

B&NES Policy on Suspension and Restrictions on Placements in Care Homes

This policy replaces the 0 rated care homes policy that was ratified by Single Member Decision in 2009.

Background

1. The Council has a duty of care to purchase care home placements that meet the assessed needs of the individual service user.
2. The Council also has a duty of care to protect vulnerable adults against abuse and neglect (ref No Secrets and Multiagency policy)
3. The Council works in close partnership with the NHS to achieve a consistent approach to statutory funded provision of care homes services in B&NES
4. The Choice Directive 1992 enables people entering a care home to live, to choose whatever home they wish provided it meets certain conditions on cost and suitability. The Council in common with other Authorities has interpreted the condition that a home must meet the persons needs as assessed by the Council to mean the Council may refuse to fund a placement in home that does not meet reasonable quality standards.

Policy Statement

5. Where the Council has an existing framework contract with a Care Home or is considering awarding a framework contract to a care home:
6. The Council may suspend or restrict new placements with a care home where the Council has evidence which indicates that there is:
 - a serious, current and ongoing risk to the health, safety, physical or mental wellbeing of service users which needs to be addressed before further placements are made or which cannot be addressed in the immediate future AND/OR
 - Further admissions are likely to increase the risk to current or potential service users to an unacceptable level.

Such evidence may include :

- a. reports from named health and social care professionals including those arising from safeguarding investigations
- b. reports from service users and their representatives,
- c. inspections, quality assessments, professional opinions and other information held by the CQC,
- d. Anonymous sources

- e. information received from other authorities' health and social care commissioners.

7. Task Group Responsibilities:

- a. For each suspension/restriction there will be a Task Group selected from:
 - i. Representative of Commissioning (coordinating)
 - ii. PCT representative
 - iii. Safeguarding Lead/Social work Professional Lead (for major Safeguarding Investigations)
 - iv. Relevant Social Care Team manager or deputy
 - v. Clinical advisor if relevant
- b. The Task will be to look at the available evidence and make recommendations taking into account the guidance in this policy.
- c. Actions to be taken once the decision is made:
 - i. Decisions regarding suspensions/restrictions on placements will be confirmed promptly in writing to the home manager and communicated to Practitioner/community Team and the Brokerage Team by the Commissioning Team.
 - ii. Reviews of any suspensions /restrictions will be made every 28 days or by arrangement, by the Task Group and decisions communicated as above by the Commissioning Team.
 - iii. Homes with current full suspension of placements (with possible exceptions for readmission from hospital) will be marked RED on the B&NES Intranet Care Homes with Vacancies list. Staff will be encouraged to use the term "suspension" rather than "Red status" when communicating to the public. Commissioning and Contract Officer will request change to the list to the Brokerage Team.
 - iv. The Commissioning and Contracts Officer will notify homes in writing of restrictions or suspensions on placements with full details and review date.
 - v. The Commissioning and contracts Officer will notify homes in writing when suspensions/restrictions are lifted.

The letter will include where appropriate, confirmation that allegations or concerns were not substantiated

- vi. Homes with Restrictions short of full suspension will be marked Amber and any practitioners considering placement should look at this list and request details of any Amber restrictions from the Commissioning team.
- vii. Homes which are put into Administration will also be put on Amber status to indicate increased risk of closure.
- viii. Where suspension or restrictions are put in place the Commissioning team will issue notice to all community teams including CHC Team and AWP, to team managers and assistant managers for cascading to relevant Practitioners, and to neighbouring authorities i.e. South Gloucestershire, Bristol. Somerset, North Somerset and Wiltshire
- ix. Where other Authorities notify the Commissioning team of restrictions on placements in homes in their area, these will be normally be listed as Amber on the Intranet Care Homes with Vacancies list. B&NES Commissioning will act as link with opposite numbers in the host county for information.

8. Accountability

The Commissioner will report the recommended decision to the Divisional Director who will keep the Chief Executive and Elected Member informed as necessary

9. Interface between Safeguarding and Complaints

Safeguarding is the term used for the prevention of abuse and neglect of adults who are vulnerable to due disability or illness. The Multi Agency Safeguarding Policy and Processes are designed to provide a framework for the protection of individuals who are suffering or at the risk of suffering abuse or neglect.

Instances of alleged abuse or neglect in a care home may indicate a systemic risk to others in the same home and may justify ceasing to place new residents in the home temporarily or restricting the type of placements that may be made. IN exceptional circumstances the contract may be ended and residents removed from the home. Overall quality considerations and contract compliance are Commissioning responsibility.

Quality and Safeguarding issues overlap and cover a spectrum from serious assault or neglect amounting to criminal acts to shortcomings in service quality which, although undesirable may not be regarded as abuse at all. Sometimes the alleged victim is not identified or the risk may have abated.

Complaints received from service users or more often, their families and friends, can constitute a safeguarding referral. In this case Safeguarding Procedure always take precedence over the Complaints process. Safety of the service user is always the Council's first priority

10. Good Practice Considerations

Officer considering whether to suspend or restrict placements should consider the following:

- a. Risk can never be totally eliminated.
- b. Fairness openness and transparency in decision making, sharing information with the provider and giving the provider a fair opportunity to answer criticism
- c. Confidentiality: Since restrictions may be based on unproven allegations and on a precautionary basis, information will be shared on a need to know basis as well as meeting the confidentiality standards set out in the Adult Safeguarding Policy.
- d. Council staff will treat information sensitively and avoid undue publicity. Information will only be given to potential service users and their families about a suspension where this is immediately relevant to them and will include explanation that the measure is precautionary.
- e. Except in the most serious of cases, voluntary agreement should be sought in the first instance
- f. Joint decision making between Health and Social Care is important and joint decisions will be made wherever possible. However this does not affect the statutory duties of the NHS or the Local Authority.
- g. The Council will recognise that a suspension is a serious matter which may affect the commercial viability of a home in the short and long term, and thereby the choice available to local people.
- h. Measures taken will be proportionate. E.g.

- i.** Inspection type visits should be as non-intrusive as possible, using the minimum number of personnel and covering only those areas which have been identified as relevant.
- ii.** Action plans will cover relevant matters only, will be negotiated in a two way process with providers and will have agreed timescales attached. Only in extreme circumstances would the Contract be terminated.
- iii.** Where a voluntary agreement is not achieved, the Authority will issue a notice of its decision with reasons and expected timescales for action and review of its decision.
- iv.** Restrictions will be imposed for the minimum time required to ensure any identified risk has been reduced to an acceptable level. Reviews should be at a minimum of 4-6 weeks or by agreement.
- v.** Respite admissions of regular users, and readmission from hospital, subject to informed consent, may be considered on an individual basis in good time.

i) Restrictions on Placement in lieu of suspension:

In lieu of complete suspension of all placements, Officers should consider whether restrictions would provide adequate protection e.g.

- Restriction on rate of placements e.g. one per week
- suspension of short term respite or place of safety placements only as it is recognised these pose a particular strain
- Suspensions may apply only to terminal care or complex care, i.e. CHC may be treated differently
- Restrictions targeted on placements of people with particular needs e.g. dementia
- Whether suspension may apply to only part of a home where the risk is restricted to that unit

Section 2. Policy re Homes with 0 star “Poor” ratings on the Care Quality Commission website after 1 October 2010

The Care Quality Commission’s system of star ratings will end in June 2010 however ratings acquired prior to that will continue to be shown on the CQC website until a reevaluation is made. This means that some home which have been given a Poor or 0 rating will continue to show as Poor even though improvements may have been made so that placements are now safe and appropriate.

1) Policy Statement

Where a home has a 0 rating on the CQC website following 1 October 2010 the Council will place people there provided the following safeguards are in place:

- a. There is an action plan in place with either/both the LA/PCT and/or CQC
- b. We have evidence that this plan has been satisfactorily implemented. (i.e. the existence of a plan is not evidence in itself) whilst recognising that full implementation can often be a medium to long term process.
- c. We have evidence of satisfactory management structure e.g. permanent manager appointed, and appropriate decision making responsibilities
- d. The CQC Compliance Manager will confirm in writing CQC’s agreement that placements are appropriate.
- e. A Council Commissioning and Contracts Officer will usually be involved in all discussions and decisions relating to these issues.
- f. In certain circumstances consideration will be given to placing additional restrictions.

Last amended September 20 2010 10.33