

26<sup>th</sup> November 2012

Agenda Item: 5

## **REPORT OF THE SERVICE DIRECTOR FOR JOINT COMMISSIONING, QUALITY AND BUSINESS CHANGE**

### **PRESENTATION ON QUALITY IN CARE SERVICES**

#### **Purpose of the Report**

1. To note and to consider the roles and responsibilities of the key statutory agencies and of care providers in monitoring and/or ensuring good quality care services across Nottinghamshire.

#### **Information and Advice**

2. Further to the report to Council on 1<sup>st</sup> November 2012 on quality in care services (see **Appendix A**) a presentation is to be given to enable more detailed consideration to be given to the work of key agencies in regulating and monitoring care services.
3. The presentation seeks to inform the Committee of the roles and responsibilities of each of the agencies and also the ways in which these roles help and support providers to develop and improve the quality of the services they deliver either within care homes or in the community in people's own homes.
4. Contributors to the presentation are:

**Vicki Wells** who is the Head of Regional Compliance (Central Region-East) at the Care Quality Commission

**Amanda Sullivan** who is the Chief Operating Officer for Newark and Sherwood, and Ashfield and Mansfield Clinical Commissioning Groups and who is the Safeguarding Lead for Health and also the vice chair of the Nottinghamshire Adults Safeguarding Board

**Anita Astle** who is the Managing Director of Wren Hall Nursing Home, and the Clinical Lead for the Community Project

**Caroline Baria**, Service Director, Joint Commissioning, Quality and Business Change who has the lead on Adults Safeguarding and on commissioning of care and support services from independent sector providers.

## **Statutory and Policy Implications**

5. This report has been compiled after consideration of implications in respect of finance, equal opportunities, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

## **RECOMMENDATION/S**

- 1) It is recommended that Members note and consider the work undertaken by the key statutory agencies and by care providers in monitoring and/or ensuring good quality care services across Nottinghamshire.

**CAROLINE BARIA**

**Service Director, Joint Commissioning, Quality and Business Change**

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## **Background Papers**

None.

## **Electoral Division(s) and Member(s) Affected**

All.

ASCH75

## **REPORT OF THE CHAIRMAN OF THE ADULT SOCIAL CARE AND HEALTH COMMITTEE**

### **QUALITY IN CARE SERVICES**

#### **Purpose of the Report**

6. To inform Members of the work undertaken within the Adult Social Care, Health and Public Protection Department (ASCH&PP Department) to audit and monitor the quality of social care services provided in care homes and in people's own homes.

#### **Information and Advice**

7. The total budgeted gross expenditure on adult social care in 2012/13 is £300 million of which a sum of £261 million is being spent on care and support services. Of this sum an estimated £226 million (86%) is used to commission care and support services from the independent sector, including voluntary sector organisations and private organisations.
8. The care and support services are commissioned through contractual arrangements and the Department has contracts in place with providers as follows:
  - 294 care homes within Nottinghamshire – approximately 174 for older people and 120 for younger adults
  - 29 home care agencies
  - 30 Care, Support and Enablement providers who deliver care and support to younger adults in supported living services
  - a wide range of providers delivering housing related support, such as information, advice and support to help maintain people in their tenancies
  - independent sector providers of day care services.
9. The majority of these social care services, which entail the delivery of personal care, require registration with the Care Quality Commission (CQC) which is responsible for registering and regulating both the health and social care sector. Agencies that are required to register with the CQC include care homes and home care agencies. Providers of day care and housing related support do not need to be registered with the CQC.

## **The role of the Adult Social Care, Health and Public Protection Department**

10. The ASCH&PP Department has a statutory duty to undertake an assessment of need to determine the level of care and support required by service users and where relevant their carers. The assessment also includes completing a financial assessment to determine the service user's contribution to their care, based on their financial circumstances.
11. The department also has a duty to undertake an annual review of each service user to ensure that the services continue to meet their needs. The reviews are undertaken by social work staff based in the locality teams. These reviews provide staff with the opportunity to ensure that service users are receiving a good quality service.
12. Of the 294 care homes in Nottinghamshire, the table below shows that there are approximately 6,622 care home beds available in Nottinghamshire. This includes placements for all service users groups. As well as placements funded by Nottinghamshire County Council, a number of placements are arranged and funded by the NHS in nursing care where the service users meet the NHS Continuing Health Care criteria, or by people who fund their own care, or which are arranged and funded by other Councils. It is important to note that not all the places are occupied all of the time and most, if not all care homes, will have vacancies at varying levels.

**Table 1: Placements within care homes in Nottinghamshire**

<b>Total Number of care home places in Nottinghamshire</b>	6,622
Nottinghamshire County Council funded placements	3617 (at Sept 2012)
Self Funders	764
NHS funded placements	85
Placements funded by other Councils	185 (approx)

## **Quality monitoring**

13. Through its Market Development and Care Standards Team, the ASCH&PP Department has responsibility for developing a diverse social care market within Nottinghamshire which can support the delivery of safe, good quality, affordable services. The Department is required to ensure that there is sufficient capacity in the market to meet needs both for those service users for whom the Council has funding responsibility and also for people who fund their own care.
14. One of the Market Development and Care Standards Team's key functions is to undertake annual auditing of care and support services using comprehensive audit tools to ensure the audits are robust and consistent. The Quality Audit Framework used to audit care homes

can be found in the background papers. The audit tools are reviewed annually to ensure providers are demonstrating continuous improvement in the quality of the care they provide.

15. The Market Development and Care Standards Team, consisting of 16 officers, including the Team Manager, covers the range of externally commissioned social care services. Table 2, below, identifies the number of officers in the team and the areas of service that they cover.

**Table 2: Staffing structure and compliment of the Market Development and Care Standards Team**

Team Manager	
5 Market Development Officers:	10 Quality Development Officers:
Care Homes, Older People	Care Homes, Older People x 4
Care Homes, Younger Adults	Care Homes, Younger Adults x 2
Home Care	Home Care x 2
Supported Living, Younger Adults	Supported living x 1
Day Care and Carers' Services	
Supporting People funded Services	Supporting People x 1

16. The number of Quality Development Officers is high in Nottinghamshire compared to neighbouring County Councils and these officers carry out higher levels of visits to care providers as part of their auditing and monitoring activities.
17. During 2012/13, the team is scheduled to undertake an annual quality audit of all 174 care homes for older people and 120 care homes for younger adults. Annual quality audits will also be undertaken with the 30 existing domiciliary care providers and 30 care, support and enablement providers. Plans are also underway to commence quality auditing of independent sector day care services. The audits are undertaken by Quality Development Officers (QDOs), each of whom is assigned specific service areas and specific providers.
18. Each audit takes approximately 2 days to complete with one day spent on the site visit and the equivalent of one day to gather supporting information and to write the report. Through the audit process, the QDOs seek to ensure that the providers are meeting the following objectives:
- the health, well-being and safety of people using care services is maintained and promoted
  - service users are treated with dignity and respect
  - that service users and their carers have choice and control over the services they receive
  - to ensure that care staff are appropriately trained to deliver the services

19. The audit process will entail detailed discussions with the registered/nominated manager, with some of the care staff, and with service users and carers where appropriate. The audit also entails looking through the provider's records to ensure that:

- they are implementing safe recruitment practices, including undertaking CRB checks and following up references
- there are sufficient numbers of staff on the rotas to meet the needs of the service users
- care staff are following appropriate practice in terms of moving and handling, safe medication management and practice, appropriate infection control etc
- staff have relevant and up to date training, including refresher training
- where the provider is caring for people with dementia, then staff are suitably trained and experienced
- care records are kept up to date and care plans are personalised, recording each service user's specific needs

20. Where the audit process identifies concerns about the quality of care being provided then the QDO will make recommendations to the provider who will be required to develop and implement an action plan, within specified timeframes, to address the areas of concern. The concerns may range from poor recording such as that of service users' care plans, or care plans not being updated through to insufficient evidence of training of care staff, or high levels of staff turnover resulting in inconsistent and poor care management and practice. Where concerns have been raised through the audit process, the QDO will undertake a follow up visit to ensure that the actions have been implemented.

21. In addition to the annual audit process, the Market Development and Care Standards team will respond to any concerns or complaints that are received relating to the quality of care and support services.

22. Complaints or concerns are routed through the Customer Services Centre and may come from a number of sources including:

- family members or carers
- operational staff
- GPs and health practitioners
- the provider's own staff, through their whistle blowing procedures
- members of the public
- the CQC.

23. If the concern or complaint indicates that a vulnerable adult or older person is at risk of harm then in accordance with Nottinghamshire's multi-agency safeguarding procedures, the referral will be passed immediately, by the Customer Service Centre, to the relevant local operational team. The operational team will undertake initial enquires to ascertain the nature of the referral and will instigate a safeguarding assessment where a service user has been deemed to have been at risk of harm. If the initial enquiries undertaken by the operational team identify do not indicate that a service user has been at risk of harm but identify general concerns about the quality of care or poor practice, then the matter will be passed to the Market Development and Care Standards Team.

24. The team will gather information from the relevant sources and will undertake a monitoring visit to the care home or in the case of a home care agency to the provider's registered office. The monitoring visit will include speaking to the manager of the home, to care staff and to carers and family members where relevant and appropriate. The aim of the monitoring visit will be to work with the provider to ensure the concerns are addressed swiftly and robustly.

### **The role of NHS commissioners in quality monitoring**

25. NHS Nottinghamshire County PCT plays an active role in monitoring health care practice and provision in care homes. The range of health clinicians visiting residents in care homes on a regular and routine basis includes:

- District nurses
- Continuing Health Care nurses
- GPs
- Pharmacy Services.

26. Where care homes are registered with the CQC to provide nursing care, NHS Nottinghamshire County PCT undertakes annual quality audits in each nursing home. The PCT employs two officers, known as Safeguarding and Monitoring Leads, who complete the annual quality audits. If and where the Safeguarding and Monitoring Leads have concerns about particular aspects of health care practice or poor quality provision within a home, such as medication management or infection control, they may make a referral to the specialist health care teams requesting specialist pharmacy audits or infection control audits. The Safeguarding and Monitoring Leads will undertake follow-up visits to the nursing home to ensure the required actions are implemented.

27. Frequently, the Safeguarding and Monitoring Leads will accompany the Council's QDOs to a nursing home as part of a joint audit or monitoring visit where the QDO has identified poor practice or concerns about clinical issues. A joint monitoring report will be produced following these visits, and the provider will be required to implement an action plan which will be monitored by both the health and social care quality monitoring staff.

### **The role of the Care Quality Commission**

28. The CQC has the statutory duty to inspect all registered care services. Their role also entails taking action against providers who are not meeting the required standards.

29. As part of its inspection process the CQC gathers information from all sources about each care home to enable it to assess levels of risk to residents. The CQC undertakes unannounced visits to all care homes as part of its inspection process. Each home is inspected against 5 key standards as follows:

- standards relating to treating people with respect and involving them in their care
- standards relating to providing care, treatment and support which meets people's needs
- standards relating to caring for people safely and protecting them from harm
- standards relating to staffing
- standards relating to management.

30. Under each of the above key standards are a set of outcomes and the CQC inspections will check that the home is meeting the outcomes attributable to each of the standards, although the inspection will not necessarily cover all of the outcomes. Where the CQC finds that a provider has failed to meet one or more of the above standards, it determines the level of impact that this will have on service users on the basis of minor risk, moderate risk or major risk. The CQC then decides whether it will take compliance actions or enforcement actions against the home.

**Compliance Actions** – where a provider is not meeting the key standards but service users are not considered to be at immediate risk of serious harm, the CQC will usually take Compliance Action and require the home to complete and implement an action plan to address the concerns.

**Enforcement Action** will be taken where the CQC has identified an urgent need for changes reflecting the levels of risk to service users and this is usually in the form of a **Warning Notice**. The CQC will also issue Warning Notices where there has been a persistent failure by a Provider to adhere with Compliance Actions.

31. As well as scheduled unannounced visits, the CQC also undertakes inspection visits to care homes in response to concerns raised either by family members/carers or members of the public, as a result of care staff from the home raising concerns through whistle-blowing procedures, or as a result of issues raised by Council officers either formally through information sharing meetings or following our own monitoring activities.

### **Raising Awareness about Safeguarding**

32. Prior to the 'No Secrets' guidance published by the Department of Health in 2000, there was little awareness or recognition nationally that vulnerable adults and older people may be, and are at times, at risk of abuse. In comparison Area Child Protection Committees (ACPC) were established in 1974 following a high profile child death and the multi-agency arrangements for overseeing the effectiveness of the protection of children have been strengthened over the years. ACPCs have subsequently developed into Local Safeguarding Children Boards which are established on a statutory footing.
33. Adult safeguarding procedures were developed following the 'No Secrets' guidance and, since this time, awareness and understanding about risks to vulnerable adults has increased significantly.
34. Over a number of years, in Nottinghamshire there have been a significantly higher number of safeguarding referrals than that of neighbouring local authorities. Of the referrals that are received, after initial enquiries are completed approximately 30% – 40% are progressed to a safeguarding assessment. Many of the referrals that do not progress to a safeguarding assessment may require alternative actions such as an assessment of need, or arrangement for short term preventative services. Of the 30% – 40% of that progress to a safeguarding assessment, approximately 1 in 4 or 5 will be substantiated.
35. The higher number of safeguarding referrals in Nottinghamshire is due to the proactive approach the Council has taken in raising awareness about risks to vulnerable adults. The measures taken include:

- running a number of publicity campaigns so that members of the public know how to raise concerns if they are worried about the safety and well-being of a vulnerable person or an older person
  - working directly with care providers informing them of the process to follow to raise concerns
  - developing and promoting a Thresholds and Pathways Document for providers of care service and statutory agencies, including health professionals, identifying where and when to make a safeguarding referral
  - ensuring care providers have whistle blowing policies in place so that their staff have the confidence to raise concerns about care practices without fear of reprisals.
36. Nationally there is evidence of high profile situations and cases where a lack of awareness, training and robust procedures has resulted in a high level of risk to people's safety. The Council has sought to encourage openness and transparency in the raising of complaints and concerns and this approach has enabled officers to be proactive in addressing safeguarding concerns quickly to ensure that vulnerable people are not placed at risk of significant harm.

### **Information Sharing Processes**

37. Through its quality audit process and monitoring activities, and through the service user reviews undertaken by social work staff in the localities, the Department has a high level of knowledge and intelligence about the quality of care delivered by the providers with whom the Council has a contract. In addition to the Department's own monitoring activities, officers have regular contact with the CQC and with health partners to share intelligence particularly in relation to providers where there are concerns about the quality of care.
38. Historically, the Department had established regular Information Sharing meetings with the CQC's local Compliance Manager. The purpose of these meetings is to share information about care homes and home care agencies where concerns and complaints have been raised which have resulted in safeguarding assessments and also where a number of concerns have been identified about general poor practice and poor quality of care provided. These meetings also enable patterns of poor practice to be identified including the causes such as frequent changes in the nominated manager, or high levels of staff turnover.
39. The CQC nationally has undergone significant structural changes over the past couple of years and has also changed its inspection activities, introducing a new inspection framework in October 2011. There have also been significant changes in the staffing structure and staffing levels in the local area and in the region. These changes had impacted on the CQC's ability to attend information sharing meetings during 2010 and 2011, but as the new structure and the new regulatory framework have bedded in, the CQC has once again begun to attend the scheduled information sharing meetings.
40. In addition to the scheduled meetings with the CQC, if and where officers have concerns about poor practice in a care home or within a home care agency, then the Market Development and Care Standards Team will contact the Compliance Manager or relevant inspector at the CQC to notify them of the concerns. Usually the concerns will have been identified following an annual audit visit or a follow-up monitoring visit, or as a result of

concerns identified by social work staff arising from a review in relation to an individual service user, or following a safeguarding referral.

41. With regards to the 16 care homes that the CQC rated as failing all 5 of the key standards following their inspections during 2011 and 2012, officers from the Department notified the CQC of concerns in relation to 8 of these. As a result of the information shared by the Council, the CQC brought forward a scheduled inspection or undertook an unplanned visit and subsequently put in place measures for improvement either through compliance action or enforcement action.
42. The Department also works closely with health colleagues and has a well established process for sharing information on a regular basis and for undertaking joint monitoring activities. If and where the annual audit process identifies health related concerns such as medication management, the care of pressure areas, nutrition (weight loss/weight gain/diet), specific health conditions, infection control etc. these matters will be referred to health colleagues. Frequently these will result in a joint monitoring visit being undertaken and/or a referral made to health colleagues to undertake a pharmacy audit, or an infection control audit, depending on the nature of the concerns.
43. Information is also shared on a routine basis with colleagues within the City Council where the care provider also provides care to service users for whom the City Council has funding responsibilities. This is a reciprocal arrangement and City Council colleagues will notify the Market Development Team where they have concerns about a home which has one or more County funded service users.

### **Escalation Processes and Suspension of Contracts**

44. Where there is a pattern of poor practice which poses a risk to the safety and well-being of service users, and where the provider is not able or willing to make the required improvements, then the Department will escalate the actions taken against the provider. In gathering evidence of poor practice through the auditing and monitoring activities of the QDOs, the reviewing activities of social care staff and through information sharing, the Team Manager of the Market Development Team will determine whether action needs to be taken to suspend the contract so that no new placements are made to home pending satisfactory implementation of the required actions.
45. Historically, the CQC has not routinely notified the Council where, following an inspection, it has taken enforcement action against a home. In recent discussions with the two local Compliance Managers there has been an agreement for more proactive information sharing especially where the CQC is planning to issue a warning notice to a home in order to enable swift risk management by the Council.
46. The contract will also be suspended in instances where a safeguarding referral has identified that a service user has been harmed as a result of the practice of care staff. In all cases where a contract is suspended, the Department will notify the CQC and relevant health colleagues. The suspension will remain in place until it is evident through a follow up visit that all the required actions have been implemented and that safety and well-being of service users is no longer at risk.

47. Where contracts with care providers are suspended, the QDOs and Market Development Officers work directly with the provider and/or nominated manager to support them to make the necessary changes to improve their care services. If, despite the help and support provided by the Department, the provider does not improve the quality of their service and where service users are considered to be at risk of significant harm, then the Department will take action to notify relatives and carers of the concerns. The Department will instigate a meeting with relatives and carers to notify them of the extent of the concerns and to advise them of their right to consider moving a service user to an alternative placement. The Department will help and support relatives and carers to find a suitable alternative placement as and where requested. Ultimately if a relative does not want the service user to move to another home then the Department will not be able to override their decision.
48. Only the CQC has the statutory powers to deregister a care provider. The CQC may instigate enforcement action and notify the provider of their intention to seek cancellation of their registration. This process can take months to implement as the provider has the right of appeal at various stages of the process. Alternatively, through their urgent measures the CQC can seek an order from the Court to cancel a provider's registration with immediate effect.
49. On occasion, where the CQC has insufficient evidence to take action to cancel a provider's registration but where the Council has had concerns about the quality of services in a care home and where, despite considerable support, training and advice from social care and health care staff, the home is persistently failing to provide good quality care, the Council has taken measures to notify relatives and carers of the service users of the nature and extent of the Council's concerns and has advised them that they should consider moving their relative to another home.
50. Ultimately, the Department is able to terminate the contract with a care provider but this is usually taken as a last resort and only if the provider has continually failed to make improvements and is placing service users at risk of significant harm. It is recognised that moving service users to another home can pose a serious risk to their health and well-being especially where they are in the latter stage of life, or whether they have late stage dementia. It is essential that everything is done in the best interests of the resident.
51. Prior to terminating the contract, the Department will meet with relatives and carers and notify them of the intention to terminate the contract and the implications of this. The Department has limited powers to move service users to an alternative placement if relatives or carers do not give their consent. The Department will work with health colleagues throughout this process, including undertaking a joint assessment of need to ensure that the most suitable alternative placement may be found for each service user. Additionally, the Department will undertake a Best Interest Assessment, in accordance with the Mental Capacity Act where the service user does not have capacity, in order to ensure that the interests of the service user are given paramount consideration.
52. It is important that members of the public have confidence that care and support providers are delivering good quality, safe services. It is essential that the system of auditing and monitoring care services is kept under review to ensure that concerns are reported, investigated and addressed robustly. The auditing and monitoring systems in Nottinghamshire compare well with those in other areas but will be kept under continuous review.

## **Proactive approaches to help maintain good quality care provision**

53. The greater proportion of care providers are providing good quality care and have a highly motivated and committed team of care staff who provide high quality care services; where this falls short action is always taken.
54. The Council continues to work proactively with providers in order to enable and support them to provide good quality care. This support includes directly providing training to independent sector providers' care staff as well as the Department's own care staff. The Council has also provided funding to providers to access their own training.
55. The Department has been working in partnership with care home providers to invest approximately £352,000 over the next 2 years in additional training for the care sector for improving practice in areas such as dementia care and end of life care. This is in addition to the training that care homes provide for their staff as part of their own responsibilities.
56. Over the past five years the Council has also implemented a local 'Fair Price for care' framework which has entailed rewarding good quality care with higher fee levels. A review is currently underway in relation to the Fair Price for Care framework and the Department is working with providers with a view to introducing 'Beacon Status' for homes that are excellent to help set standards to which all homes can aspire.
57. These various initiatives aim to support continuous improvements in the quality of care being provided across the county.

## **Implications for Service Users**

58. Through the various approaches taken by the Department in addressing poor quality care and support services, it is able to ensure that service users are protected from significant harm wherever possible.
59. The Council's safeguarding processes encourage and enable complaints to be raised and to be addressed swiftly and robustly.
60. All Council policies are subject to production of an Equality Impact Assessment.

## **Other Options Considered**

61. The ASCH&PP Department reviews its internal processes, including its auditing and monitoring activities to ensure that the quality of care services continues to improve.

## **Statutory and Policy Implications**

62. This report has been compiled after consideration of implications in respect of finance, equal opportunities, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

## **RECOMMENDATION/S**

It is recommended that:

- 2) Members note and comment on the activities undertaken by the ASCH&PP Department in working in partnership with providers of care and support services and with other statutory agencies to help improve the quality of care services provided to service users across the county.

### **COUNCILLOR KEVIN ROSTANCE**

**Chairman of the Adult Social Care and Health Committee**

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### **Constitutional Comments (LMc 23/10/12)**

63. The recommendations in the report fall within the remit of Full Council.

### **Financial Comments (NDR 23/10/2012)**

64. There are no financial implications arising directly from this report.

### **Background Papers**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

1. Quality Audit Framework 2011
2. Framework Descriptors 2011

### **Electoral Division(s) and Member(s) Affected**

All.

CC107