

Advice Note for Directors of Adult Social Services: Commissioning Out of Area Care and Support Services

Arrangements and recommended ways of working for local authorities that are responsible for commissioning services (placing authorities) for adults with social care needs who are in out of area care and support services

This advice note is aimed at local authorities providing adult social care services; a further joint piece of work is taking place to consider the issues set out here in partnership with health colleagues.

Context

A number of recent high profile cases, including the Safeguarding Adults Review (SAR) into Mendip House¹ (provision for people with autism), have highlighted common issues relating to the quality of care and support for individuals who are out of area²; this includes practices relating to the quality and frequency of reviews/support planning and care management, inadequate quality assurance and oversight of the service being delivered and, when safeguarding concerns arise, a lack of information available about individuals that have been placed in a (host) local authority area by other authorities.

In particular, in many cases there has been no notification to the host authority when people are placed in their area, leaving the host authority with poor or no knowledge of the individuals placed within that provision. In turn this creates issues if subsequently there are safeguarding concerns raised about that service. The appropriateness of out of area provision has also been highlighted by the Somerset Safeguarding Adults Board, describing the practice of “place hunting” by commissioners.

The term “out of area” relates to an individual’s care and support being delivered in a local authority area that is different from the local authority with the statutory responsibility for the provision of that care and support. This note recognises the important principle of supporting people to get the right services close to home. It is acknowledged that in some parts of the country, services in a neighbouring authority can be closer to home than services within the same local authority. For the purposes of this advice note we acknowledge existing legal terminology and the statutory responsibilities of local authorities for both safeguarding and commissioning. We emphasise the need for host and placing authorities to be mindful of the duties of each and the need to cooperate in certain circumstances for the benefit of those with care and support needs.

Whilst it is acknowledged that some of this is not easy in the context of resource constraints, this advice note seeks to set out a number of steps that local authorities should take when they are responsible for people they are placing out of their area, and in considering the use of provision that is another local authority area. **Whilst the SAR in this instance and a number of recent high profile cases have been specific to services for people with**

¹ See: https://ssab.safeguardingsomerset.org.uk/wp-content/uploads/20180206_Mendip-House_SAR_FOR_PUBLICATION.pdf

² This includes residential care and specified accommodation under the Care Act, and under section 117 of the Mental Health Act.

autism or a learning disability, the issues and recommendations set out here apply to a much wider range of people accessing adult social care.

It should be noted that the advice set out in this briefing note needs to go hand in hand with wider actions relating to leadership, transparency and the development of staff that are also set out in response to the Mendip House SAR and other relevant SARs.

NB. The term “commissioner” refers to the staff from a placing authority who are making the service arrangements, unless otherwise stated.

Key steps

1. Gather local intelligence relating to the provision before making arrangements

- In some cases, social care provision may not be used by the local authority in which it is located because of concerns about the quality of that provision or the model of care and support being provided. However, this local insight and “soft intelligence” is not always sought by placing local authorities prior to the use of the service. Local authority commissioners should work with their partners in other local authority areas to collect local intelligence about a service they are considering for someone, in addition making use of other determinations of quality including recent and historic CQC inspection reports as well as contracting arrangements. CQC information (which can be found on their website) show both inspection results as well as any inspections underway, both planned and/or in response to concerns. This local intelligence gathered should inform commissioning decisions. The placing authority should also seek information from the provider about other local authorities using that provision to support understanding and joint working.
- Local authorities and other key partners working with Safeguarding Adults Boards (SABs) should keep track of provider concerns and identify patterns of concerns across sectors/organisations and across geographical areas and the range of commissioners. Commissioners (from both the host and placing local authority) should, in the context of out of area care and support services, link in to provider concerns meetings and protocols both to gain information prior to the service being used, and to impart information about any concerns once the service is in use.
- Whilst there may be a number of reasons why out of area provision is being considered for an individual, commissioners should clarify that no local service is available that could meet the needs of the person; any use of out of area provision should be informing the planning for more local strategic commissioning, through the identification of gaps in services and in line with relevant initiatives and programmes of work, such as Transforming Care.

2. Suitability of the care and support service

- In assessing the suitability of out of area care and support services for someone, consideration should be given to the arrangements which will need to be put in place to enable the individual to access local primary, community and secondary health care and any required specialised support in that area.
- Commissioners should ensure there is a written contingency plan in place that has been shared with all parties as problems can quickly escalate putting the service arrangements at risk. This should be discussed with the host local authority, and if

the person has identified health needs, the local Clinical Commissioning Group, prior to the service commencing. It should never be assumed that there will be capacity within local services to respond to a crisis without having agreed this with all the relevant local commissioners and providers.

- Consideration should be given to the compatibility of the needs of the people already living at a particular service with those of the individual being considered for that service. Any increase in risk to all individuals must be considered as part of this compatibility assessment.
- The service should be visited in order to clarify the arrangements including the physical layout of the building(s), as well as the environment in which the service is located. This should extend beyond accessibility and consider all environmental aspects, for example the proximity of any sleep-in room/the rooms of other residents if the person exhibits high-risk behaviours at night.
- Consideration should also be given to the distance for families in visiting their family member and the impact this will have on family life.

3. Advise the host local authority when the arrangements are made

- The placing local authority commissioner should inform the host local authority (in writing) of the prospective service arrangements and the provider organisation involved. This should be in advance of the arrangements commencing and include full contact details for the placing authority and contact details for the placing authority if any concerns about the provider arise. Where this information cannot be sent in advance it should be done as soon as is practicable, but bearing in mind the time it can take to make contact with the relevant person. See [Appendix 1](#) for suggested information to be shared, in line with local information governance protocols.
- Such notification will assist the host authority if safeguarding concerns arise, or when dealing with urgent care home closures in its area, as it will provide a record of the responsible authority and a named contact person. It will also assist in any contract monitoring and in general communication between placing and host authorities.
- The placing authority should also inform the host authority if and when a person leaves the provision.

4. Review face to face

- Placing authorities with statutory duties for meeting eligible care needs are responsible for the review and, where necessary, reassessment of needs and the ability of existing accommodation and support arrangements to meet those needs. All reviews must be completed to statutory timescales, or more frequently where this may be needed.
- Assessments of need and reviews should always be completed face to face in order to provide assurance about the quality of provision. Some local authorities may seek reciprocal arrangements with the host authority, especially if the two authorities are a long distance apart. Once a review has taken place, confirmation should be made to the host authority to ensure information is up to date.
- Placing authorities should ensure individual reviews are person-centred and in line with good practice; the uniqueness of each person should be the focus for designing and delivering credible and valued support. The review should include, wherever

possible, speaking to the person in depth about their experience at the service. If this is not practically possible because of the person's needs then a period of observation of the care and support provided to the person should be undertaken. This should take place as part of the person's daily routine or within areas of the service that provide care - i.e. not at a remote office.

- All reviews must take into account statutory duties relating to the use of advocates and the relevant person's representative (RPR) (where relevant/applicable) under the Care Act and Mental Capacity Act, recognising their roles in contributing towards quality assurance.
- Placing authorities should ask family, friends, and the advocate and/or relevant person's representative (RPR) of the person (where appropriate/relevant) for intelligence about the service. The aim should be to empower individuals and families, and placing authorities should support the provision of good information to those people who use services and their families about safe, good quality care so that they know what they should expect and are supported to raise their concerns. Sometimes families have concerns, but have not formulated them or spoken with anyone outside of the service provider. It is good practice to offer families a chance to speak privately, in person or via a phone call.
- There should be clear information and guidance for people and families about the remit, powers, structure and enforcement resources of all relevant agencies.
- Those completing reviews should maintain professional curiosity throughout the review and all contact with the provider. When visiting services that describe themselves as 'specialist' it is important to gain evidence that care is effective, high quality and evidence-based. Reviewers should not assume everything is alright without seeing the evidence for it, and must never assume that a service is providing specialist care because of the way it describes itself. They should identify and invite agencies who are working with the person, for example mental health or other specialist services, or consult with them prior to the review, in order to fully explore how the person's needs are being met.
- If there is evidence of inadequate provider support to individuals, for example in relation to maintaining individual care plans, this should be acted upon, for example by reporting the concern to the CQC and alerting the host authority. Where there are safeguarding concerns and/or the host authority contracts with the service, they should actively use their contractual procedures, issuing contract default notices, advisory notices and placement suspensions. The placing authority may also make decisions under its contract monitoring procedures relating to its contract with the provider, including suspension of placements with the provider.

5. Safeguarding

- In addition to safeguarding matters identified elsewhere in this advice note, the ADASS publication "Out-of-Area Safeguarding Adults Arrangements – Guidance for Inter-Authority Safeguarding Adults Enquiry and Protection Arrangements" (June 2016)³ identifies specific principles for inter-authority working on cross boundary work in adult safeguarding.

³ See the ADASS guidance on 'Out of Area Safeguarding Adult Arrangements': <https://www.adass.org.uk/out-of-area-safeguarding-adult-arrangements>

- These principles identify that “clarity about the responsibilities of host and placing authorities at the outset of the enquiry is essential to ensure the person’s wellbeing and desired outcomes remain paramount” and that “where there is a placing authority involved in commissioning a service, that authority will contribute to the enquiry as required, and maintain overall responsibility for the person they have placed, including needs assessment and care and support planning”.
- It is important that the placing local authority participate in all multi-agency reviews, including any that it is not directly responsible for organising, for example of health elements of the individual’s package.

6. Providers

- The placing local authority should write to the provider advising them of their contact details, including who to contact in the event of an emergency. The placing local authority should also clearly communicate, by care plan or other means, the care and support it is expecting the provider to deliver and what it is expecting in respect of the funding provided. The letter should include a written requirement on the provider to report any issues of concern that affect the person to both the placing and host authorities any issues of concern that affect the person.
- The placing local authority must share any known risks with the provider and ask if there are people in the service who may pose a risk to the person being placed or vice versa. The placing local authority must also place a requirement on the provider to inform it immediately if these risks change – for example if someone leaves or moves in to the service.
- The placing local authority should ensure, through contracting arrangements and in service specifications, that the provider has arrangements in place for safeguarding adults and for managing concerns, which should be in line with the local (host authority) Safeguarding Adults Board multi-agency safeguarding adults policy and procedures.
- If not already in place, host local authorities should develop a method or system for holding information provided by placing authorities. This should include the placing authority, the provider and details of the person. This will enable a comprehensive response should safeguarding concerns arise at a later point and also help with good communication generally about the service and provider. The host authority should identify contact points for placing authorities to use when making enquiries about the quality of a provider.
- Local authorities should ensure that any relevant learning from local SARs or significant national SARs informs review of the provider concerned and protocols for cross authority care and support arrangements.

APPENDIX 1

In providing pre-notification of use of provision, the following information should be shared with the host authority:

- Name of person:
- Date of Birth:
- Individual's ID number:
- Name of provider:
- Type of support:
- Location of support:
- Date of provision commencing:
- Indication of likely local health service involvement

Ensure there is a clearly defined contact point within the placing authority, and include contact details. Ideally, ask for a named contact point within the host authority to make contact to support future communication.