Adult Social Care

Provider Failure Procedure

**Guidance for Oldham Council and NHS Oldham CCG Staff**

**Version 2**

**January 2020**

Guidance for Internal Use

**Description**

**This procedure identifies actions to be taken in the event of actual or prospective failure 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.**

**1. Introduction**

1.1 This document, which should be read alongside the Managing Provider Failure Policy, is based on guidance by ADASS (the Association of Directors of Adult Social Services) for dealing with provider failure and supports the requirements of Section 48 of the Care Act (2014).

1.2 Failures of care providers are relatively rare events and present particular challenges in that the intervention of commissioners 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 service user, and wherever practicable to keep ‘friendship groups’ together and take time and great care to minimise disruption and maximise the time available for preparation. Any potential failure will also be need to be underpinned throughout by the principles of the Mental Capacity Act 2005.

1.4 Failures 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.).

1.5 In the case of care home failures, any resulting requirement for the transfer of residents to alternative provision would be dependent on the assessed needs of each individual and the availability of spare capacity in the local market.

1.6 Lead responsibilities for dealing with different categories of resident will be as follows

(see also ***Section 5*** below):

* ‘Continuing Care’ funded – NHS
* Council-funded, joint and self-funded – Local Authority
* ‘Out of Area’ – Local Authority to identify relevant funding authority and agree responsibility for managing transfer

1.7 Actual or prospective failure 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 commissioners and Local Authorities to identify alternative capacity and to maintain service provision.

**1.8 It is recognised that every situation is different and it is up to the responsible statutory sector leads 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.

1.9 Factors such as the cause of the failure, the timescale, local availability of provision and staffing resources, will all affect the feasibility of using a standard management approach - however, the Management Checklist included at the end of this procedure provides a useful framework.

**2. Aim and Purpose of this Procedure**

2.1 The main aim of this document is to provide a framework for Managers to ensure:

* the health and the emotional wellbeing, safety and welfare of the vulnerable service users that are affected, and of their families and carers
* effective coordination 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 and should therefore form part of, and be read in conjunction with, a Resilience or Contingency Plan dealing with the specific circumstances of each case.

2.4 In the case of unplanned failures affecting a major service Provider that overwhelms the ability of the local authority and the NHS being able to relocate service users, consideration may need to be given to activating Emergency Planning procedures.

2.5 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**

3.1 This procedure includes all failures and all types of care provision.

3.2 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 However, it is intended that this Procedure is also implemented as part of a Contingency or Resilience Plan in situations where failure is a serious prospect but is not yet confirmed; or where the timescale before prospective or actual failure cannot yet reasonably be determined. Reference should be made to the Management Checklist 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 Commissioners. The formal decision to activate this Procedure will come from the same lead personnel, and the expectation is that the Council and the NHS 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.

4.2 Situations of the above nature do sometimes occur unexpectedly, but more typically there will have been an accrual of “warning signs” over a period of time, and/or the providers management and staff may have openly shared information that its future is at real risk, possibly accompanied by media reports. OMBC and NHS commissioners 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, Oldham Council’s Head of Commissioning and Quality and for NHS Oldham CCG (JOB TITLE) 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 Council or NHS 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 Should the failure be related to the alleged abuse of one or more vulnerable adults, the Council’s Principal Social Worker and Quality Assurance and Safeguarding Adult Board Manager must be notified and safeguarding concerns should be raised in accordance with the Oldham Multi- Agency Safeguarding Adults Policy and Procedure.

4.7 The Council or NHS Lead will immediately call a Provider Failure Steering Group Meeting to take place at the earliest practicable opportunity, to agree a plan of action, and if appropriate to invoke this Operational Procedure – whether wholly or (in the case of potential but unconfirmed failure) in part. In view of the potential implications for the health and well-being of service users, the relevant Officers will be required to treat the situation as demanding their personal involvement and very high priority; however it is acknowledged that 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 6*** ‘Provider Failure 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 Oldham Council and NHS on call arrangements.

**5. Roles and Responsibilities**

5.1 The responsible agency for fully health funded service users receiving care from providers at risk of failure is NHS Oldham 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.

5.2 Oldham 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. Oldham Council also has responsibility for supporting all self funded service users within the borough to find alternative provision and for ensuring that any move is well managed.

5.3 Oldham 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.

Records Management

5.4 As either joint data controller or data controller, each provider is responsible for the efficient management of all clients records and the records pertaining to the running of the service, in line with Data Protection (DP), legislation in particular DP act 2018. Providers can not absolve their legal responsibilities just because of provider failure.

5.5 Records Management responsibilities when provider failure occurs are listed in Appendix 1.

5.4 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.

**6. Provider Failure Steering Group**

6.1 The first meeting of the Provider Failure 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. Until this is confirmed the Council Lead Officer will act as the chair.

6.2 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 the Council or the NHS, or the support of the Council’s trading company, Miocare.

6.3 Those to be invited must include:

* NHS Lead
* Appropriate NHS Continuing Care Lead
* Council commissioning lead
* Council procurement lead
* Relevant Council head of service or deputy
* Council Quality Assurance and Safeguarding Adult Board Manager
* Council Quality and Compliance Manager
* Council Records Manager
* Care Quality Commission
* Communications Lead
* Finance Lead
* Council legal representative
* Miocare representative

**7. Potential Options for Alternative Service Provision**

7.1 Potential options may include:

* ‘Spot purchase’ from other Care Providers
* Reserving services in other suitable locations
* Temporary staffing, (e.g. via local Agencies)
* Temporary management and oversight via Miocare
* Alternative contracted care provision
* Short-term additional funding
* Fee variation over and above normal rates to secure suitable service provision
* Other actions as deemed necessary based on individual circumstances

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

7.3 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 made which are intended to support 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.

7.4 As part of its service level agreement with the Council, Miocare Group is commissioned to act as “provider of last resort” in situations requiring interim arrangements, usually as part of a full or partial failure. It is therefore important that the Steering Group includes Miocare representation, and that its role both as part of the Group, and operationally, is clearly defined. In this role, it is not intended that Miocare takes on employment responsibilities, but instead provides advice, support and management oversight.

**8. Management Checklist**

8.1 The following checklist provides a framework for managing care provider failure. Please note that this list is not exhaustive. The Provider Failure Steering Group must determine actions as necessary based on the circumstances.

8.2 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.

8.3 In relation to care home failure, please also refer to the DH/ADASS/LGA recommended checklist below:



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

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| --- | --- | --- | --- | --- |
|  | **Action** | **Responsibility - to be completed by Steering Group** | | |
|  |  | **OMBC** | **NHS** | **Provider** |
|  |  | **Initials of responsible Officer** | | |
|  |  |  |  |  |
| 1 | Provider Failure Steering Group |  |  |  |
|  | For Group membership – see Section 7 |  |  |  |
| 1.1 | Assemble Team and plan the work |  |  |  |
| 1.2 | Appoint Team Leader(s) |  |  |  |
|  |  |  |  |  |
| 2 | Initial work/clarification |  |  |  |
| 2.1 | Establish timescales for failure(s) |  |  |  |
| 2.2 | Establish number of Service Users affected, and User category, and who funds them |  |  |  |
| 2.3 | Seek an up to date list of other Providers with potential capacity (liaise with CQC as necessary) |  |  |  |
| 2.4 | Consult adjacent Local Authority officers as necessary |  |  |  |
| 2.5 | Establish tasks and timescales and allocate them |  |  |  |
| 2.6 | Allocate lead workers and equipment & management support requirements |  |  |  |
| 2.7 | Consider equipment issues: mattresses, furniture, hoists, packing boxes etc. Who owns it? Can it be transferred? Does any belong to ICES? |  |  |  |
| 2.8 | Arrange a meeting with Owners/other relevant parties |  |  |  |
| 2.9 | 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? |  |  |  |
| 2.10 | Agree when and how service users and carers are informed (and by whom) of the need to change provider at an early stage. |  |  |  |
| 2.11 | Check that the Owner allows free and open access by professionals to the service over the relocation period |  |  |  |

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|  | **Action** | **Responsibility (to be completed by Steering Group)** | | |
|  |  | **OMBC** | **NHS** | **Provider** |
|  |  | **Initials of responsible Officer** | | |
| 2.12 | 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  [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]. |  |  |  |
| 2.13 | Formal scripts to be developed with the lead  Communications Department for: -  • staff working with service users and relatives  • provider staff  • press |  |  |  |
| 2.14 | At the time of a potential failure, investigate the potential of staff or voluntary groups to facilitate service users/carers visiting other provision |  |  |  |
| 2.15 | Identify key Care Provider Management staff to be involved |  |  |  |
| 2.16 | Contact details of Care Provider Owner/Manager |  |  |  |
| 2.17 | Identify site(s) for offsite meetings for Management Team/Care staff if required |  |  |  |
| 2.18 | Other agencies to be involved? |  |  |  |
| 2.19 | Follow Serious Incident (formerly known as Serious Untoward Incident) procedure or, for OMBC, business continuity and contingency plan. In addition, consideration to be given through the Safeguarding Adults Board (including NHS England as appropriate) as to whether a Safeguarding Adults Review would be commissioned. |  |  |  |
|  | **Action** | **Responsibility (to be completed by Steering Group)** | | |
|  |  | **OMBC** | **NHS** | **Provider** |
|  |  | **Initials of responsible Officer** | | |
| 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. |  |  |  |
| 2.21 | Ensure all officers have considered the impact of the failure process upon other workstreams and escalated as necessary to line manager |  |  |  |
| 2.22 | Identify agency to provide an administrative lead to collate all records |  |  |  |
| 2.23 | Clarify, with legal representatives, likelihood of TUPE implications and factor this in to negotiations with current and future service providers |  |  |  |
| 2.24 | Consider any immediate detrimental impact on providers staff, that may affect continuity of the service in the short term. Consider how they might be supported, eg through welfare payments etc. |  |  |  |
| 3. | Service Users |  |  |  |
| 3.1 | Assemble an accurate list of all service users and their needs – and confirm numbers with provider. Also any special factors (such as ‘friendship groups’ where it may be desirable to keep people together if possible) |  |  |  |
| 3.2 | Confirm where responsibility lies for assessing any self funding or out of area service users |  |  |  |
| 3.3 | Check current Registration category |  |  |  |
| 3.4 | Assess service users to identify possible change in need or category of care |  |  |  |
| 3.5 | Check if any very frail people and those nearing end of life need exceptional arrangements |  |  |  |
| 3.6 | Identify service users wishing to change provision/move sooner rather than later |  |  |  |
| 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 |  |  |  |

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|  | **Action** | **Responsibility(to be completed by Steering Group)** | | |
|  |  | **OMBC** | **NHS** | **Provider** |
|  |  | **Initials of responsible Officer** | | |
| 3.8 | Two-stage Assessments of service user’s capacity to make decisions about accommodation move where mental capacity is identified to be at issue, Accompanying record of Best Interests decision making process to be made . IMCA’s appointed for those lacking family/friends. |  |  |  |
| 3.9 | Identify need for generic advocacy to support transfer. |  |  |  |
| 3.10 | Identify service users with active ‘Deprivation of Liberty’ (DOL) authorisations and ensure the provider as Managing Authority refers all those affected to the Quality and Safeguarding Hub for new assessment on a standard authorisation request or urgent request, depending on the speed of the anticipated move. Contact IMCA and Paid Representatives as appropriate. |  |  |  |
| 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. |  |  |  |
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| 4 | Financial Responsibilities |  |  |  |
| 4.1 | Ensure managers have the ability to commit all resources to the failure process including financial as well as staffing |  |  |  |
| 4.2 | Any out of borough 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 |  |  |  |
| 4.3 | Identify OMBC funded service users, and identify any Section 117 MHA funded residents in particular. |  |  |  |
| 4.4 | Identify NHS-funded service users |  |  |  |
| 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) |  |  |  |

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|  | **Action** | **Responsibility(to be completed by Steering Group)** | | |
|  |  | **OMBC** | **NHS** | **Provider** |
|  |  | **Initials of responsible Officer** | | |
| 4.6 | Identify any remaining service users who are funded by the Department of Work and Pensions or have ‘Preserved Rights’ |  |  |  |
| 4.7 | Check current fee level being paid |  |  |  |
| 4.8 | Investigate cost of potential new provision |  |  |  |
| 4.9 | Take a legal view and response, on the period of contract payment/termination issues etc |  |  |  |
| 4.10 | Consider issues such as accumulated personal allowance, fees already paid and owing, petty cash etc |  |  |  |
| 4.11 | 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. |  |  |  |
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| 5 | Carers and ‘Significant Others’ |  |  |  |
| 5.1 | Ascertain the list of names, addresses and telephone numbers |  |  |  |
| 5.2 | Identify carers who may themselves have special factors to consider – own health, out of area etc |  |  |  |
| 5.3 | Seek fullest involvement of relatives/’significant others’ in the relocation process |  |  |  |
| 5.4 | Consider necessity for commissioning advocacy for carers affected (but bear in mind resources implications before proceeding) |  |  |  |
| 5.5 | Consider and where necessary undertake carers assessments |  |  |  |
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|  | **Action** | **Responsibility(to be completed by Steering Group)** | | |
|  |  | **OMBC** | **NHS** | **Provider** |
|  |  | **Initials of responsible Officer** | | |
| 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 * Public/press, via Communications lead * Appropriate internal staff all agencies |  |  |  |
| 6.2 | A careful balance will need to be struck so that the existing difficulties of the situation and/or the timescales are not exacerbated |  |  |  |
| 6.3 | Ensure Residents meetings are arranged with appropriate levels of management representation |  |  |  |
| 6.4 | Ensure Relatives meetings are arranged with appropriate levels of management representation |  |  |  |
| 6.5 | Ensure clarity of roles for each agency in meetings with residents, relatives and staff |  |  |  |
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| 7 | Relocation (if decision is made to close) |  |  |  |
| 7.1 | Re-assessment of service users and adequate resource requirements to complete |  |  |  |
| 7.2 | Check choice (s) of area/services available that are compatible with service user need/category with resident/carer |  |  |  |
| 7.3 | 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 |  |  |  |
| 7.4 | Are there friendships between citizens that need to be maintained? |  |  |  |
| 7.5 | Ensure new provider is registered for the category of care required and can meet needs |  |  |  |
| 7.6 | Liaise with CQC, NHS, OMBC staff to ensure there are no concerns about the Care Provider |  |  |  |
| 7.7 | Offer opportunity for service user/carer to view/visit/trial visit Care Provider |  |  |  |
|  | **Action** | **Responsibility(to be completed by Steering Group)** | | |
|  |  | **OMBC** | **NHS** | **Provider** |
|  |  | **Initials of responsible Officer** | | |
| 7.8 | Seek care staff help to inform/visit potential provision with service user where applicable |  |  |  |
| 7.9 | Decision by service user/carer on new provision and date to move |  |  |  |
| 7.10 | Help of care staff to take or escort citizen to potential new providers on placement? |  |  |  |
| 7.11 | Arrange schedule transport to new provision, in and out of county e.g. car/minibus/ambulance – identify cost and who pays |  |  |  |
| 7.12 | Consideration of equipment issues, and arrangements for its transfer and installation (see also 2.7 above) |  |  |  |
| 7.13 | Ensure service users are accompanied by someone familiar on the day of the move, including carers if possible |  |  |  |
| 7.14 | Use current care staff to the fullest; passing on their knowledge of service users to new providers, escorting, transporting etc |  |  |  |
| 7.15 | Staff handover to new providers – verbal and written. Care summaries, including care plan that details health and social care needs |  |  |  |
| 7.16 | 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 |  |  |  |
| 7.17 | Maintain a log of decisions and movement of service users |  |  |  |
| 7.18 | Move service at their own pace/convenience as far as possible. |  |  |  |
| 7.19 | Establish a programme of reviews and resource implications to ensure service users well-being after the move. Establish a Team if required. |  |  |  |
| 7.20 | Service users medications and treatment details to transfer with them to receiving provider |  |  |  |
| 7.21 | Particular attention to be made to ensure correct identification of relocated service users |  |  |  |
|  | **Action** | **Responsibility(to be completed by Steering Group)** | | |
|  |  | **OMBC** | **NHS** | **Provider** |
|  |  | **Initials of responsible Officer** | | |
| 7.22 | Any changes of GP and new provision to be recorded in all appropriate systems of all necessary organisations involved |  |  |  |
| 7.23 | Placements made out of borough should be notified to the receiving NHS/Local Authority |  |  |  |
| 7.24 | Provider service user information/case files/summaries/transfer with service users where possible or copies made and transferred |  |  |  |
| 7.25 | Consider how many family members/friends might visit the resident in the new care provision; can we assist them to do so? |  |  |  |
| 7.26 | Notify Department of Work and Pensions of change of Home |  |  |  |
| 7.27 | Liaise closely with legal, Commissioning and Procurement teams to ensure new contracts are issued and old contracts terminated |  |  |  |
| 7.28 | Consider whether moves should be arranged to coincide with the moving of other service users or spread over more than a week (if time is available) |  |  |  |
| 7.29 | Consider the desirability of temporary/second moves |  |  |  |
| 7.30 | Ensure arrangements are in place for safe removal/storage/archiving/destruction of any remaining records. |  |  |  |
|  |  |  |  |  |
| 8 | Quality Assurance |  |  |  |
| 8.1 | Ensure there is an effective process for recording and resolving complaints and disputes, and that it is widely understood and universally applied between the ‘interested agencies’. |  |  |  |
| 8.2 | Conduct a debrief after every incident to identify good practice, lessons identified and further actions to be taken |  |  |  |
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| 9 | Record Keeping |  |  |  |
| 9.1 | Maintain a record of meetings, decisions made |  |  |  |
|  | **Action** | **Responsibility(to be completed by Steering Group)** | | |
|  |  | **OMBC** | **NHS** | **Provider** |
|  |  | **Initials of responsible Officer** | | |
| 9.2 | Designate an administrative lead to collate all records |  |  |  |
| 9.3 | Follow Management of Records Guidance. (Appendix 1) |  |  |  |
| 9.4 | Service User outcomes should be recorded, particularly with regard to their health and emotional well-being |  |  |  |
| 9.5 | Maintain a risk log that is reviewed throughout the failure process |  |  |  |
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| 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. |  |  |  |
| 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 Safeguarding Adults Board.. |  |  |  |

**Appendix 1 Management of Records Guidance**

**In the event of “planned” provider failure**

Oldham Council Clients

These are clients who have been assessed as needing care services via Oldham Councils social care system.

The records of current clients must either be:

* Transferred directly to the new provider

or

* Must be returned to the council so they can be passed onto the new provider.

Records of former or deceased clients/individuals who were also assessed and/or funded by Oldham Council must also be returned to the council.

When returning records to Oldham Council:

* Use standard archive (Bankers boxes)
* Attach retention periods to each client record

Store records in boxes by

* Destruction date
* Surname
* First name

Complete file transfer slip and make a copy

* Insert 1 copy in archive box
* Attach other copy to side of archive box

Contact [Information.manager@oldham.gov.uk](mailto:Information.manager@oldham.gov.uk) for details on how to store records to be archived.

When arranging for transfer to Oldham Council, follow the councils Transportation of Council Records Policy:

<http://intranet.oldham.gov.uk/downloads/file/2582/transportation_of_council_records_policy>

Other Local Council Clients

These are clients who have been assessed as needing care services via other councils social care systems.

The records of current out of borough clients must either be:

* Transferred directly to the new provider

or

* Must be returned to the appropriate council so they can be passed onto the new provider. (Contact relevant council for details on how to do this).

Records of former or deceased clients/individuals who were also assessed and/or funded by out of borough councils must also be returned to the appropriate council. (Contact relevant council for details on how to do this).

Private Clients

Records of private clients (those who have not been assessed via any councils social care system), are not the responsibility of any council, and therefore the provider must take full responsibility for the management, transfer, disposal, (if appropriate), of these records, following the providers records management policies and procedures.

Care providers must comply with Data Protection legislation, especially DP act 2018, at all times and in the event of not doing so Oldham Council reserves the right to report the provider to the Information Commissioners Office. (ICO).

**In the event of non-planned provider failure** (ie: immediate cessation of services), or when old records are found in providers ex or abandoned premises:

In cases where following the planned provider failure processes is not possible, Oldham Council will prioritise the safety and security of records first and foremost, and will transfer all records to a secure environment at an Oldham Council site.

When arranging for transfer to Oldham Council, follow the councils Transportation of Council Records Policy:

<http://intranet.oldham.gov.uk/downloads/file/2582/transportation_of_council_records_policy>

The appropriate service will then provide suitable resources, to sort through the records to;

* Identify Oldham Council’s clients records
* Identify which of these records we need to keep or destroy.
* Attach appropriate retention dates to the records we have to keep

Contact [Information.manager@oldham.gov.uk](mailto:Information.manager@oldham.gov.uk) for details on how to log, label and store records to be archived.

Records which belong to other local authorities must be returned securely to the appropriate authorities.

Contact relevant local authorities for details of how to return these records.

A Head of Service decision must be made regarding any records identified as belonging to private clients.

In instances of non- planned provider failure, Oldham Council will inform the Information Commissioners Office (ICO) of the provider failure.