the home closure process is contained at **Appendix 7**.

### 4.12 RE-LOCATION PLANNING

The HOSG must ensure that every resident has an allocated Care Manager and, where appropriate, an NHS nurse assessor.

Where necessary, the HOSG will also ensure that residents and their families have access to appropriate independent advocacy services.

The same degree of support must be available to self funders. The self funding resident is free to decline the support from Social Services & Health, but the following must still be offered:

- An up to date assessment of needs
- Transport to view a new home of their choice
- Support in moving or transferring personal possessions
- The same level of information on the closure process as others
- Relevant support to carers and families
- Details of vacancies within the area

- Details of local advocacy services
- Support in relocating with an alternate provider

The HOSG must ensure that a needs assessment for all residents (including people who are self-funding) has been obtained or completed. The assessment should consider issues of mental capacity and any risk factors that may arise as a result of physically moving the person from the care home – including an equality impact for the home and individuals. Additional critical information required as part of the assessment process includes:

- Details of health and social care needs
- Details of all equipment or environmental aids used by the person
- Details of assistance required on transfer e.g. ambulance, taxi
- Details of medication and pending medical and/or hospital treatment or appointments
- Details of personal non-clothing items held in the care home
- Details of finances / savings etc. held by the care home
- Details of preferred care routine
- Details of significant relationships within their current care home.

The HOSG must ensure that new care and service-delivery plans are written to meet individual residents needs and agree transitional support, monitoring and review arrangements. Assessments and care plans will need to be shared with the new provider following the move to a new home.

The HOSG will arrange to cancel existing contracts with the provider and financial arrangements in line with the closure plan.

#### 4.13 CONFIDENTIALITY

Any confidential information exchanged between any organisation in the course of implementing Escalating Concerns procedures should be shared with the consent of the relevant parties and in accordance with relevant legislation. In some cases information may be shared without obtaining this consent. This includes;

- (i) Where a criminal offence has been committed, is being committed, or is likely to be committed.
- (ii) Where a person has failed, is failing or is likely to fail to comply with any legal obligation to which s/he is subject.
- (iii) Where the health and safety of any individual has been, is being or is likely to be endangered.

#### 4.14 ADVOCACY SERVICES

Commissioners will make arrangements for residents of care homes which are subject to Escalating Concerns, to have access to independent advocacy services. This duty arises under the Social Services (Wales) Act where a local authority is investigating concerns or abuse, and for some residents under Section 35 of the Mental Capacity Act 2005 and the Mental Capacity Act (independent Mental Capacity Advocates) (Wales) Regulations 2007.

#### 4.15 ROLES AND RESPONSIBILITIES

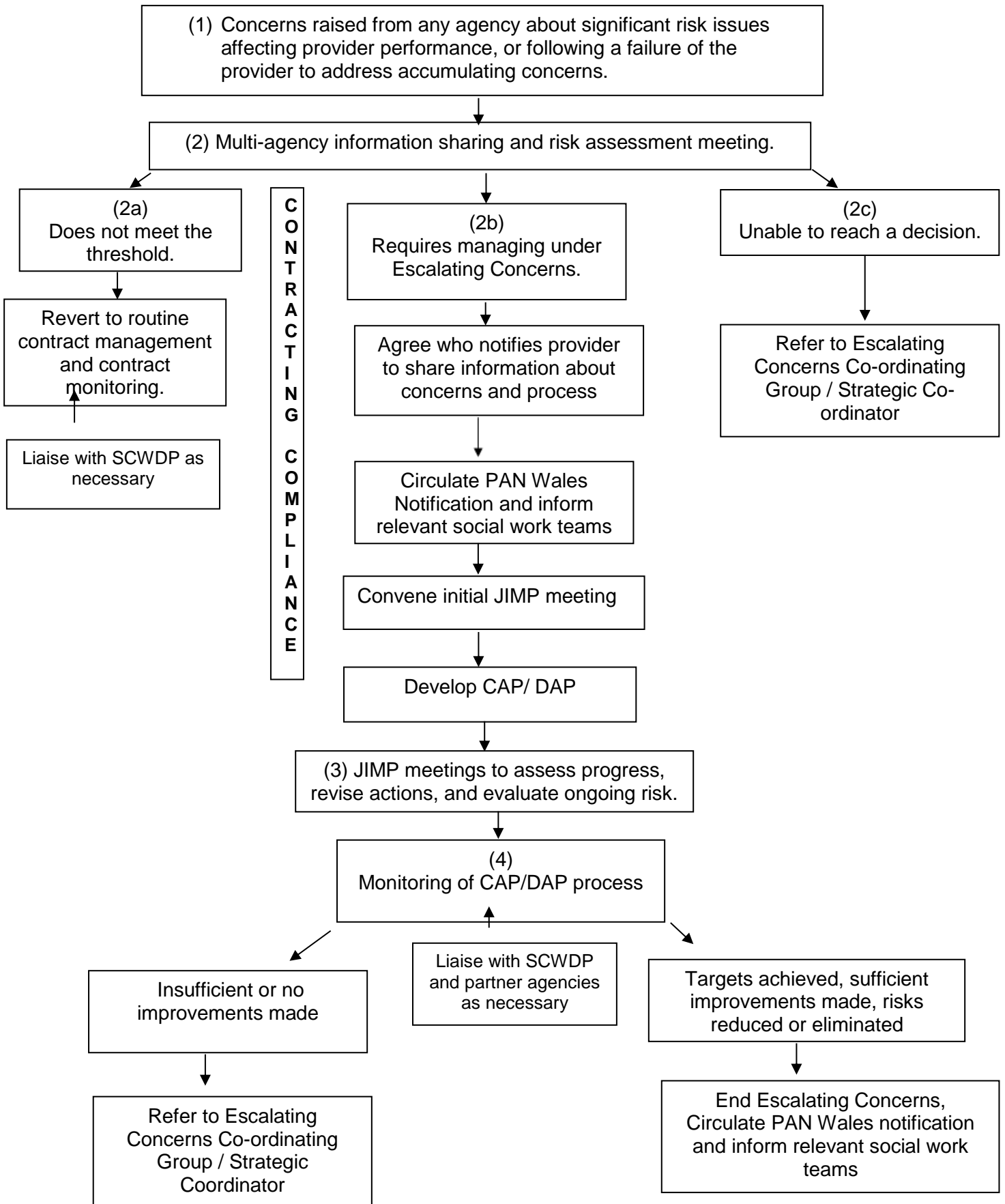
Staff from Social Services, ABMU HB and CSSIW will have duty to undertake tasks or fulfil functions which are necessary to enable Escalating Concerns processes to operate effectively. Information on these roles and responsibilities is provided at **Appendix 8**.

#### 4.16 LINKS TO OTHER PROCESSES

Escalating Concerns is part of a range of processes that operate to protect the welfare of people who reside at care homes. Examples of other processes which must be followed, and which in many cases will interlink with the implementation of Escalating Concerns are as follows;

- (i) Wales Interim Policy and Procedures for the Protection of Vulnerable Adults from Abuse (January 2013). This sets out the processes to follow for all those concerned with the welfare of vulnerable adults employed in the statutory, voluntary and private sectors. For further information go to [www.ssiacymru.org.uk/supportingpartnerships](http://www.ssiacymru.org.uk/supportingpartnerships)
- (ii) CSSIW processes for ensuring compliance with regulatory standards applying to care homes for adults. This includes processes for identify and managing services which are defined as a “service of concern.” For further information go to [www.cssiw.org.uk](http://www.cssiw.org.uk)
- (iii) Processes for sharing information between CSSIW and local authorities which were agreed in September of 2010. These are entitled Protocol for the sharing of information between the Care Standards Inspectorate for Wales. A copy of this is available at [www.cssiw.org.uk/aboutus](http://www.cssiw.org.uk/aboutus)
- (iv) Processes for ensuring the correct application of Deprivation of Liberty Safeguards. For further information go to <http://www.scie.org.uk/publications/ataglance/ataglance43.asp>

**SECTION FIVE – DIAGRAM OF BASIC ESCALATING CONCERNS PROCESSES**



## **Stage 1**

- Concerns are only to be dealt with under EC guidance if they are serious in nature or if the concerns have already been addressed with provider and insufficient change occurs (concerns raised with carers and nurses at the home, by visiting Health and Social Services officers will have been communicated to the “Provider.” However where possible concerns should also be raised with either the RI or RM. Formal correspondence should always be addressed to both the RI and the RM).
- Any agency with concerns must ensure that these have been shared with the relevant contracting team to enable contract management action to be taken.
- Any agency can raise concerns / request commencement of Escalating Concerns.

## **Stage 2**

- The agency which has concerns, and wishes to invoke Escalating Concerns procedures must take responsibility for convening and chairing the multi agency risk assessment meeting.
- The agency wishing to invoke Escalating Concerns procedures must complete the initial risk assessment document and share this prior to the risk assessment meeting. Attendees at this meeting will share information to evaluate the overall level of risk and decide whether Escalating Concerns is appropriate.
- Responsibility for ensuring and overseeing completion of the risk assessment will rest with relevant line manager of the team wishing to invoke Escalating Concerns.

## **Stage 2a**

- If the outcome of the risk assessment meeting is that the threshold for Escalating Concerns has not been met, each agency must take appropriate steps to manage any ongoing concerns. This may include contractual or regulatory action or further contract monitoring.

## **Stage 2b**

- If the threshold for Escalating Concerns is met an Initial JIMP meeting will be convened. A Local Authority Officer will take the lead for implementing and coordinating Escalating Concerns activity. Arrangements for appointing a Chair must be agreed as an outcome of the initial risk assessment meeting. Other actions required at the point where the Escalating Concerns process is triggered include;
  - Arrangements for notifying the provider of concerns. This needs to take place within two working days of the decision to progress to EC.
  - Arrangements for completing the PAN Wales notification and notifying other relevant social work teams (within two working days of the decision to progress to EC).

- Arrangements for convening the initial JIMP (within 4 weeks of RA meeting)
- Arrangements for agreeing the Development of CAP/DAP – which may not commence until after the initial JIMP meeting.
- Clarification and commencement of any urgent actions required to ensure the immediate safety of service users.
- Commencement of any contractual or regulatory action needed to address any defaults or non compliance.
- Consideration about suspension of placements (having regard to the relevant contractual terms that provide for this).

### **Stage 3**

- JIMP meetings will provide a forum for sharing information and agreeing responsibilities, actions and timescales for achieving a satisfactory level of performance.
- A number of JIMP meetings may be needed depending on the circumstances. Timescales between JIMPS are to be agreed at each meeting.
- The action plan produced may consist of both corrective and developmental actions.

### **Stage 4**

- Monitoring progress against CAP/DAP must take place to ensure that issues are addressed and progress is sustained.
- The JIMP panel must identify appropriate people/agencies to undertake the monitoring (this should be shared to avoid any one agency assuming all of the responsibility).
- Ending the Escalating Concerns process will occur when the panel is satisfied that satisfactory progress has been made and sustained. Each local authority will have arrangements for formally ending Escalating Concerns arrangements.
- The PAN Wales notification must be sent to confirm EC has ended and other relevant social work teams must be notified.
- In the event that no or little improvement is achieved via the Escalating Concerns process, the matter should be referred to the Escalating Concerns strategic group or strategic lead for consideration.

## APPENDIX ONE

### **Identifying and Responding to Early Indicators of Concern for Higher Risk Providers**

The aim of this document is to provide guidance on identifying and responding to care home providers who are at a higher risk of entering escalating concerns. This may be because the Provider has a history which suggests a likelihood of future performance problems, or because there are known factors which are a likely impediment to future performance.

Identifying and responding to providers which may present a higher risk will occur via routine contract management activities. Defining what is meant by higher risk, and outlining the basic contract management steps to be taken will allow for a consistent approach to managing potential performance failures and service interruptions.

#### A high risk provider is defined as:

- A provider who has been in escalating concerns twice or more in the last 24 month period
- A provider who is known to be experiencing difficulty meeting contractual or regulatory standards at other care homes, and which suggest there are wider organisational issues or problems which are likely to affect future performance of services locally.
- A provider who is, or is reasonably believed to be in financial difficulty.
- A provider who is faced with any other known future detriments, obstacles or hindrances which are likely to have a significant impact on the providers ability to meet contractual and, or regulatory standards. Eg Post-dated resignation of large number of key staff.

#### Response to high risk providers:

The purpose of identifying higher risk providers is to enable commissioners to work with providers to minimise the likelihood and impact of future problems, and where possible avoid the need for future action under Escalating Concerns procedures.

Contracting Officers will take a lead role in coordinating a response where there is an indication that a provider falls within the definition of higher risk. This will involve;

- Coordinating an initial contract management meeting with the Provider to specify concerns and agree an action plan (including timescales for completion) to prevent escalation.



- Co-ordinating any ongoing contract management meetings to identify, coordinate, oversee and review progress with any ongoing actions necessary to prevent escalation.
- Implement any monitoring arrangements which are necessary to enable an assessment of the Provider's performance.
- Follow the Escalating Concerns Policy to review the level of risk and trigger implementation of Escalating Concerns where necessary.

#### Issues to consider

- Resources – Taking steps to prevent escalation may require additional resources and will require commitment from each of the agencies to share in this responsibility.
- Communication with Partners – Contracting Officers will take a lead role in sharing information with other agencies where they have concerns that a provider may be at high risk of entering escalating concerns; and where actions have been agreed to prevent escalation; and in relation to progress made by the provider towards preventing escalating concerns.
- Attendance and participation of partners – Use of contract management procedures to prevent Escalating Concerns may require each agency to attend and participate at contract meetings to share information which may inform understanding about levels of risk and actions needed to prevent escalation.
- Evidence of appropriate and proportionate actions – Details of all concerns and actions taken under contract management processes should be clearly recorded. Any contractual action for performance failure should be taken in accordance with each agency's contractual terms and conditions, and contract management processes.
- Business continuity / contingency planning – Providers and Commissioners may be required to produce either continuity or contingency plans where information suggests there is a significant risk of future disruption to services at a care home.

Decisions to de-commission services or actions which may have the effect of preventing the continuation of services could restrict the availability of care for existing and, or future service users. These decisions or actions will be subject to a full risk assessment which shall include a process for assessing the impact to people with characteristics which are protected under equalities legislation (ie an equalities Impact assessment).



## APPENDIX TWO – TEMPLATE FOR UNDERTAKING RISK ASSESSMENT

### RISK ASSESSMENT FORM TO BE USED TO DECIDE NEED FOR JIMP

NAME OF CARE HOME:

NO of BEDS:

NAME OF PERSON COMPLETING FORM :

DESIGNATION:

CONTACT DETAILS OF PERSON COMPLETING FORM:

DATE FORM COMPLETED:

#### ESCALATING CONCERNS GUIDANCE ISSUED BY THE WELSH ASSEMBLY GOVERNMENT : KEY PRINCIPLES

Escalating Concerns arise where there are accumulating issues. Where accumulating issues are being identified there should already be interaction between key agencies. This will have led to the identification of issues which key agencies will have brought to the attention of the home. The purpose of this risk assessment is to assist key agencies to identify issues which the home has failed to resolve. If the home has failed to respond to concerns about the operation of, or quality of care provide at the home, “Escalating Concerns” status will have been reached. Escalating Concerns status may also arise where concerns are particularly serious (for example where this is necessary to protect the safety and wellbeing of service users or to prevent, or to manage a home closure).

Purpose of NMS in tool: to provide a framework for discussion and recording of risk issues, utilising standards that already exist and that Care Providers are familiar with. This approach will ensure consistency across care settings by referring to an objective measure of expected performance standards against which risks can be assessed. There will be a requirement to bring copy of National Minimum Standards to the risk assessment meeting.

#### SUMMARY OF PROCESS

**Step 1.** Identify the key issues using the risk assessment table. Specify who is at risk and the date of the incident giving rise to the risk / concern.

**Step 2.** Record any action already taken to manage each individual risk.

**Step 3.** Use the risk matrix to assess impact to service users and the extent to which Provider is actively working to rectify problems and manage risk

**Step 4.** Enter the level of risk in the last column of the risk assessment table. A level of risk may be attributed to each area of concern and aggregated to define an overall level of risk that can be used to decide whether concerns can be addressed via contract management (amber) or should be addressed under Escalating Concerns (red). The NMS should be used as guidance for defining the type and nature of concerns in this process.

**Note.** The risk matrix is for guidance only. Final decisions may be influenced by other factors, e.g. the total number of aggregated concerns or required timescales for achieving change. Where the outcome of the risk assessment process is inconclusive, decisions on appropriate course of action can be referred to the Escalating Concerns Coordination Group for final decision

MINIMUM STANDARD	DATE OF INCIDENT GIVING RISE TO / HIGHLIGHTING RISK ISSUE	DESCRIPTION OF RISK ISSUE	WHO IS AT RISK	DATE(S) RISK ISSUES DISCUSSED WITH CARE HOME	DETAILS OF ACTION ALREADY TAKEN TO ADDRESS THESE PROBLEMS	IS FURTHER ACTION REQUIRED  Yes / No	LEVEL OF ONGOING RISK  (has the care home addressed the concerns or is there a likelihood of harm if not addressed by multi agency panel)

MINIMUM STANDARD	DATE OF INCIDENT GIVING RISE TO / HIGHLIGHTING RISK ISSUE	DESCRIPTION OF RISK ISSUE	WHO IS AT RISK	DATE(S) RISK ISSUES DISCUSSED WITH CARE HOME	DETAILS OF ACTION ALREADY TAKEN TO ADDRESS THESE PROBLEMS	IS FURTHER ACTION REQUIRED  Yes / No	LEVEL OF ONGOING RISK  (has the care home addressed the concerns or is there a likelihood of harm if not addressed by multi agency panel)

MINIMUM STANDARD	DATE OF INCIDENT GIVING RISE TO / HIGHLIGHTING RISK ISSUE	DESCRIPTION OF RISK ISSUE	WHO IS AT RISK	DATE(S) RISK ISSUES DISCUSSED WITH CARE HOME	DETAILS OF ACTION ALREADY TAKEN TO ADDRESS THESE PROBLEMS	IS FURTHER ACTION REQUIRED  Yes / No	LEVEL OF ONGOING RISK (has the care home addressed the concerns or is there a likelihood of harm if not addressed by multi agency panel)

**IMPLEMENTATION OF STATUTORY GUIDANCE ON ESCALATING CONCERNS WITH, AND CLOSURES OF, CARE HOMES PROVIDING SERVICES TO ADULTS – Risk Rating Matrix**

**Impact Criteria**

<i>Description</i>	<i>Rating</i>
Overall the service is not materially affected. Quality of life is not significantly affected. Residents are not at risk of harm. Care managers can maintain quality of care with support from contract management.	1
Some aspects of the service are compromised. Quality of life is not significantly affected. Residents are not at risk of significant harm. Care manager can maintain quality of care with support from contract management.	2
The service is compromised to a significant extent. Quality of life is affected. Residents may be at risk of harm. Multi agency support is recommended.	3
The service is severely affected and maybe unable to meet a large proportion of its obligations and liabilities. Quality of life is significantly affected. Residents are at risk of severe harm. Multi agency support is required.	4
Operational performance of the provider would be compromised to the extent it would not be able to meet core obligations and liabilities. Major adverse repercussions for clients making care unsustainable or unsafe. Provider maybe unable to recover or continue to be viable.	5

**Engagement Criteria**

<i>Description</i>	<i>Rating</i>
Provider has not been notified of concerns, which could be addressed via contract management with support from key agencies.	1
Provider has been notified of concerns and is taking action. No further problems have arisen since notification.	2
Provider has been notified of concerns and is taking action but concerns exist about Provider's capacity to achieve timely change without multi agency support.	3
Provider has been notified of concerns but problems persist.	4
Provider has been notified of concerns but has not responded.	5

Impact	5	Escalating Concerns			
	4				
	3				
	2				
	1				
		1	2	3	4
Contract Management					



**APPENDIX 3 – CONTACT LIST FOR OFFICERS WITH CONTRACT RESPONSIBILITIES FOR CARE HOMES**

<b>COUNTY</b>	<b>AGENCY</b>	<b>CONTACT</b>	<b>POSTION</b>	<b>DETAILS</b>
SWANSEA	SOCIAL SERVICES	PETER FIELD	CONTRACTING OFFICER	Tel 01792 636251 Email <a href="mailto:Peter.Field@Swansea.gov.uk">Peter.Field@Swansea.gov.uk</a>
SWANSEA	ABMU HB	GILLIAN JACKSON	CONTRACTING MANAGER	Tel 01792 618848 (office Tue & Fri) 01792 636695 (office Wed & Thu) 07794 001878 (mobile) Email Gillian <a href="mailto:Gillian.Jackson@wales.nhs.uk">Gillian.Jackson@wales.nhs.uk</a>
NPT	SOCIAL SERVICES	CRAIG WILLIAMS	COMMISSIONING MANAGER	Tel Email <a href="mailto:c.williams@npt.gov.uk">c.williams@npt.gov.uk</a>
NPT	SOCIAL SERVICES	ARLENE HARVEY	CONTRACTING OFFICER	Tel Email <a href="mailto:a.harvey1@neath-porttalbot.gov.uk">a.harvey1@neath-porttalbot.gov.uk</a>
BRIDGEND	SOCIAL SERVICES	IAN OLIVER	PO PROCURMENT, COMMISSIONING AND CONTRACT MANAGEMENT.	Tel 01656 642479 Email <a href="mailto:ian.oliver@bridgend.gov.uk">ian.oliver@bridgend.gov.uk</a>
BRIDGEND	SOCIAL SERVICES	TERRI WARRILOW	BCBC SAFEGUARDING AND QUALITY MANAGER	Tel 01656 642476 Email <a href="mailto:Terri.Warrilow@bridgend.gov.uk">Terri.Warrilow@bridgend.gov.uk</a>



## APPENDIX FOUR

### NOTIFICATION OF ESCALATING CONCERNS / PROVIDER PERFORMANCE

Name of provider:	
Category of care provided (i.e. Voluntary sector, domiciliary care, residential nursing etc)	
Name of over-arching organisation (if applicable)	
Authority	
Name and contact of commissioning authority	
Current status (i.e. provider performance, escalating concerns, Home Operation Support Group – HOSG)	
Date process commenced	
Suspension or restrictions of placements. Please provide details:	
Date of the formal closure of process	

To be completed at the beginning and end of the process and emailed to the Commissioning Team in Caerphilly [comteam@caerphilly.gov.uk](mailto:comteam@caerphilly.gov.uk)

NB. The information contained within this form is being shared to protect Vulnerable Adults in line with the Wales Interim Policy & Procedures for the Protection of Vulnerable Adults from Abuse.

## APPENDIX FIVE

### IMPLEMENTATION OF STATUTORY GUIDANCE ON ESCALATING CONCERNS WITH, AND CLOSURES OF, CARE HOMES PROVIDING SERVICES TO ADULTS – Action Planning and Monitoring Templates

#### Corrective/Developmental Action Plan (CAP/DAP) template

Care Home \_\_\_\_\_ Date \_\_\_\_\_

Ref no.	What can / needs be improved on? (Issue)	Why is this improvement needed? (Evidence - Ref to risk assessment)	Corrective or Developmental Action?*	Action to be taken / being taken and by who?	Target timescale?

*\* Developmental action – where information indicates a short fall in quality of service and agencies want to see the service moving forward in specific areas of quality and practice.*

*Corrective action – where immediate action required to ensure the safety of service users and/or staff. Indicated where a delay in taking preventative or remedial action could result in the need for enforcement action and cancellation of registration.*

How will the Action Plan be monitored?

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What is satisfactory level of service and / or outcome?

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**Progress Reporting / Monitoring of CAP / DAP template**

Ref no. from DAP	What can be improved on? (Issue) - from DAP	Action to be taken/being taken and by who? - from DAP	Progress with date?	Completed/ Resolved/ Satisfactory with date?

**APPENDIX SIX**

**HOME OPERATIONS SUPPORT GROUP (HOSG) KEY RESPONSIBILITIES AS PART OF A HOME CLOSURE**

	<b>Action Description</b>	<b>BCBC</b>	<b>ABMU</b>	<b>Home</b>	<b>CSSIW</b>
1	Obtain list of all current residents at the care home (including self funders, CHC and other LA placements)	✓	✓	✓	✓
2	Obtain a list of next of kin and contact details	✓	✓		
3	Consider the role of advocates – and engage with advocacy services	✓	✓	✓	
4	Compile and share list of contact numbers	✓	✓		✓
5	Determine who is financially responsible for each resident. Inform the appropriate local authority	✓			
6	Clarify who is responsible for care management support for each resident	✓			
7	Involve Legal Section	✓	✓		✓
8	Prepare press statement / release with the Press Office	✓	✓		
9	Determine where alternative staff can be found - agencies, LA's, LHB,	✓	✓		
10	Inform elected members/ABMU Executives	✓	✓		
11	Ensure feedback to indicate each task has been completed (outcomes).	✓	✓		
12	Appoint lead officer to coordinate all assessment information including other LA's/ABMU Localities	✓	✓		
13	Maintain contact with other LA's/ABMU Localities	✓	✓		
14	Arrange weekly or monthly review meetings(depending on the nature and stage of the protocol	✓	✓		
415	Review all residents - Social Care, nursing (CHC), FNC, O.T., etc. to include capacity assessments	✓	✓		
16	Undertake risk assessment on each resident regarding moving location	✓	✓		
17	Lead officer informs all families via letter	✓	✓(CHC)	✓	
18	Family meetings arranged and held	✓	✓(CHC)	✓	
19	Where required request GP's to undertake medical risk assessment eg fitness to travel, where appropriate		✓		
20	Establish what equipment does each resident need and can it move with them?	✓	✓	✓	
21	Clarify what legal rights families have regarding decision making for residents (e.g. power of attorney)	✓	✓		
22	Produce information for families regarding choice, procedures etc.	✓	✓	✓	
23	Choice leaflets taken to the care home and family meetings	✓			

24	Develop communication strategy (weekends, bank holidays, etc)	✓	✓	✓	
25	Inform out of hours service, other ABMU localities and Local Authorities	✓	✓		
26	Establish what alternative beds are available and where	✓	✓		
27	Consider freeze vacancies across the care home sector	✓	✓		
28	Arrangements made to hold placement meetings - DTOC meetings and CHC panels	✓	✓		
29	Contact other local authorities for places	✓	✓		
30	Check Health Board beds across the region		✓		
31	Check availability of other nursing staff (RMN and RGN)		✓		
32	Ask manager if there is a natural grouping of residents that could move together	✓	✓	✓	
33	Provide care managers with an information pack including complaints, alternative providers	✓	✓		
34	If unable to move equipment, determine where alternative equipment may be found	✓	✓		
35	Arrange suitable medical transport (e.g. ambulance)	✓	✓	✓	
36	Arrange suitable non medical transport (e.g. taxi, mini bus)	✓		✓	
37	Develop strategy to support residents, families, staff after the move (care planning process)	✓	✓		
38	Debrief meeting and evaluation	✓	✓		✓
39	Review residents following the move (settling in, have to move again?)	✓	✓		
40	Cancel existing contracts immediately (overarching)	✓	✓		
41	Cancel existing contracts immediately (individual)	✓	✓		
42	Contractual financial arrangements to be coordinated	✓	✓		
43	Determine medication risks and transporting of medication e.g. controlled drugs, oxygen etc		✓		
44	Develop strategy for transfer (or copying) of clinical records	✓	✓		
45	Develop strategy for clinical 'handover' of care to new provider	✓	✓		
46	Arrange transportation of residents personal belongings/furniture	✓	✓		
47	Scope of family involvement e.g. packing, transport (including self funders), (contact other LA's)	✓	✓		

## APPENDIX SEVEN

### HOME CLOSURE CHECKLIST

It is essential to name who is going to be responsible for arranging/undertaking each action.

	TASK	LEAD PERSON	ACTION BY DATE
1	Undertake a risk assessment on each resident re moving.	Care Manager / OT / Nurse Assessor/GP	
2	Consider alternative heating, hot water, food etc. if faced with emergency closure.	HOSG Chair	
3	Review all residents – CHC nursing, FNC, O.T. etc. Carry out impact assessment	Care Manager / Nurse Assessor	
4	Obtain a list of all residents at the care home.	C&C Team	
5	Clarify who is responsible for care management/care co-ordination support for each resident?	HOSG Chair	
6	Establish what alternative beds are available and where?	C&C Team / ABMU	
7	Obtain a list of next of kin	Care Manager / Nurse Assessor	
8	Inform families/carers of what is happening and alternative placement	HOSG Chair	
9	Determine what involvement will families have e.g. packing, transport	Care Manager/ABMU Lead	
10	Clarify legal rights families have regarding decision making for the residents.	Care Manager/ABMU Lead	
11	Consider the role of advocates	Care Manager/ABMU Lead	
12	Develop a communication strategy – week ends, bank holidays etc.	HOSG Chair	
13	Compile and share list of contact numbers – mobile, out of hours etc to the project group.	HOSG Chair	
14	Determine who is financially responsible for each resident. Inform the LA etc.	HOSG Chair	
15	Inform Out-of-Hours service.	HOSG Chair	
16	Provide information for families re choice procedures etc.	Care Manager/ABMU Lead	
17	Establish what equipment does each resident need and can it move with them?	Care Manager / OT / ABMU	
18	If unable to move equipment, determine where can alternative equipment be sourced?	Care Manager /OT / ABMU	
19	Arrange suitable transport e.g. ambulance	ABMU/LA	
20	Involve legal section on issues of registration and/ or regulations	CSSIW	
21	Liaise with Press Officers regarding press statement/release.	HOSG Chair/ABMU Lead	
22	Ask manager if there is a natural grouping of residents that could move together?	HOSG Chair	
23	To ensure safety and good care, prior to closure, determine where alternative staff be found (with owner's permission) – agencies. L.A.'s	ABMU, HOSG Chair	
24	Develop strategy to support residents, families, staff following the move.	HOSG Chair	
25	Review residents following the move – settling in, move again?	Care Manager / Nurse Assessor	
26	Cancel existing contracts immediately – both individual and overarching.	Care Manager / C&C Team / ABMU	
27	Inform politicians – both local and national (WAG)	HOSG Chair	
28	Ensure feedback to indicate each task completed/outcomes.	HOSG Chair	



29	Keep Director of Social Services, Heads of Service and ABMU Executives informed of progress.	HOSG Chair/ABMU Lead	
30	Determine medication risks and transporting of medication e.g. controlled drugs, oxygen etc	ABMU Lead	
31	Develop strategy for transfer (or copying) of clinical records	HOSG Chair/ABMU Lead	
32	Develop strategy for clinical 'handover' of care to new provider	HOSG Chair/ABMU Lead	
33	Arrange transportation of residents personal belongings/furniture	HOSG Chair/ABMU Lead	

## **APPENDIX EIGHT – ROLES AND RESPONSIBILITIES**

Every agency must ensure that all relevant staff have information on Escalating Concerns procedures and are aware of the steps to follow if they feel that use of these processes is required.

Every agency must appoint a representative to attend and participate at information sharing risk, risk assessment, JIMP or HOSG meetings.

Every agency will ensure that participants at meetings are able to provide accurate, up to date and sufficiently detailed information relating to their involvement with, and knowledge of the service, which can be used to inform Escalating Concerns decisions and actions.

Every agency will share in the responsibility for ensuring accurate records of meetings are kept.

Every agency will nominate a senior officer to participate at any strategic meetings to review the implementation of Escalating Concerns processes within their local authority.

Every agency will engage fully with partners to ensure compliance with Escalating Concerns procedures.

### **SOCIAL SERVICES**

Care Managers and other Social Services Officers have a vital role to play in monitoring services and ensuring satisfactory standards of care and will respond to any concerns about standards of care, urgently and in accordance with Escalating Concerns processes.

Each local authority will appoint a strategic lead officer for overseeing the development and reviewing the use of Escalating Concerns processes.

Each local authority will appoint a lead officer for coordinating the day to day implementation of Escalating Concerns.

The lead officer for strategic matters and the lead officer for operational matters may be the same person.

Each local authority will make arrangements for chairing individual JIMP or HOSG meetings.

Chairpersons for each JIMP will coordinate administrative tasks required to maintain Escalating Concerns arrangements. This includes setting agendas, recording minutes, creating and updating CAPS / DAPS and risk assessments, and completion of PAN Wales notifications.

## **ABMU HB**

Long Term Care Managers will take responsibility for ensuring that relevant ABMU HB personnel are following Escalating Concerns process in their locality.

Nurse Assessors have a vital role to play in monitoring services and ensuring satisfactory standards of care and will respond to any concerns about standards of care, urgently and in accordance with Escalating Concerns processes. This will involve notifying partner agencies of any concerns or incidents, which significantly affect quality of care to individuals.

Under Escalating Concerns processes, ABMU HB personnel, including Nurse Assessors and District Nurses may be required to take part in monitoring activities to assess standards, or provide guidance and instruction to care home providers where this necessary to raise standards to a satisfactory level.

## **CSSIW**

CSSIW has a lead role to play in ensuring quality of care homes services by regulating, inspecting and reviewing the performance of care home operators.

CSSIW is fully committed to working with partner agencies and will act in accordance with Escalating Concerns processes in response to any concerns raised as a result of any regulatory duties it undertakes.

CSSIW will immediately notify partner agencies of any significant concerns, and any notices or notifications issued to providers relating to non compliance with care homes regulations.

CSIW will work jointly with other agencies by sharing any relevant information, participating in Escalating Concerns meetings, taking part in monitoring activities, and taking actions which are necessary to ensure compliance with regulatory standards.

## **COMMISSIONING AND CONTRACTING**

Contracting and Commissioning staff have a key role in monitoring provider performance and informing the Escalating Concerns process. This will involve proactively sharing information with partner agencies to enable early identification of concerns.

Contracting and Commissioning staff from Health and Social Services will have responsibility for developing and implementing contracting processes. This will include specifying the standards that contracted providers must work to and monitoring the performance of contracted services, noting any patterns emerging and acting on any concerns in accordance with Escalating Concerns processes.

Contracting and Commissioning staff will work closely with providers to address any ongoing concerns that may relate to contract requirements. In addition to any Escalating Concerns action taken, Contracting staff will take separate action to notify the provider of any contractual breaches, and specify the actions and timescales required to remedy these breaches.

Contracts and Commissioning staff will work closely with partner agencies and colleagues across adult services to ensure they are aware of the performance of contracted providers, and can identify any deterioration in standards of care and risks this may present.

Contracting and Commissioning staff will play an active role in Escalating Concerns processes by participating at meetings and preparing and sharing information about provider performance.

Contracting and Commissioning staff may also need to undertake additional monitoring of contracted services if this need is identified and agreed during the Escalating Concerns process.