



Risk of Care Provider Failure


Final Report




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Working in Partnership to Deliver Audit Excellence




Executive Summary

-  This section provides an overview for senior management to understand the main conclusions of this audit review, including the opinion, significant findings and a summary of the corporate risk exposure.

Findings and Outcomes

-  This section contains the more detailed findings identified during this review for consideration by service managers. It details individual findings together with the potential risk exposure and an action plan for addressing the risk.

Appendices:

-  Audit Framework Definitions
-  Support and Distribution
-  Statement of Responsibility

Executive Summary

Overview

As part of the 2017/18 audit plan a review has been undertaken to assess the adequacy of the controls and procedures in place to mitigate the risk of care provider failure across Somerset County Council (SCC).

The Care Act 2014 places a temporary duty on local authorities to meet and support the needs of vulnerable adults in the event of a Care Quality Commission (CQC) registered care provider being unable to carry out that activity due to a business failure. This duty applies regardless of whether the individual's care is funded by the local authority or not.

The Council uses a number of strategies to manage care provider failure risks. In order to understand the sustainability of the local care market, market analysis is completed by the Commissioning Team to assess the level of available provision in the county and identify any gaps. The state of the care market in neighboring authorities is also assessed to identify how significant failures may impact on the Somerset care market.

In recognition of the link between financial performance and quality of care and to identify any providers potentially at risk of failure, the Quality Assurance Team periodically complete a number of assessments of care providers. These are in the form of:

- Six monthly Self-Assessment Forms (SAFs) completed by providers, focussing on quality standards, which are electronically assessed to provide a score;
- Contract Reviews - The SAF score provides a RAG rating for each provider which, alongside other intelligence, such as CQC assessments and any safeguarding alerts received, informs their contract review period. As a minimum contract reviews will be conducted every 24 months;
- Financial Assessments - Those providers deemed market risk should annually provide SCC with a copy of their accounts. These will be assessed by the Finance Team and risk scored. A medium or high risk would be referred to the Commercial and Procurement Team for further analysis.

Where failures do occur the Quality Assurance Team work closely with other partners such as the CQC and the Clinical Commissioning Group (CCG) to ensure that closures are managed, and that suitable alternative care is arranged for residents or service users with minimum distress. A Business Failure Policy has been developed which informs this process.

The audit was conducted to verify the effectiveness of these arrangements in line with the risks identified below.

Objective

Service Objective: To ensure that vulnerable adults have their care and support needs met.

Significant Findings

Finding:	Risk:
Self-Assessments, Financial Assessments and Contract Reviews have not been completed for all providers as planned.	Service users may be placed with providers who are at a high-risk of financial failure, and who may subsequently fail.

For thirty providers joining the Framework, financial accounts have been requested, but they have not been assessed.	Contracts may be agreed with care providers who are not financially secure and who may be at risk of financial failure.
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Audit Opinion:	Partial
<p>We are able to offer partial assurance in relation to the areas reviewed and the controls found to be in place. Some key risks are not well managed, and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.</p> <p>Although procedures have been agreed to assess providers through Financial Assessments, SAF Reviews and Contract Reviews, this process has not yet been fully implemented. Financial Assessments of market risk providers are yet to start and unforeseen problems with registering providers on the Proactis system has led to delays in the implementation of the electronic SAF return process. Furthermore, new providers joining the Framework are not being financial assessed prior to clients being placed with their service. This increases the risk that service users may be placed with providers who are not financially stable.</p> <p>Further details of findings are contained in the body of this report.</p>	

Well Controlled Areas of the Service
<ul style="list-style-type: none"> • SCC actively engage with other key partners such as the CQC and CCG. Regular meetings are held where concerns regarding providers can be discussed, and actions plans developed; • When a provider enters a state of failure the team act quickly to ensure that service users are assessed and found suitable alternative care; • SCC are proactively engaging with care providers to increase their resilience in the market by identifying areas of weakness and providing information and training where necessary.

Corporate Risk Assessment			
Risks	Inherent Risk Assessment	Manager's Initial Assessment	Auditor's Assessment
1. The business failure of a care provider results in vulnerable adults being left without a means of having their care and support needs met.	High	Medium	Medium

Findings and Outcomes

Method and Scope

This audit has been undertaken using an agreed risk-based approach. This means that:

- the objectives and risks are discussed and agreed with management at the outset of the audit;
- the controls established to manage risks are discussed with key staff and relevant documentation reviewed;
- these controls are evaluated to assess whether they are proportionate to the risks and evidence sought to confirm controls are operating effectively;
- at the end of the audit, findings are discussed at a close-out meeting with the main contact and suggestions for improvement are agreed.

A sample of 29 registered providers currently operating in Somerset was selected from the records held by the Quality Assurance Team. Copies of completed assessments were requested for each of these providers and reviewed by the audit where available. This included both domiciliary and residential care.

A further sample of five recent provider failures, identified by the Strategic Manager –Quality & Performance were also reviewed and assessed against the approved procedures.

1.	The business failure of a care provider results in vulnerable adults being left without a means of having their care and support needs met.	Medium
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1.1 Finding and Impact

Market Analysis

Market analysis of care providers is largely completed by the Strategic Commissioning Team. This analysis looks at the levels of placements with the care providers across the County to give an overview of the care provider market and identify any gaps in provision.

Longer term provision requirements are publicised via the annual SCC Market Position Statement. Gaps are documented in an Unmet Needs List, which maps areas across the County where additional provision is required.

Officer attendance at the RCPA (Registered Care Providers Association) provides an ongoing link with the care market the South West Regional ADASS (Association for the Directors of Adult Social Services) meetings allow staff to gather further information with regards to the care market in the other regional counties.

However, the outputs from these activities have not been consolidated to form a plan for how the South West region as a whole would respond should there be a significant provider failure. There is a risk that lack of provision within other regional areas would have an impact on the care provision available in Somerset, should a large provider fail in a neighbouring county. This could result in vacant placements within Somerset being taken by out of county clients, reducing the overall resilience of the market should Somerset then experience a provider failure.

1.1a	Proposed Outcome:	Priority 3
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The Strategic Manager - Commissioning should establish what current measures for response would be and to consider whether there is a need to co-ordinate activity to ensure that Councils assess how the South West as a region would respond to a significant care provider failure.

Action Plan:			
Person Responsible:	Strategic Manager - Commissioning	Target Date:	End of April 2018 to discuss with Co-ordinator
Management Response:	Agree to contact the Co-ordinator for the South West region and discuss whether this has previously been completed and if not, whether it is worth considering.		

1.2 Finding and Impact

Criteria for Market Risk Providers

From the list of CQC registered providers operating within Somerset, the Council have determined which are deemed to be 'market risk'. These are the providers that have strategic importance in the market place and would be the hardest to replace in the event of a failure. This classification is based on the number of clients they provide care for and whether they provide a specialist service or care for individuals with complex needs. These providers would then be subject to greater scrutiny to ensure that the risk of their failure is as low as possible. The current criteria are set at providers who are offering a service to 70 or more people. Currently this applies to fifteen providers.

However, it was not possible during the audit to determine the reason for this tolerance level being set as high as 70. There is a risk that the impact on the County would be similar should a provider with any significant number of clients fail.

1.2a Proposed Outcome:

Priority 3

The Service Manager – Quality Assurance should review the criteria for key market risk providers and an assessment should be made of the minimum number of placements to identify an accurate threshold for any providers who would be hard to replace.

Action Plan:

Person Responsible:	Strategic Manager – Quality & Performance.	Target Date:	End of May 2018
Management Response:	Agree to review the threshold of market risk in terms of providers who offer a service to a specific number people and to then make a decision on how market risk should be classified going forward.		

1.3 Finding and Impact

Financial Risk Assessment of Care Providers – During Procurement

The audit assessed the controls in place to financially risk assess providers during the procurement stages.

With regards to the providers joining the Framework, financial accounts are requested, but no assessment is currently completed against them. This is because the provider may be on the Framework for a considerable length of time (possibly years) before any clients are placed with them, by which time these accounts would be out of date. Alternatively, SCC may have placed clients with the provider prior to them joining the Framework and reliance is placed on any historic financial assessments completed by the Quality Assurance Team. Currently, this applies to thirty providers who joined the Framework when it commenced in March 2017.

Without a set process for financially assessing providers joining the framework, there is a risk that contracts may be agreed with care providers who are not financially secure and who may be at risk of financial failure.

1.3a Proposed Outcome:

Priority 4

The Service Manager – Quality Assurance should ensure that a process is set in place for completing

financial risk assessments of all care providers joining the Framework.			
Action Plan:			
Person Responsible:	Service Manager – Quality Assurance	Target Date:	End of May 2018
Management Response:	Agreed and we have since determined that this will be covered through spot-checking of a specific number of Framework providers per year. This will not be restricted to market risk providers only.		

1.4 Finding and Impact

Financial Assessment Reviews of Care Providers – Post Procurement

With regards to the planned financial assessments of providers, this process has not yet commenced. The Service Manager – Quality Assurance advised that work is currently being completed to create initial contact information for each care provider, but no timescale has been set to commence the assessments. There is a risk that whilst the providers are not being financially assessed, the Council may be placing work with a high-risk provider which may fail.

Contract Reviews of Care Providers

A sample of 29 providers was tested to assess the extent to which the SAF and Contract reviews have been completed. It was found that

- 10 providers have not yet completed a SAF. It was confirmed that these providers are all still undergoing the Proactis registration process as described in 1.5.
- Eight providers had a date for the last contract review recorded, but documented evidence of these reviews could not be located by officers. Should the minutes of the contract review meetings not be retained and accessible on file, there is reduced assurance that they have taken place. Alternatively, the reviews may have recorded information which would indicate that further action should be taken, for example a restriction applied to the placement of clients with the provider.
- A further four providers did not have the date of the last contract review recorded on the spreadsheet. We were advised that all four of these providers would be receiving their contract review within the next few weeks. However, without a date recorded on the monitoring spreadsheet, there is a risk that a timely review will not take place.

The Strategic Manager – Commissioning stated that his team uses these assessments as part of their market analysis. Therefore, there is also reduced assurance that SCC's market analysis is based on complete information.

1.4a Proposed Outcome: Priority 4

The Service Manager – Quality Assurance should liaise with the Finance Team to develop a target date for commencing the financial assessments of market risk care providers.

Action Plan:

Person Responsible:	Service Manager – Quality Assurance	Target Date:	End of May 2018
Management Response:	Agree to co-ordinate the approach with the Finance Team and as per 1.3a, this will be covered through spot-checking of a specific number of providers per year. It will not be restricted to market risk providers only.		

1.4b Proposed Outcome: Priority 3

The Service Manager – Quality Assurance should ensure that all contract reviews are recorded and retained on file. Furthermore, the Contract Review Schedule Spreadsheet should include the date that the contract review was last completed and the date that it will next be due.

Action Plan:			
Person Responsible:	Service Manager – Quality Assurance	Target Date:	For all to be recorded by end of April 2018.
Management Response:	Agree – the approach to reviews is changing to be more pro-active and to provide a more holistic review. We are also developing a toolkit with contract managers and will consider introducing this as a measure to the service scorecard.		

1.5 Finding and Impact

The Quality Assurance Team are currently setting up each provider on Proactis (an e-procurement system) which will enable them to electronically submit their SAF and the system will then automatically generate a total score, based on the answers provided. Through discussion with the Quality Assurance Team we found that there have been several unforeseen delays in registering the providers on Proactis. This largely stems from the providers unfamiliarity with using this type of system. The current estimate is that 80 percent of providers are now registered, but there are currently no timescales set for having this work completed. The Service Manager – Quality Assurance stated that he is considering removing Proactis from this process and scoring all assessments manually and he further added that, given the officer time required to process the reviews on a six-monthly basis, the procedure may need to be revised to request annual SAF submissions from the providers instead. This would increase the Officer time required to complete this task.

The delay has meant that individual SAFs and contract reviews have also been delayed and within our sample of 29 providers, this applied to ten for whom reviews were overdue. There is a risk that quality concerns and potential financial failures may not be identified in a timely manner.

1.5a Proposed Outcome: Priority 4

The Service Manager – Quality Assurance should agree a plan to achieve full compliance with the agreed process for Care Provider Self Assessments. A decision should be reached as soon as possible as to whether the service will pursue registering all care providers on the Proactis system in light of available resource, to generate the intended benefits.

Action Plan:			
Person Responsible:	Service Manager – Quality Assurance	Target Date:	End of October 2018
Management Response:	Since the audit we have refined the information required from providers, and Business Support arrangements have improved. We will be moving to an annual review process but with quarterly reporting, hence the target date which will coincide with the next round of reviews.		

1.6 Finding and Impact

Partnership Working and Intelligence Sharing

The CQC also has the responsibility to carry out financial assessments of care providers. However, they do not currently make SCC aware of the providers that they have assessed as being a financial risk. If SCC were able to access this information, this would enable them to focus on these at-risk care providers and provide timely and effective assistance for them to avoid financial failure if possible, or at least be aware of the potential failure and plan for this accordingly. Furthermore, as SCC's financial assessment of Care Providers is planned to only review those deemed to be 'market risk' access to any CQC financial assessments may provide information with regards to care providers who are outside this scope.

There is a risk that providers, who do not meet the criteria undergo a periodic financial assessment by SCC, may still experience a financial failure which could have been avoided or managed more

effectively if timely support were to be provided. This may bring the potential for significant distress for any residents who may be forced to move, and further potential for additional costs for the Council should appropriate placements not be available for these residents at Local Authority rates.

1.6a Proposed Outcome: Priority 3

The Service Manager – Quality Assurance should request access to the outcome of the CQC Care Provider Finance Assessments and use this information when assessing which care providers may require further support or may be at risk of failure.

Action Plan:

Person Responsible:	Strategic Manager – Quality & Performance	Target Date:	End of April 2018
Management Response:	Agreed and we will request this information through existing arrangements with CQC.		

1.7 Finding and Impact

Compliance with Agreed Procedures

The Quality Assurance Team have developed a policy which outlines the process which should be followed in the event of a failure of a care provider and in conjunction with this policy an Urgent Business Failure Checklist has been issued. This lists the key areas and tasks which will need to be considered when a provider is in a state of failure. Such tasks include ensuring that the service users and their families are aware of the situation, establishing whether best interest decisions are required and ensuring that medical supplies and transportation needs are assessed before the residents are moved.

The audit sampled five provider failures that have occurred since October 2016. Through discussion with the Managers overseeing closures we assessed each for compliance against the agreed procedures, with the following findings:

- Although there was evidence that the Failure Checklist had been used as a reference document, it had not been completed or retained for any of the sampled closures, so we were unable to verify that each action has been completed for each case. In its current form the Checklist just requires a tick to confirm that a task has been completed, but it may be more valuable as a document if it records when and by whom a task was completed.
- All five closures had regular meetings held and minuted, with clear actions recorded and assigned to individuals. However, the timescales for action were most often set to 'ASAP' and there was not always a consistent, clear review of the completion of the previous meetings actions.
- Towards the end of the closure process, meetings with the providers are often moved from face-to-face to telephone. At this point there is no minuted record of the discussions held nor a log of any actions assigned or completed. There is also no formal agreed method of recording any other notes or contact with the relatives of service users or of meeting discussions with other partner organisations such as the CQC and CCG.
- There was evidence of lessons learnt having been reviewed for two of the five providers, but this is not a formal step in the process and there is the risk that opportunities for improvement may be lost if this is not completed following each closure.

There is a risk that key elements of the closure process may be missed if a record of the actions listed on the Checklist is not retained, or if actions raised within the meetings are not tracked through to completion. Furthermore, if all decisions are not recorded within the minutes of meetings, or on some form of case note, it may not be possible to recreate a timeline of such decisions should a future review of events be required.

Following each closure, the representative for the provider is contacted by email with a request for

any feedback. However, the team do not currently have a standard feedback template that they could include in these emails which may return a greater response. For the closures within the selected sample positive feedback was received from one provider. Further feedback was also received from a family member of a resident. There is a further risk that the Service is currently losing the opportunity to improve following valuable feedback, which could be used to further develop the formal procedures.

1.7a	Proposed Outcome:	Priority 3
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The Service Manager – Quality Assurance should ensure that Care Provider Failure documentation is updated to ensure that

- all actions raised in closure meetings are recorded with a clear target date and an update is recorded for each action in subsequent meetings;
- there is a timeline of all key decisions made outside of formal meetings, including telephone meetings;
- there is a prompt to consider lessons learnt provided from a formal feedback request (see 1.7b).

All the above should be recorded and retained on file for each closure.

Action Plan:

Person Responsible:	Service Manager – Quality Assurance	Target Date:	End of April 2018
Management Response:	Agree to update the policy and documentation to meet these requirements and then relaunch and reissue.		

1.7b	Proposed Outcome:	Priority 3
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The Service Manager – Quality Assurance should develop a formal feedback request template to issue to providers for return, following completion of the closure procedures.

Action Plan:

Person Responsible:	Service Manager – Quality Assurance	Target Date:	End of April 2018
Management Response:	Agreed.		

1.8	Finding and Impact
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Immediate needs of Service Users in the event of a failure

The audit assessed whether the Council has identified alternative providers that could meet care needs in the event of the failure of another provider.

In certain circumstances it may become necessary to resource the failing provider whilst the administrators work through the closure and whilst alternative care is sourced. In this situation, the provider of choice to assist in managing this risk is Somerset Care, as the biggest provider in Somerset and covering a wide range of client groups.

Through discussion with the Strategic Manager - Commissioning we found that although he believed that the Somerset Care Board ratified the decision to provide the Council with such support approximately one and a half years ago, evidence was not available and there is no formal agreement in place. There is a risk that if the provision of this support is not formally agreed, the Council may not have the expected support from Somerset Care.

1.8a	Proposed Outcome:	Priority 3
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The Strategic Manager - Commissioning should ensure that Somerset County Council obtains a written agreement with appropriate providers who can provide personnel to support failing providers in the event of a closure, to ensure that all expectations and boundaries are outlined for this arrangement.

Action Plan:			
Person Responsible:	Strategic Manager - Commissioning	Target Date:	End of August 2018
Management Response:	Agree.		

Audit Framework and Definitions

Assurance Definitions

None	The areas reviewed were found to be inadequately controlled. Risks are not well managed and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.
Partial	In relation to the areas reviewed and the controls found to be in place, some key risks are not well managed and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.
Reasonable	Most of the areas reviewed were found to be adequately controlled. Generally risks are well managed but some systems require the introduction or improvement of internal controls to ensure the achievement of objectives.
Substantial	The areas reviewed were found to be adequately controlled. Internal controls are in place and operating effectively and risks against the achievement of objectives are well managed.

Definition of Corporate Risks

Risk	Reporting Implications
High	Issues that we consider need to be brought to the attention of both senior management and the Audit Committee.
Medium	Issues which should be addressed by management in their areas of responsibility.
Low	Issues of a minor nature or best practice where some improvement can be made.

Categorisation of Recommendations

When making recommendations to Management it is important that they know how important the recommendation is to their service. There should be a clear distinction between how we evaluate the risks identified for the service but scored at a corporate level and the priority assigned to the recommendation. No timeframes have been applied to each Priority as implementation will depend on several factors, however, the definitions imply the importance.

Priority 5	Findings that are fundamental to the integrity of the unit's business processes and require the immediate attention of management.
Priority 4	Important findings that need to be resolved by management.
Priority 3	The accuracy of records is at risk and requires attention.

Priority 2 and 1 Actions will normally be reported verbally to the Service Manager.

Report Authors

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Support

We would like to record our thanks to the following individuals who supported and helped us in the delivery of this audit review:

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This report has been distributed to the following individuals:

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Working in Partnership with

Cheltenham Borough Council	Sedgemoor District Council
Cotswold District Council	Somerset County Council
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Statement of Responsibility

Conformance with Professional Standards

SWAP work is completed to comply with the International Professional Practices Framework of the Institute of Internal Auditors, further guided by interpretation provided by the Public Sector Internal Auditing Standards.

SWAP Responsibility

Please note that this report has been prepared and distributed in accordance with the agreed Audit Charter and procedures. The report has been prepared for the sole use of the Partnership. No responsibility is assumed by us to any other person or organisation.