SOUTHAMPTON
CITY COUNCIL

NHS
Southampton City
Clinical Commissioning Group

PROVIDER FAILURE AND PROVIDER EXIT PROCEDURE

Guidance for Southampton City Council and NHS Southampton City CCG Staff

June 2018

Subject and version number of document:	Provider Failure Procedure V03 This procedure identifies actions to be taken in the event of actual or prospective failure / exit of one or more providers of care which appears likely to occur in circumstances where the Provider may not be able to plan and implement an orderly and structured run-down of their services.
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1. Introduction

1.1 This document has been produced with support and guidance of officers from Southampton City Council (SCC) and NHS Southampton City Clinical Commissioning Group (CCG) and is underpinned by the 4LSAB Multi Agency Adult Safeguarding Policy and Procedures 2nd Edition December 2016. The procedures are also based on guidance by ADASS (the Association of Directors of Adult Social Services) for dealing with provider failure and supports the implementation of the Care Act (2014).

1.2. Failures and exits of care providers from the local market are comparatively rare events and present particular challenges in that City Council and NHS intervention would be required immediately, and the assessment and transfer of residents to alternative care providers may need to take place within a very short time frame.

1.3. The impact of the changes to provision upon service users and their relatives and carers should be managed in the best 'person-centred' way possible by working to the framework set out in this document. Every effort should be made to cater for the specific identified needs of each citizen, and wherever practicable to keep 'friendship groups' together and take time and great care to minimise the disruption for these very vulnerable service users and maximise the time available for preparation. Further good practice guidance is set out in research by ADASS (the Association of Directors of Adult Social Services) and the University of Birmingham on achieving positive outcomes during moves, especially with unplanned or short-notice failures.

1.4. Any assessment and planning processes involving vulnerable adults affected by a potential failure will also be need to be underpinned throughout by the principles of the *Mental Capacity Act 2005*

1.5. Failures and exits may be caused by a number of factors - for example:

- Closure by Regulators
- Termination of contract by Commissioners
- Loss of premises due to damage
- Closure by Owners due to increasing financial pressures; or the outright failure of
- their business leading to the appointment of a Corporate Insolvency Practitioner e.g. a Receiver, Administrator etc.
- Business/organisational redesign and transformation

1.6. Any resulting requirement for transfer of service users to alternative care facilities would be dependent on the assessed needs of the citizen and the availability of spare capacity in the local market. The preferred and expressed choices of location and of care provider of Service users/carers should be gained and fully taken into account.

1.7. Lead responsibilities for dealing with different categories of resident will fall as follows (see also ***Section 6,*** below):

- Council-funded and self-funded – Local Authority
- Continuing Healthcare funded – NHS
- Joint funded – Local Authority or NHS with largest % of funding split to lead
- Out of City Local Authority – Local Authority to identify relevant funding authority and agree responsibility for managing transfer

This procedure can be applied to all types of provider services, including,

- Residential Units
- Supported Living
- Home Care and Support
- Day Services
- Other key services

And the timescale of the potential closure can be
- Immediate and/or unplanned
- Longer term planned closure by a set date

1.8. Actual or prospective failure or exit of a single provider imposes stress on a local care market, whereas the failure of a medium or large corporate Provider - often involving several Care Services in the same area at the same time - will present enormous challenges that may require the involvement of a number of NHS's and Local Authorities to identify alternative capacity and to maintain service provision.

1.9. **It is recognised that every situation is different and it is up to the responsible statutory sector Managers to decide the best approach for the situation presenting at the time, interpreting this Operational Procedure flexibly to suit the specifics of the case while still being guided by its principles.** Any case-specific 'contingency' or 'resilience' planning will to a large extent be determined by the time available prior to failure, and the Lead Officer will need to adapt procedures and use available resources to minimise disruption to Service Users as far as possible.

1.10. Factors such as the cause of the failure or exit, the timescale, local availability of provision and staffing resources, will all affect the feasibility of using a standard management approach - however, the Management Checklist in ***Appendix A*** provides a useful framework.

2. Aim and Purpose of this Operational Procedure

2.1. The main aim of this document is to provide a framework for Managers to ensure:
- Service users/adults at risk are fully protected and their wellbeing and safety is at the forefront of planning and action.
- that there is effective and coordinated planning and communication between all parties involved in the proposed and/or actual failure arrangements

2.2. This Procedure identifies actions in the event of an unplanned or potential care provider failure, including the officers responsible for these actions.

2.3. It is intended as a generic approach to situations of this type. There should be a coordinated and agreed plan for any provider failure event.

2.4. The options for alternative provision will depend upon individual circumstances and are listed in ***Section 8.***

2.5. In the case of unplanned failures or exits affecting a major service Provider that overwhelms the ability of SCC and the CCG being able to relocate service users, SCC and the CCG may also want to consider activating Emergency Planning procedures for the City Council and partners.

2.6. The procedure for emergency failures resulting from fire, flooding, explosion etc. will be dealt with as part of major Emergency Planning responses (if required), and care providers business continuity plans.

3. Definition of Failure and Provider Exit From the Market

3.1.
The failure may be as a result of a decision by the Care Quality Commission (CQC) under their powers to require an emergency closure; or through a decision by commissioners to

decommission care (e.g. as a result of a major event such as serious safeguarding concerns), resulting in the care provision closing. This may also cover other failures, for example due to an emergency e.g. infection control, flooding etc.; or due to a decision by the Provider (or any Corporate Insolvency Practitioner that has been appointed) to cease trading.

3.3 Provider exit from the market may arise in circumstances where organisations make a planned decision to withdraw from providing care within the city.

3.3. This Procedure will be implemented as part of a Contingency or Resilience Plan in situations where failure or exit is a serious prospect whether that is confirmed or not, or where the timescale before prospective or actual failure cannot yet reasonably be determined. Reference should be made to the Management Checklist ***(Appendix A)*** to determine which sections are relevant in the specific circumstances of the current case.

4. Activation of the Procedure

4.1. The decision that results in a failure of Care Provision may come from a variety of sources; for example:

- It may be invoked by the Care Quality Commission under its powers.
- A decision to decommission care leading to failure may be taken by the Director of Quality and Integration or the Service Director – Adults, Housing and Communities. The formal decision to activate this Procedure will come from the same lead personnel, and the expectation is that SCC and the CCG will agree activation and work in partnership.
- The Provider may give the appropriate 'Contract Termination Notice' period under their Contract.
- The Provider may themselves decide that the financial position of the individual service, or their overall portfolio of services, is becoming so very acute that it cannot continue to operate for a period sufficient to market the business and attract a new owner, nor to effect a planned 'orderly run-down' of the operation, i.e. one that would probably require a timescale of some months before failure.
- The Provider's business may have become "insolvent" (i.e. it can no longer meet its bills as and when they routinely fall due for payment, *and/or* its liabilities materially exceed its assets and there is no reasonable prospect of that being reversed in a realistic time-frame). In these circumstances the Directors/Owners have a legal duty not to continue trading while insolvent, so they should follow one of several Corporate Insolvency processes, which are likely to result in the appointment by the Courts of an Administrator or Receiver. That Officer's principal duty is to maximise the return for the Creditors (the people to whom the business owes money). Therefore they will often be willing to continue to operate the services(s) for a short period in hope of finding a buyer of it as a 'going concern' since that will generally fetch more than a dissolved business – but they will not do so indefinitely.
- Where closure is necessitated following significant and/or severe safeguarding concerns/enquiries, resulting in a decision that the provider is unable to provide safe care to its service users, and/or the inability of the provider to comply with an agreed action plan to rectify deficits, placing service users at risk of harm.

4.2 Situations of the above nature do sometimes arise "out of the blue", but more typically there will have been an accrual of "warning signs" over a period of time, and/or the services management and staff may have openly shared word that its future is at real risk, possibly accompanied by media reports. SCC and CCG Officers should be alert to such signs and should notify their senior management so the implications can be considered and the likelihood assessed.

4.3 As soon as failure notification is received or real risk of potential failure is identified,

SCC Service Director – Adults, Housing and Communities, and the CCG Associate Director of Quality/Deputy Chief Nurse must be **notified immediately** by telephone with confirmation in writing (email).

4.4 Staff passing information to either of these “Leads” **must** ensure it has been received and acknowledged. If they are unavailable the contact should be made to their nominated deputy. It is ‘not acceptable’ to leave a message with administrative staff.

4.5 The SCC or CCG Lead will instruct appropriate Officers to verify the failure or potential failure with CQC, and/or the Care Providers Owner, and determine what other relevant parties need to be contacted, by whom, and when.

4.6 Where the failure is related to the alleged or substantiated abuse of one or more vulnerable adults, the SCC Adult Social Care representative and Adult Safeguarding Lead must be notified. Safeguarding Alerts must be made in accordance with the 4LSAB *Adult Safeguarding Policy and Procedure,* to the Single Point of Access Team(SPA) for triage and transmission to Safeguarding Adults Team (SAT).

4.7 The SCC or CCG Lead will immediately call a Joint Incident Steering Group Meeting to take place at the earliest practicable opportunity, to initiate action under this procedure and agree a plan of action. In view of the potential implications for the health and well-being and safety of service users, the relevant Officers must treat the situation as necessitating their personal involvement at a very high priority. In order to ensure timely involvement of all key parties, including CQC, this may occasionally necessitate ‘virtual’ meetings such as through teleconference, and/or the nomination of appropriate ‘deputies’. See ***Section 7*** ‘Joint Incident Steering Group’ for meeting membership.

4.8 Dependent upon the urgency of the situation, it may be necessary to convene such a meeting outside of ‘normal office hours’. Provider failures that occur outside of normal office hours should be referred to SCC and CCG on call arrangements as outlined in Appendix C

5. Key Contacts

5.1. The ‘Key Contacts’ who should be notified and invited to the initial Joint Incident Steering Group Meeting are:

SCC Service Director – Adults, Housing and Communities
SCC Director of Children’s Services – Local Authority
ICU Director of Integration / Chief Nurse – CCG/ICU
Associate Director of Quality / Deputy Chief Nurse – CCG
SCC Director of Adult Social Care
Lead commissioner
Head of Safeguarding CCG
Associate Director of Provider Relationships (Market Development Lead)

6. Responsibilities and Roles

6.1. The responsible agency for fully health funded service users receiving care from providers at risk of failure is NHS Southampton City CCG, or equivalent. This also includes responsibility for coordinating arrangements on behalf of residents whose care is fully funded and commissioned by other health bodies, i.e. “Out of Area” CCGs.

6.2. Southampton City Council is the responsible agency for part-funded and fully social care funded service users whose places have been commissioned or funded by the Council. Southampton City Council also has responsibility for supporting all self-funded service users within the City to find alternative provision and for ensuring that any move is well managed

6.3. Southampton City Council will take responsibility for co-ordinating and ensuring the immediate welfare of all service users funded or commissioned by other Local Authorities; however funding responsibility and the detailed longer-term care planning of affected service users will remain with the placing authorities.

6.4. SCC and CCG Quality Team will take co-ordinating and communications responsibility for managing any project group arising from a sudden home failure within the Southampton City boundary.

6.5. All officers will need to commit to the process and identify any impact upon usual work to their line manager. Officers will need to confirm their delegated authority throughout the process to ensure timely decisions can be made.

7. Joint Incident Steering Group

7.1. The first meeting of the Steering Group is to be arranged at the earliest practicable opportunity following the identification of a provider failure (or potential failure). The chairing arrangements will be confirmed at the first meeting. This first meeting must take place within 3 working days of the Incident being notified.

7.2. The first meeting will confirm who will be the Council's Lead Officer for the Group. The Lead Officer will:

- have responsibility for ensuring that all decisions are made and implemented in a timely manner.
- ensure minutes are taken of each meeting with agreed actions (timescales noted), and circulated to team members and copied to the relevant heads of service
- the Group will decide on the frequency of its meetings, agreeing a core group of members who are kept informed and responsible for the proactive cascade of information to colleagues in their own service area (e.g. copy appropriate emails and reports to relevant people who are not necessarily group members but may have a 'need to know')
- Issues relating to publicity and the release of information will be considered, and a suitable balance struck so that where failure is not yet a certain outcome, the situation is not exacerbated and the Provider's entitlement to 'commercial confidentiality' is not infringed
- the Group will also discuss, if deemed appropriate, potential measures to prevent or delay failure e.g. short-term additional funding or assistance from SCC or the CGG

7.3. At the first meeting an Operational Group will be agreed to lead the work on the closure, reporting to the SG.
The operational group is responsible for identifying all affected service users and ensuring all service users are supported to move to alternative provision in a timely manner. The chair of the operational group will become a member of the JISG if not already. A full database of all affected service users will be compiled

7.4. Those to be invited must include:

- ICU Quality and Safeguarding team representative
- CCG Continuing Care representative
- SCC Procurement representative
- SCC Adult Social Care representative

- Care Quality Commission
- Lead Minute Taker
- Communications Lead
- SCC legal representative (note: NHS do not maintain this function ‘in-house’)

It may be appropriate also to invite other “interested parties” to certain meetings, or parts of meetings, where they have a specific contribution to make, but not as “ongoing” participants. These could include, for example:

- NHS Trust Representative or Safeguarding Practitioner
- Finance Lead (CCG and SCC)
- Relevant provider management
- Advocacy representative
- Family / Carers representatives
- South Central Ambulance Service representative
- Hampshire Constabulary
- Southampton City Council Health and Safety representatives
- SCC Market Development Lead –where failure may have significant impact upon the local market
- SCC Portfolio Holder for Social Care and/or Health - to be co-opted or briefed in a ‘community leadership’ role, depending on the severity of the failure issue.

8. Potential Options for Alternative Service Provision

8.1. Potential options may include:

- ‘Spot purchase’ from other Care Providers
- Reserving services in other suitable locations
- Consultancy advice from a specialist practitioner
- Input or support from an appropriate related provider to work with the failing provider.
- Temporary staffing, (e.g. via local Agencies)
- Temporary management, (e.g. via using a consultancy company)
- TUPE staff and transfer client group serviced to an alternate provider
- Alternative contracted management/nursing team provision
- Short-term additional funding
- Fee variation over and above normal ‘expected to pay’ rates to secure suitable service provision
- Other actions as deemed necessary based on individual circumstances

8.2 The Group will allocate responsibility for researching and pursuing these options depending upon the specific circumstances of the case.

8.3 It should not simply be assumed - especially in the case of a Provider operating a number of services, and/or where an Insolvency Practitioner is acting - that any payments we make which are intended by us for supporting the continuation of service provision at a specific service will necessarily be applied for that purpose, in that location, by the Provider or Insolvency Practitioner. An explicit written agreement must first be sought and obtained. Payments may need to be withheld by commissioners and only paid when situation is resolved.

8.4 Wherever possible all transfers of service users between care providers should occur within normal working hours.

Appendix A

Management Checklist

The following checklist provides a **framework for managing care provider failure.** ***Please note that this list is not exhaustive.*** The Joint Incident Steering Group must determine actions as necessary based on the circumstances, noting that the checklist is for use with both Home Care and Care Home providers.

The checklist should also be used in the event of a **potential failure where the timescale is unknown.** In this case, although all aspects should still be considered, and appropriate preparatory work based on these points should be begun where necessary, not all points will yet be applicable until the position clarifies.

See Appendix C for an example of immediate actions where a home care provider failure occurs and appendix D for a detailed Operational framework for all necessary actions when a care home provider is closed.

Date initiated:
Name of Service(s):
Steering Group Members: (Confirm Chair)

	Action	Responsibility			Applicability
		SCC	CCG	Provider	
		Initials of Responsible officer			Care Home – CH Home Care – HC Both - All
1	**Steering Group** For Group membership – see Section 7				All
1.1	Assemble Team and plan the work				All
1.2	Appoint Team Leader(s)				All
	Initial work/clarification				
2.1	Establish timescales for failure(s)				All
2.2	Establish number of Service Users affected, and User category, and who funds them				All
2.3	Liaise with Placements Service to gain information about resource availability in other services				All
2.4	Liaise with provider and other Home Care agencies to seek opportunities for staff TUPE and grouped transfers				HC
2.5	Consult and advise other Local Authorities as necessary				All
2.6	Establish tasks and timescales and allocate them				All
2.7	Allocate lead workers, (preferably based on site/Liason officer in the case of home care) with equipment and management				All

	support requirements				
2.8	Consider equipment issues: mattresses, furniture, hoists, packing boxes etc. Who owns it? Can it be transferred? Does any belong to the Millbrook?				CH
2.9	Arrange a meeting with Owners/registered manager/other relevant parties				All
2.10	Clarify if the service provider has a Business Continuity Plan in place as part of the contractual arrangements that can be used. In the current circumstances, is it still viable				All
2.11	Agree when and how Service users and Carers are informed (and by whom) of the need to change provider at an early stage.				All
2.12	Ensure that the Owner allows free and open access by professionals to the service over the relocation/reallocation period				All
2.13	Agree the 'need to know' information that should be shared with other parties e.g. care professionals; GP; NHS urgent care lead; other potential Care Providers[1]				All
2.14	Formal scripts to be developed with the lead Communications Department for: - • staff working with service users and relatives • provider staff • press				All
2.15	Consider the need for independent advocacy and other community support for service users/carers				All
2.16	Identify key Care Provider Management staff to be involved				All
2.17	Identify site(s) for offsite meetings for Management Team/Care staff if required				All
2.18	Identify other agencies to be involved				All
2.19	CCG to activate Serious Incident Procedure if required. SCC to follow Incident Procedure, and in addition, does this situation meet the criteria for a				All

[1] [***Note*** that even though a Provider may be considered at serious risk of 'business failure', their affairs are still covered by the principle of ***'commercial confidentiality'***, and care should be taken that without the Provider's agreement specific information is not disclosed to third parties which might actually precipitate the business's final demise].

	Serious Incident? If so, invoke that policy.				
2.20	Consider whether failure of this Provision is likely to have a have a significant impact on overall local market supply for this type of service				All
2.21	Ensure all officers have considered the impact of the failure process upon other work streams and escalated as necessary to line manager				All
3	**Service Users**				
3.1	Prepare an accurate database of all service users, and their needs – and confirm numbers with provider. Also any special factors e.g.:such as 'friendship groups' where it may be desirable to keep people together if possible; home care runs/delivery approach; and provider RAG rating. Current placement/packages costs and fees to be included				All
3.2	Confirm where responsibility lies for assessing any Self-Funding or Out of Area service users				All
3.3	Check current Registration category				All
3.4	Set up operational team to assess service users to identify possible changes in need or category of care				All
3.5	Check if any very frail people and those nearing end of life need exceptional arrangements				All
3.6	Identify service users wishing to change provision/ move sooner rather than later				All
3.7	Identify service users who should be assessed early in the project work due to their predisposition to stress, anxiety or complexity, or for other factors				All
3.8	Ensure all necessary Mental Capacity Assessments of Service Users are Identified and carried out, particularly focussing on decisions about accommodation. Accompanying record of Best Interests decision making process to be made. IMCASappointed for those lacking family/friends.				All
3.9	Identify need for advocacy services to support Service users.				All
3.10	Identify service users with active 'Deprivation of Liberty'(DOLS) authorisations. Ensure the provider as Managing Authority refers all those who are DOLS-				CH

	liable to SCC/Other DOLS Teams for new assessments/ authorisation.				
3.11	Identify Service Users with 'Health and Welfare Deputies', and those with 'Lasting Powers of Attorney' for Health and Welfare decisions, and ensure contact is made with the relevant parties				All
3.12	Establish if any service users/carers are subject to current Safeguarding enquiries.				All
3.13	Establish details of all Service users with "Money Management" arrangements in place with SCC, to include Appointeeship, Client Affairs.				All
4	**Financial Responsibilities**				
4.1	Ensure managers have the ability to commit all resources to the failure process including financial as well as staffing				All
4.2	Any Out of Area funded Service Users? Make external commissioners aware of situation, and confirm whether they wish the Steering Group to act on their behalf to relocate Service Users				CH
4.3	Identify SCC-funded residents, and identify any Section 117 MHA funded residents in particular.				CH
4.4	Identify NHS-funded service users				All
4.5	Identify whether there are any private self-funded Service Users and who will take responsibility for their care. Check capacity and their representation *(see 3.8. above)*				All
4.6	Take advice from legal services about any relevant contractual, financial and other statutory matters; this to include notice/contact termination periods.				All
4.7	Identify service users with Deputyship in relation to financial affairs, all Enduring Powers of Attorney and all those with Lasting Powers of Attorney for Property & Affairs. Contact relevant parties and ensure records of their involvement are made, particularly in relation to any changed cost to new placements.				All
5	**Carers and 'Significant Others'**				
5.1	Ascertain the names, addresses and telephone numbers of relatives, friends and representatives, as appropriate				All
5.2	Identify Carers who may themselves have special factors to consider – own health, Out of Area etc				All
5.3	Seek fullest involvement of relatives/' significant others' in the relocation/reallocation process				All
5.4	Consider necessity for commissioning				All

	advocacy for carers affected (but bear in mind resources implications before proceeding)				
5.5	Consider and where necessary undertake carers assessments				All
5.6	Clarify which Service users are unbefriended, and enable them to be represented.				All
6	**Consultations/Information Management**				
6.1	To ensure the process runs smoothly it is essential that all groups are consulted: • Service Users • Care Staff • Families/representatives • Portfolio holders/councillors in relevant ward/with relevant porfolio • Public/press, via Communications lead • Appropriate internal staff all agencies				All
6.2	Ensure Residents meetings are arranged with appropriate levels of management representation				CH
6.3	Ensure Relatives meetings are arranged with appropriate levels of management representation				CH
6.4	Ensure clarity of roles for each agency in meetings with residents, relatives and staff				CH
7	**Relocation/reallocation (if decision is made to close/cease trading in the city)**				
7.1	Re-assessment of service users and adequate resource requirements to complete. Team of staff to be set up to assess, coordinate and manage all moves and changes of providers. Where necessary/possible, named staff members to be allocated to Service users. Reviews of new placements/packages to be carried out.				All
7.2	Group service users to reflect TUPE transfer arrangement to another Home Care provider – where this is possible				HC
7.3	Check choice (s) of area/services available that are compatible with service user need/ category with resident/carer				All

7.4	Maximise resident/carer ability to make an informed choice about compatible area/services/Homes available, in adherence to the principles of the *Mental Capacity Act 2005*				All
7.5	Are there friendships between service users that need to be maintained?				CH
7.6	Ensure new provider is registered for the category of care required and can meet needs				All
7.7	Liaise with CQC, CCG, SCC staff to ensure information is known about potential/actual new Care Providers, establish clear and complete knowledge about the service quality and performance of these organisations.				All
7.8	Offer opportunity for citizen/carer to view/visit/trial visit Care Provider				CH
7.9	Seek Care staff help to inform/visit potential provision with citizen where applicable				CH
7.10	Decision by citizen/carer on new provision and date to move				All
7.11	Arrange help to take or escort citizen to potential new providers on placement if needed				CH
7.12	Arrange schedule transport to new provision, in and out of area e.g. car/minibus/ambulance –identify cost and who pays..				CH
7.13	Consideration of equipment issues, and arrangements for its transfer and installation *(see also 2.7 above)*				CH
7.14	Ensure service users are accompanied by someone familiar on the day of the move, including carers if possible				CH
7.15	Use current Care staff to the fullest; passing on their knowledge of service users to new providers, escorting, transporting etc				CH
7.16	Staff handover to new providers – verbal and written. Care summaries, including care plan that details health and social care needs				All
7.17	Respect Care staff friendships with residents and likely concerns for their future welfare. Find opportunities for current Care Staff to verbally discuss service users care needs summary with receiving Care Staff, where appropriate				CH
7.18	Maintain a log of decisions and				All

	movement of service users				
7.19	Move/reallocate service users at their own pace/convenience as far as possible.				All
7.20	Establish a programme of Social Worker/ Nursing reviews and resource implications to ensure Service users well-being after the move.				CH
7.21	Medications and treatment details to go with residents				CH
7.22	Particular attention to be made to ensure correct identification of relocated service users				CH
7.23	Any changes of GP and new provision to be recorded in all appropriate systems of all necessary organisations involved				CH
7.24	Placements made Out of Area should be notified to the receiving NHS/Local Authority				CH
7.25	Provider Service User information/case files/summaries/transfer with Service Users where possible or copies made and transferred				All
7.26	Consider how many family members/friends might visit the resident in the new Care provision; can we assist them to do so?				CH
7.27	Notify Department of Work and Pensions of change of Home				CH
7.28	Liaise closely with the ICU Contracts Team (new contracts need to be issued, old contracts terminated)				All
7.29	Consider a plan for time scales of moves, to enable new providers to gradually accommodate new residents over a period of time. However this also needs to take account of (a) anxieties of Service users/carers and (b) ability of failing provider to maintain a diminishing service.				CH
7.30	Consider the desirability of temporary/second moves, in part to allow choice for service users, where availability of preferred provider is delayed.				CH
8	**Quality Assurance**				
8.1	Ensure there is an effective process for recording and resolving complaints and disputes, and that itis widely understood and universally applied between the 'interested agencies'.				All
8.2	Conduct a debrief after every incident to				All

	identify good practice, lessons identified and further actions to be taken				
8.3	Ensure operational staff are supported and offered supervision, particularly to respond to conflict and criticism from other parties				All
9	**Record Keeping**				
9.1	Maintain a record of meetings, decisions made				All
9.2	Designate an administrative lead to collate all records				All
9.3	Service User outcomes should be recorded, particularly with regard to their health and emotional well-being				All
9.4	Maintain a risk log that is reviewed throughout the failure process				All
10	**Lessons Learned**				
10.1	All agencies should participate in a Review of the process once the procedure is completed. The outcome of this de-brief should be to identify recommendations for future inter agency learning, including policy, procedure and practical guidance				All
10.2	The Review should produce a Report and Recommendations to be submitted to the relevant groups and management levels within each agency, including the Local Adult Safeguarding Board				All
10.3	Consideration of referral to the LSAB Case Review or Monitoring and Evaluation Group should be included in the de-brief and review.				All
Additional Notes:					

Appendix B

Glossary

Care Homes Consultancy
Care Home Consultancy companies offer support to Care Homes in a range of areas e.g. business review, addressing specific problems, compliance auditing, cost reduction, planning for the future etc.

Care Quality Commission (CQC)
The Care Quality Commission (CQC) is an independent regulator of health and social care in England. The CQC regulates health and adult social care services provided by NHS, local authorities, private companies and voluntary organisations. The CQC also protects the rights of people detained under the *Mental Health Act 1983.*

Deprivation of Liberty Safeguards (DOLS)
These Safeguards form an additional element to the *Mental Capacity Act 2005*. They provide legal protection for those vulnerable people aged 18 or over who are, or may become, deprived of their liberty in a hospital or care home, whether placed under public or private arrangements. They relate to people who lack capacity to consent to particular treatment or care that is recognised by others as being in their best interests, or which will protect them from harm. Where this care might involve depriving people of their liberty in either care homes or hospitals, extra safeguards have been introduced to protect their rights and to ensure that the care and treatment they receive are in their best interests. They do not apply to people detained under the *Mental Health Act 1983.*

Deputy
Someone appointed by the Court of Protection with ongoing legal authority to make decisions on behalf of a person who lacks capacity to make particular decisions.

Enduring Power of Attorney
A 'Power of Attorney', generally, is the legal authorisation to act on someone else's behalf in a legal or business matter. An ***Enduring*** Power of Attorney in our current context deals with the donor's property and financial affairs. It will have been have been set up while the donor has capacity, and it was/will be activated by the Court of Protection when the donor's capacity to take decisions is at issue. An EPA does not come to an end if the donor becomes mentally incapable of managing his or her own affairs. The attorney named under an EPA ***does not*** have the power to make decisions about personal care and welfare. Since 2007 these have been replaced by ***Lasting*** *Powers of Attorney (see below),* though existing EPAs will continue to operate, and those signed before 2007 but not yet registered may still be registered.

Independent Mental Capacity Advocacy (IMCA)
The *Mental Capacity Act 2005* provides a statutory framework for acting and making decisions on behalf of individuals who lack the mental capacity to do so for themselves. In response the Government created provision for the Independent Mental Capacity Advocate (IMCA) service. The purpose of the IMCA Service is to help vulnerable people who lack capacity who are facing important decisions made by the NHS and Local Authorities about serious medical treatment and changes of residence e.g. moving to a hospital or Care Home. NHS bodies and Local Authorities will have a duty to consult the IMCA in decisions involving people who have no family or friends.

Lasting Power of Attorney
A Lasting Power of Attorney is a legal document. It allows a person giving it (the 'donor') to appoint someone they trust as an 'attorney' to make decisions on the donor's behalf. A

Lasting Power of Attorney cannot be used until it is registered with the Office of the Public Guardian.
There are **two different types** of Lasting Power of Attorney:

- **A Health and Welfare LPA** allows the donor to choose one or more people to make decisions for things such as medical treatment. A Health and Welfare Lasting Power of Attorney can **only** be used if the donor lacks the ability to make decisions for him/herself.
- **A Property and Financial Affairs LPA** lets the donor choose one or more people to make property and financial affairs decisions for them. This could include decisions about paying bills or selling their home. They can appoint someone as an attorney to look after their property and financial affairs at any time, **or** they can include a condition that means the attorney can only make decisions when the donor loses the ability to do so.
  *[See also '**Enduring** Power of Attorney', above]*

Mental Capacity Act (2005)
A law providing a framework for people who lack capacity to make decisions about themselves, or who have capacity and want to make preparations for a time when they lack capacity in the future. It sets out who can take decisions, in which situations, and how they should go about this.

Safeguarding of Vulnerable Adults
Relating to the legislation, policy and procedures *(especially the 4LSAB Multi Agency Adult Safeguarding Policy and Procedures)* that deal with the safeguarding of vulnerable adults.

APPENDIX C

Home Care Provider Exit/Failure Immediate Action Plan - Example

Key – PL – project lead, ASC – Adult Social Care, C – Commissioners, H – Housing, EPPR – Emergency Planning Lead/support, D – Director support, PS – Placement Service, ORG – System Resilience rep, A – Admin support

Now	Lead Officers	Progress and escalation	Lead Officers/escalation
Coordination of Response Development of project coordination hub	C	Agreed project leadership, representatives and provision of hub	
Client list Refresh of Client list with renewed rag rating. Request client information from Provider directly. Initial contact with clients/families to provide reassurance	ASC C ASC	Suspension of all other call offs from current framework and URS except in exceptional circumstances. CPS identify current resource availability – home care, res, nursing and pass to identify lead officer.	
Transfer planning Work with other care providers to identify transfer options Identify potential to transfer care in rounds under TUPE arrangement. Begin transfers of any high risk cases to available capacity Immediate review of TUPE options within SCC. Establish immediate timescale for	C C & ASC PS PL PL	Identified staff make contact with all providers to ascertain options for increasing capacity quickly to include • use of overtime and bank staff • rapid recruitment • Early use of staff in process of recruitment subject to risk assessment • transfer of resources from low risk packages	

failure with provider/receiver			
Additional support Collate information on Extra Care Housing element to identify: • TUPE options • Support tasks which could be picked up by other means (SCC internal service, housing management provider) • SCC and Saxon Wield ORG – liaison with system partners to brief and seek escalation and support arrangements. Briefing of SVS regarding risk of provider failure, requesting advice regarding approaching CVSE groups/orgs Self funder information – request scale of provision from provider to self funders in the city Establish with provider/receiver/national agencies	H ORG PL PL PL and D	Partners to be contacted to identify resource that can be brought in for short term cover including bank staff • SCC internal team • Health trusts • Voluntary sector Desk top review of all service users to identify any carer or informal support which could be used in the short term where appropriate Contact carers support service to identify additional advice and support available for carers. Contact providers including health trusts to open discussions on potential TUPE transfers. Immediate reporting requirements - CCG Serious incident reporting	

external support arrangements.			
Communications Redraft external and internal coms messages – including for clients, partners, public and council Agree contact approach with provider for client communications and reassurance Daily sitrep reporting to key groups and partners Briefing of key representatives in SCC	PL with communications support ASC PL D		
Monitoring Start log of actions, concerns and complaints – all actions to be logged Clarify immediate reporting requirements	A PL with ORG and EPPR		

APPENDIX D –Southampton City Council
PROCESS FOR EMERGENCY HOME CLOSURE; Operational Plan

Task	Who responsible
Identify lead manager to co-ordinate the process. A deputy should also agreed.	Service Manager
Set up central major incident room so that all staff assigned roles are together in one place. Ensure IT etc is available and accessible.	Lead co-ordinating manager
Coordinate all activity about service users on a Database, which is updated daily. This to contain full information about Citizen's needs, views and wishes; outline assessment, including mental capacity, and to be used to record progress with assessments, planning, new providers and subsequent reviews.	Lead co-ordinating manager
Establish Team and assign specific roles to each staff member: • Lead co-ordinating manager • Deputy co-ordinating manager • Reassessments • Mental Capacity Assessment • Best Interests Meetings • Vacancies • Financial matters and advice • Placements and new care home liaison • Moving and handling assessment and equipment • Transport • Family liaison • Medication, personal belongings and packing • Case record update • Staff support • Media/councillor/MP enquiries • Business support	Lead co-ordinating manager
Briefing session at beginning of day	Service manager and lead co-ordinating manager

• What will happen • Timescales • Permissions • Inform co-ordinating manager of issues / problems • Assign roles Agree plans for briefing / updates later in the day	
Establish core group of specialist practitioners to provide support during the move care manager, OT, nurse, mental health, business support	Lead co-ordinating manager
Consider need for Business Support to assist Operational Process	Lead co-ordinating manager
Designate senior manager to keep directors and councillors briefed and link to legal, communications Development of media statement	Lead co-ordinating manager Lead co-ordinating manager and Communications team
Liaise with CQC to whom they will communicate the decision, when information can be released This to be communicated amongst designated staff	Service Manager Lead co-ordinating manager
Prepare script for all staff dealing with family and other queries, to be circulated to all relevant teams Brief relevant teams SPA, Gateway, Complaints	Lead co-ordinating manager
Leads to inform their teams and senior practitioners to brief their teams	Team leaders and senior practitioners
List of mobile numbers for leads and designated staff	Lead/deputy coordinating manager
List of contact details for other agencies as required • District nursing • Ambulance service • Equipment service • Removals • Legal • Out of Hours services • Transport	Lead/deputy coordinating manager
Consider requesting police presence regarding media, families and property if necessary	Lead co-ordinating manager / Team Leaders
Despatch designated staff members and team leaders to the home to	Lead co-ordinating manager

oversee transfer including family liaison, resident support, medication and packing	
Lead OT to do moving and handling assessments and identify any specialist equipment required by the resident in the new home. Liaise with home and where needed equipment service	Lead OT
Conduct risk assessments for staff presence at premises and escort duty A log of SW at the property to be maintained. SW to call in to sign off if going on/off shift	Lead/deputy co-ordinating manager
Each resident to be assigned to a named social worker who will oversee their transfer. Once the move is complete this must be notified to the lead co-ordinating manager Designated team leader for updating case records is informed and updates PARIS	
Prepare rota of staff prepared to work late and / or at the weekend	Lead co-ordinating manager/deputy
Identify emergency care home team and resources to pay for this, e.g. escorts, home manger, care staff, nurses	Lead co-ordinating manager
SCC "appointed" home manager and care team will enter premises when the order is through as SCC will now have responsibility	SCC Home Manager
Advance agreement regarding additional costs and budget codes for: • Placements • Overtime for staff and child care • Travel costs for families • Taxis and other transport • Private ambulances • Packing boxes • Removals	Lead co-ordinating manager
Practical arrangements • Removal van • Packing boxes • Negotiations regarding use / loan of specialist equipment • Blankets	Lead Coordinating Manager/deputy

• Food and drink (residents and staff) • Mobile phones for staff	
Hold debriefing sessions for all staff involved, in the move and the safeguarding investigation to cover: • Emotional aspects • Effectiveness of process • Lessons learnt • Employee support	Leakd co-ordinating manager