

Adult Social Care: Care Provider Quality - Duties and Local Arrangements

Lead Officer: Mel Lock, Director of Adult Social Care

Author: Niki Shaw, Strategic Manager, Quality & Performance, Adult Social Care

Contact Details: NXShaw@somerset.gov.uk

Cabinet Member: Cllr Heather Shearer, Cabinet Member for Adults

Division and Local Member: All

1. Summary

1.1 In Somerset, we want people to live healthy and independent lives, supported by thriving and connected communities, with timely and easy access to high quality and efficient support when they need it. This report outlines the overarching duties and arrangements the Local Authority has to ensure the care provision offered to our residents is of the highest quality, to support oversight and scrutiny.

2. Issues for consideration / Recommendations

2.1 Scrutiny Committee to note the information provided and to consider whether it wishes to make any recommendations arising from the report and discussion.

3. Associated Local Authority Statutory Duties, powers and key responsibilities

3.1 Market shaping and commissioning of adult care and support services: The Care Act 2014 requires local authorities to help develop a market that delivers a wide range of sustainable high-quality care and support services, that will be available to their communities. When buying and arranging services, local authorities must also consider how they might affect an individual's wellbeing. This makes it clear that local authorities should think about whether their approaches to buying and arranging services support and promote the wellbeing of people receiving those services.

3.2 Local authorities should engage with local providers to help each other understand what services are likely to be needed in the future, and what new types of support should be developed; this is in part achieved through the publication of a Market Position Statement¹. A wide range of high-quality services offers people more control and helps them to make more effective and personalised choices over their care.

3.3 Managing Provider Failure: The Care Act also gives local authorities clear legal responsibilities where a care provider fails. It makes it clear that local authorities have a temporary duty to ensure that the needs of people continue to be met should their care provider become unable to continue to provide care because of business failure, no matter what type of care they are receiving. Local authorities have responsibilities to all people receiving care, regardless of whether they or the local authority pay for that care, or whether it is funded in any other way. Should a care provider fail financially and services cease, the local authority must take steps to ensure that all people receiving care do not experience a gap in the services they need. This duty applies temporarily,

¹ [ASC Market Position Statement FINAL \(pubhtml5.com\)](https://pubhtml5.com)

until the local authority is satisfied that each person's needs will be met by a new provider or in a different way. Somerset has a well-established and tested approach in place to help manage business failure².

- 3.4** Safeguarding Adults: The Care Act 2014 also set out a clear legal framework for how local authorities and other parts of the system should protect adults at risk of abuse or neglect. The Local Authority and system partners follow Somerset's Multi Agency [Safeguarding Adults Policy](#) and it is the expectation that all providers of care within Somerset area do the same. Somerset's Adult Safeguarding Team has close working links with commissioning, quality assurance and contracts team staff in relation to supporting care provider quality oversight and intelligence gathering.
- 3.5** In February 2021 the government announced an intention to develop a new assurance framework for adult social care; proposals included a new duty for the Care Quality Commission to assess local authorities' delivery of their statutory adult social care duties from April 2023 onwards. The proposal was formalised in the [Health and Care Bill](#), receiving Royal Assent in April 2022. Whilst the inspection framework and methodology has not yet been published and is still subject to co-production and engagement activity, the emerging scope will very likely include a focus on: 'Providing support - Markets (including commissioning), integration and partnership working'.

4 The role of the Care Quality Commission (CQC) in care provider quality

- 4.1** The CQC has the overarching role to monitor, inspect and regulate health and social care services to ensure those who use these services receive high-quality, safe, effective and compassionate care, as the independent regulator of health and adult social care. The CQC is able to take enforcement action against registered persons who breach conditions of registration and/or relevant sections of legislation. They can also take enforcement action against unregistered providers providing regulated activities. The CQC can use different types of civil enforcement action in order to achieve these purposes including imposing, removing or varying conditions of registration; cancelling registration; urgent procedures; and special measures.
- 4.2** The Local Authority works closely with the external regulator as part of routine system surveillance activity, meeting weekly to support soft intelligence sharing. The role and remit of the Local Authority and its Commissioning, Contract and Quality Assurance functions locally is not to replicate that of the CQC. It is in our collective best interest to have local services that meet the needs of our citizens and that thrive and succeed. Through our monitoring and assurance functions, we aim to support and work alongside our local care providers in obtaining the best possible standards of care, as well as holding them accountable for doing so. Together with our colleagues in health, we are well placed to offer and secure good quality advice, guidance and information from partners across our local health and care system in order to achieve this aim.

5 Somerset's Care Provider Governance, Oversight and Quality arrangements

The Local Authority and NHS Somerset have a number of forums, functions and teams where concerns relating to care provider quality, risk and performance are overseen:

² [Regulated Care Provider: Business Failure Policy \(somersetprovidernetwork.org.uk\)](#)

- a) **Somerset System Quality Group:** A strategic forum at which partners from across health, social care, public health and wider within Somerset Integrated Care System can join up around common priorities, routinely and systematically share insight and intelligence, identify opportunities for improvement and concerns/risk to quality and develop system responses to enable ongoing improvement in the quality of care and services across the ICS.
- b) **Multi-agency Care Provider Commissioning & Quality Board:** Supporting evidence-based commissioning and de-commissioning decision making relative to quality and safeguarding concerns in our care market. Also enables strategic level intelligence sharing in partnership with the regulator and our health colleagues. The Board has the power to issue rectification or final warning notices to care providers who have failed to sustain the level of improvement or quality required, and can initiate a de-commissioning process for failing care providers.
- c) **The routine work of our Quality Assurance and Contracts Team:** The Local Authority has a dedicated team in place offering advice and support to externally commissioned care providers to meet the quality standards and requirements of regulators and the Council. The team gathers intelligence and monitors the quality of these services. Additional investment was made into the team in early 2022 in response to the developments within the care market, the growing workforce and sustainability pressures faced by care providers on the back of the pandemic, and consequent to learning emerging from internal auditing practice; this has enabled the team to better separate out and invest in its Contracts and Quality functions and establish dedicated leads for specific areas of the market, including Learning Disability provision. The team includes a registered Social Worker who is jointly commissioned to support with NHS Somerset's LARCH (Listening and Responding to Care Homes team) as part of our partnership working approach. We also work closely with the Continuing Health Care team in NHS Somerset as part of supporting quality and commissioning activity within local nursing homes.

All care providers in Somerset are expected to meet the CQC's fundamental standards. For regulated services in Somerset, the minimum quality standard is a 'Good' CQC rating both overall and in all five key domains; for unregulated services we expect the same minimum quality standard of Good overseen through the providers' completion of Service Assessment Forms. The team's QA approach and core activity is outlined within our joint Care Provider Quality Assurance policy³ and includes the use of a Quality Assurance assessment Framework, contract reviews, the routine review of CQC Inspection Reports and Ratings, stakeholder intel submitted via a Service Quality Feedback form, financial risk monitoring, unannounced quality visits, Quality Improvement Meetings and a managed placement approach enabling local commissioning organisations to suspend placements with care providers until such time that minimum standards are met.

The service is currently embedding a new approach to market management locally, following a decision taken by the South West Association of Directors of Adult Social

³ [Care Provider Quality Assurance Policy \(somersetprovidersnetwork.org.uk\)](https://www.somersetprovidersnetwork.org.uk)

Services to enhance arrangements in place to enable more consistent measurement of quality, spend and activity across commissioned services regionally. The PAMMS (Provider Assessment and Market Management Solution⁴) is a digital tool enabling local authorities and providers to gather core assessment information to meet quality standards consistently. This information would previously been gathered manually by local authority contract monitoring/quality assurance staff, so while PAMMS is a new digital system, it is not new activity. Rather, it supports regional consistency so we can fulfil our duties as an LA for safe and effective commissioning and market assurance in a way that is clear but not arduous for providers and helps achieve better outcomes for residents, providers and Councils alike. Piloting work has recently commenced in Somerset ahead of full system roll out from April 2023, and regional work has progressed in developing core quality assurance question sets and supporting 'what does good look like' practice.

- d) **Provider engagement and forums:** The service is currently reviewing the provider engagement and communication functions and forums in place locally. We know from care provider feedback that the enhanced communication methods and access to Council staff established during the Covid-19 pandemic (including via our regular provider briefings, webinars and new [provider engagement webpage](#)) was valued and something they wished to maintain. Commissioning leads are finalising plans to formalise regular forums for *all* providers as part of ensuring routine dialogue about shared developments of interest, as well as meetings specifically aimed at domiciliary care providers, residential providers and specialist providers (to include those with a Learning Disability and Mental Health focus – the biggest spend area for the service), in partnership with Somerset Registered Care Providers Association (the RCPA⁵).
- e) **Micro-providers⁶:** With regards to Somerset's growing micro-provider market – *services that are not commissioned directly by the LA but help give local people more choice and control over the support they require and offer an alternative to more traditional provider services* - Somerset is looking to partner with The Independent Living Group and the National Association of Care and Support Workers to purchase a nationally recognised accreditation and learning and development pathway as part of its commitment to deliver quality provision across Somerset.

6. Stakeholder Feedback and impact

- 6.1 Our Care Provider Quality Assurance and Contracts team actively seeks feedback about the quality of service provided and support given via a Stakeholder Feedback Form launched in January 2022 to support routine learning and improvement activity. At the time of writing, overall satisfaction with the service provided stands at 92.3% based on 'Good' or 'Excellent' rated responses. The majority of feedback has come direct from local Care Providers (61.5%) but also includes feedback from other colleagues in the wider health and care system, and the regulator. Comments from care providers have included:

⁴ [Care Provider Quality Assurance: PAMMS Implementation in the South West \(somersetprovidernetwork.org.uk\)](#)

⁵ [Registered Care Providers Association \(rcpa.org.uk\)](#)

⁶ [Somerset Micro-enterprise Project](#)

- *"X has been very supportive and informative on all of her visits with us. She has given us excellent advice and suggested improvements that we could make ready for our first CQC inspection. Without the help and advice I am sure we would not have just been awarded a 'Good'. Carry on doing what you are doing, it is helping tremendously. Regular visits have been a great help and have guided us massively."*
- *"Helpful feedback during the process, acknowledgment of progress and where it would be great to consider further development"*.
- *"It was a no blame approach, something very unusual when come to social care environment; I feel the visit was very supportive, and focused on improvement and resolving issues, understanding the reality of the market, and providing some ideas and constructive criticism"*

6.2

CASE STUDY:

Situation: A Nursing Home in Somerset with two consecutive 'Inadequate' CQC ratings on the radar of the Commissioning & Quality Board. Loss of registered manager and failure to secure an Agency Registered Manager despite multiple attempts. Slow progress being made against a substantial action plan. CQC re-inspection imminent with potential to result in further regulatory action which could result in business failure and the loss of a home of strategic importance to Somerset in delivering Older People's Mental Health nursing bed provision.

Key action taken: Six-week enhanced plan of action put into place (early March 2022) to help stabilise the service and mitigate risks to residents and the provision. Commissioning and Quality Board facilitated additional clinical support into the Home whilst the owner worked to secure a permanent Registered Manager as part of a local package of enhanced support and quality assurance activity into the Home. All residents prioritised for urgent Adult Social Care review. Quality Assurance team input and improvement support provided to the service in progressing their action plan. Contingency plans drawn up in the event of failure to improve.

Outcome: CQC rates the Home as 'Requirements Improvement' in 4 key lines of enquiry, and 'Good' in Caring (Requires Improvement overall) (May 2022). Although further work to do in partnership with the Home, the provision is in a stronger place. The support of the QA team was recognised by the CQC inspector who fed back:

"Staff from the team have worked alongside a provider rated inadequate. They have supported and directed the provider in ways to improve. They have assisted the provider in understanding the shortfalls and created a clear action plan which has focused the service in improving. They have stepped in to have difficult conversations about staff at the service when this was having a detrimental impact on the quality of care and support the home provided. Staff have been proactive in liaising with CQC. The work undertaken has enabled improvements in a service which would have been unlikely to achieve this on their own. Whilst there is still a long way to go for this Home, it demonstrates it can have a positive outcome for the provider and people living at the home".

The owner of the home also contacted health and care partners, writing *"We thank you all for the best support you all have given to (the provision) for the past few months for it to achieve this CQC report"*.

7 Appendices

Appendix A – Care Provider Quality in Somerset (July 2022) - *overleaf*

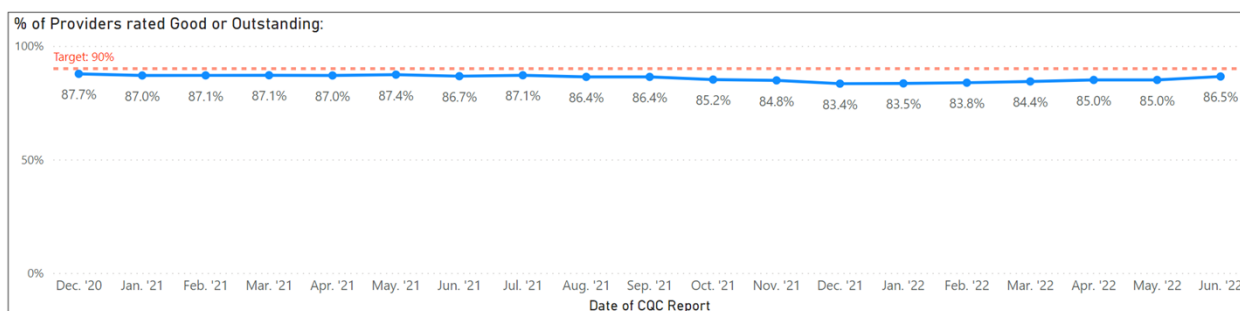
APPENDIX A - The current context: Care Provider Quality (July 2022)

In May 2022, the Care Quality Commission published its annual assessment of health care and social care in England⁷. The report examines trends, shares examples of good and outstanding care, and highlights where care needs to improve. Key points emerged relating to Adult Social Care fragility nationally, including:

- Adult Social Care is a sector that was under pressure even before the pandemic. Covid-19 has increased this even further, threatening the financial viability of some providers and services.
- Care home providers and their representatives have told us about the operational challenges they continue to face as a result of decreased occupancy, reduced admissions, increased costs and difficulty recruiting and retaining staff.

The report included a focus on inspection ratings, stating that the care that people receive in English is mostly of good quality.

Within Somerset, the proportion of active regulated social care settings rated as 'Good' or 'Outstanding' overall by the independent regulator (the Care Quality Commission) steadily fell during the pandemic, dropping from 87.7% overall in December 2020 to 83.4% in December 2021. Additional investment was put into our internal Care Provider Quality and Contracts Team to support the potential for more proactive improvement activity with providers of concern. Over the last six months, we have started to see some steady improvement in this measure with overall performance currently at 86.5%:



Residential Social Care provision:

Based on latest available monthly CQC Care Directory publication (with ratings) for 1 July 2022, Somerset compares positively to national averages in relation to the proportion of residential social care settings (incl nursing homes) judged to be 'Good' or 'Outstanding' overall (85.9% in Somerset, compared to 81.4% nationally). The same is evident when looking at the quality of community-based adult social care services (primarily domiciliary care provision). In Somerset 88.6% of these providers are currently judged to be 'Good' or 'Outstanding', compared to 86.7% nationally. Somerset also compares positively to its statistical neighbours⁸ (peer group) in relation to overall quality of local provision as determined by CQC regulatory oversight in both categories.

⁷ [20211021_stateofcare2021_print.pdf \(cqc.org.uk\)](https://www.cqc.org.uk/publications/20211021_stateofcare2021_print.pdf)

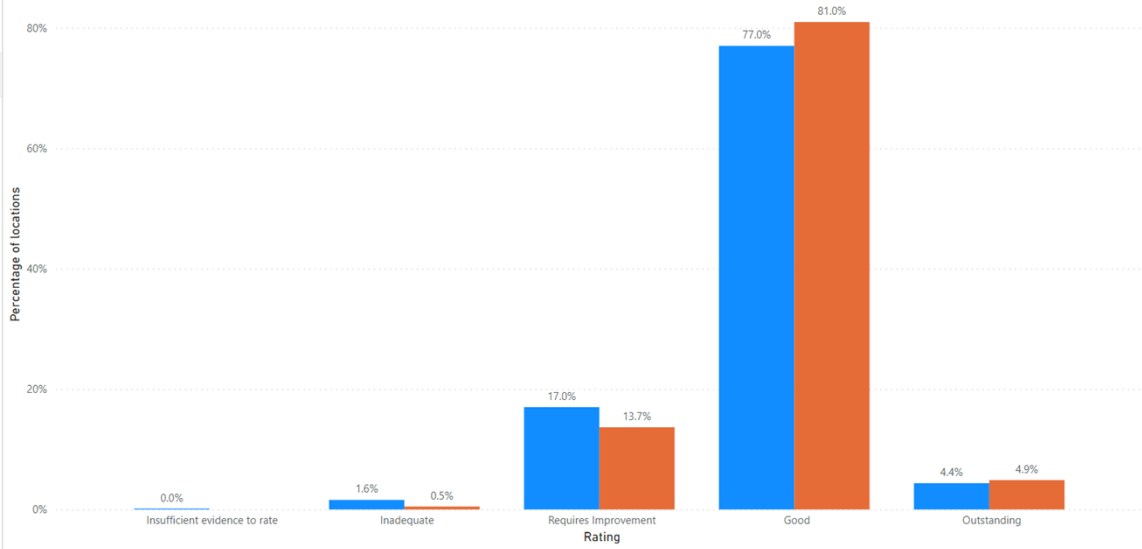
⁸ Statistical neighbours provide a method for benchmarking progress. For each local authority (LA), these models designate a number of other LAs deemed to have similar characteristics.

Somerset compared to the rest of England

Primary Inspection Category

Residential social care

Somerset comparison ● Rest of England ● Somerset

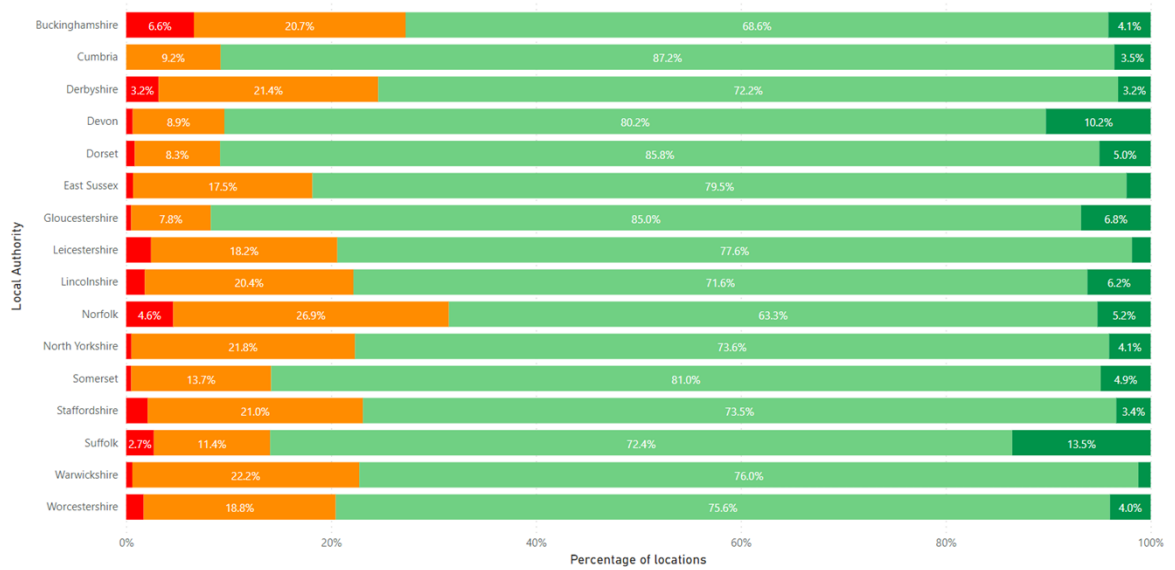


Somerset compared to peer group

Primary Inspection Category

Residential social care

Rating ● Inadequate ● Requires Improvement ● Good ● Outstanding

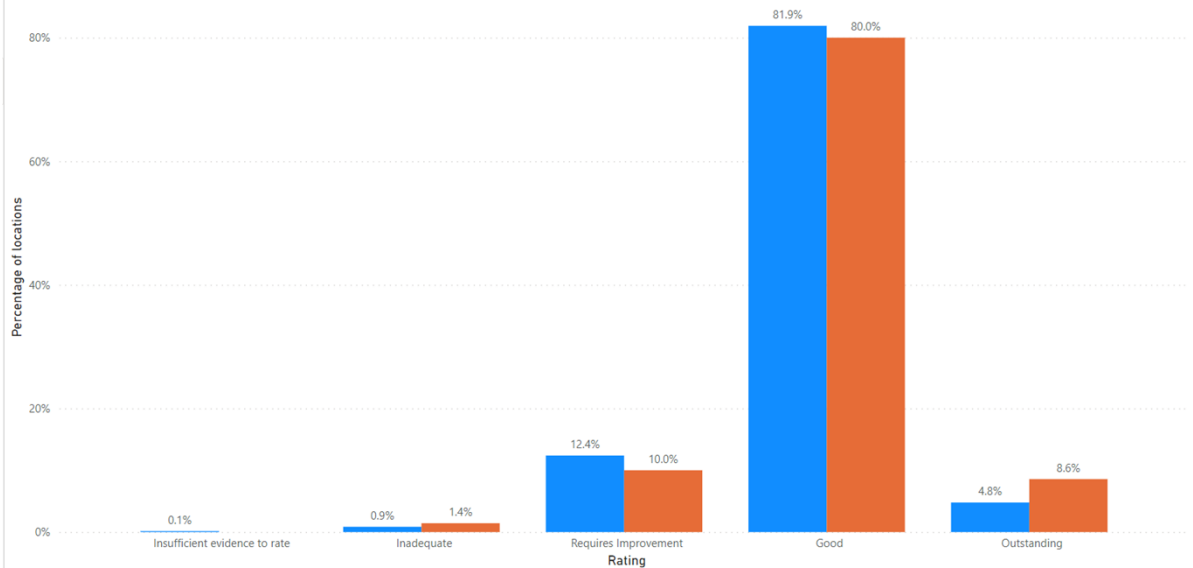


Somerset compared to the rest of England

Primary Inspection Category

Community based adult social care services

Somerset comparison ● Rest of England ● Somerset



Somerset compared to peer group

Primary Inspection Category

Community based adult social care services

Rating ● Insufficient evidence to rate ● Inadequate ● Requires Improvement ● Good ● Outstanding

