

**Association of Directors of Social Services  
 Commissioning and Market Development Network – South East**

**Memorandum of Co-operation -  
 for sharing information and support to strengthen market oversight**

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## **1.0 Introduction**

A memorandum of understanding (MoU) exists as a voluntary agreement between the 18 councils in the South East. The MoU describes how Directors of Adult Social Services (DASSs) want councils to work together co-operatively with a Regional Programme to help lead improvement of adult social care services. A key priority within this Regional Programme is to strengthen market oversight arrangements.

This Memorandum of Co-operation (MoC) has been developed in response to learning from recent national and regional provider failures. There is recognition in the South East of the need to have consistent and approved arrangements in place to share information.

This final MoC consists of a protocol, a flow chart for information reporting (appendix 1), a notification proforma (appendix 2) and a schedule of financial questions for contract reviews (appendix 3). A key contacts list is given (appendix 4).

The final MoC was approved by the Commissioning and Market Development (C+MD) Network on 15<sup>th</sup> January 2019 and signed off by DASSs or their representatives attending the South East ADASS branch meeting on 25<sup>th</sup> January 2019. A final list of participating councils is given on page 4.

## **2.0 Context**

The Care Act came into force on 1<sup>st</sup> April 2015 and it sets out the responsibilities of councils in relation to the commissioning of services. It also requires councils to ensure that there is a sustainable market for the provision of social care in their area that can meet the needs of the population both now and in the future.

There is a requirement that councils support the wider population with a general safeguarding duty, as well as a responsibility to oversee and support provider changes at the point of service failure. This also includes private paying individuals who require support to access new services to help meet their ongoing needs.

Instances of provider failure occur as a natural part of any market and this includes the social care market. Councils have to generate information and intelligence that allows them to identify early risk of provider failure. This awareness at an early stage will allow councils to either support the provider to continue to deliver a service or assist the planned exit of a provider.

Early intelligence that alerts councils to any potential provider failure both satisfies and supports the safeguarding duties of councils, as well as ensuring that anxiety and disruption to service delivery and vulnerable adults is minimised.

## **3.0 Regional approach**

A Task and Finish (T+F) Group within the South East ADASS C+MD Network has developed this MoC. The MoC draws on market failure information documentation used by councils in ADASS Yorkshire and Humber.

The T+F Group agreed that the overarching objectives for this MoC to share information and support to strengthen market oversight in the region should be to:

- safeguard people using the services affected by the event
- retain the workforce in the care sector
- minimise the reputational impact for all concerned
- minimise the financial impact for all concerned
- help move towards and restore a 'Business as Usual' situation as soon as possible

In addition, the T+F Group agreed that the MoC should be:

- workable for the South East social care market environment
- set at a high level, manageable and effective
- be simple to administer
- ensure a tight focus on serious issues
- enable reporting by exception
- be relevant to provider organisations that straddle more than one council

#### 4.0 Criteria for sharing information on provider failure

The T+F Group has developed criteria for when councils should share information about possible provider failure. This escalation of reporting to share information between councils should only be by exception and triggered by a provider meeting at least one of the following criteria:

| Criteria  | Further explanation  |
|---|--|
| In Administration/For Sale  | Criteria to be met when another council has placements with the service or the parent company covers more than one council   |
| Financial Difficulty  | Concerns about on-going business viability. This could include non-payment of staff wages, rent not paid to landlords  |
| CQC – Notice of Proposal  | Any Notice of Proposal to close where service users from another council also receive the service and are affected by the Proposal (care home company, domiciliary service or Learning Disability service covering two councils or more)   |
| CQC - Warning Notice  | Where a service is given an Inadequate rating and service users from another council also receive the service at that location   |
| Contract Closedown  | Any situation where a council exits/terminates a contract due to performance issues and service users from another council are affected by this decision. In such situations councils should ensure early and confidential contact with one another.   |
| Major Incident  | Where the home council's business continuity processes declare a Major Incident, the scope of which involves a service location where service users from another council are affected by the declaration/response, for example, severe weather conditions, flooding, protracted utility outage, industrial incident etc.   |
| Other concerns the council has that maybe of a serious nature   | This provision recognises that there may be situations where a council's assessment is of escalating risk rather than an immediate/actual concern, but performance indicators are suggesting further escalation to trigger levels if a response is not forthcoming.<br>This could include a major increase in safeguarding concerns or alerts, an increase in complaints, a request by the supplier to cease referrals due to staff changes/shortages or some other event. |
| <b>NOTE: In all situations early contact by telephone between key contacts at affected councils should take place</b> |  |

#### 5.0 Commitment to share information by councils in the South East

Councils participating in this MoC agree to the following:

- a) a culture of support, collaboration and joint working to tackle any market failure and to support improvement in the social care market as a whole
- b) to share data and information according to agreed criteria for the region, to apply these criteria and contribute to a regional approach to strengthen market oversight arrangements

c) to use the criteria to focus on possible provider closure. This MoC has been developed to support council judgement on serious provider issues

d) to contribute, in a timely way, to any regional information collections that help to tackle market challenges across the South East

e) to use this protocol to share information only when a provider operates in other areas in the region and closure may affect neighbouring councils

f) to provide a single point of contact, within each council, for sharing information and intelligence in line with the agreed criteria, as well as for discussing and agreeing solutions when issues occur.

Participating councils also agree to:

h) respond in an open, transparent and timely way to address risks and support improvement

i) be part of a secure email system using an agreed Notification Proforma (appendix 2) to share local information and intelligence when one of the criteria are met by a social care provider in the local area

j) ensure discussion with the DASS chair of the C+MD Network before the Notification Proforma is used

k) support any "lessons learned" workshops within the C+MD Network after any incident where the MoC has been actioned.

In addition, councils should note that this MoC does not replace any local care governance arrangements which are in place. Councils acknowledge that they can only report according to the level of local knowledge and the belief of the level of significance.

## **6.0 Governance and review**

This MoC will commence on 1st January 2019 and will remain in force until it is revoked by South East ADASS.

The MoC will be a standing item for quarterly meetings of the C+MD Network. The Network may vary the MoC at any one of its normal business meetings to ensure effective working.

The MoC will be formally reviewed annually by the South East ADASS C+MD Network at the first meeting following 1<sup>st</sup> January each year.

The impact of the MoC and any issues arising will be reported regularly to DASSs within the South East by the DASS Chair of the C+MD Network.

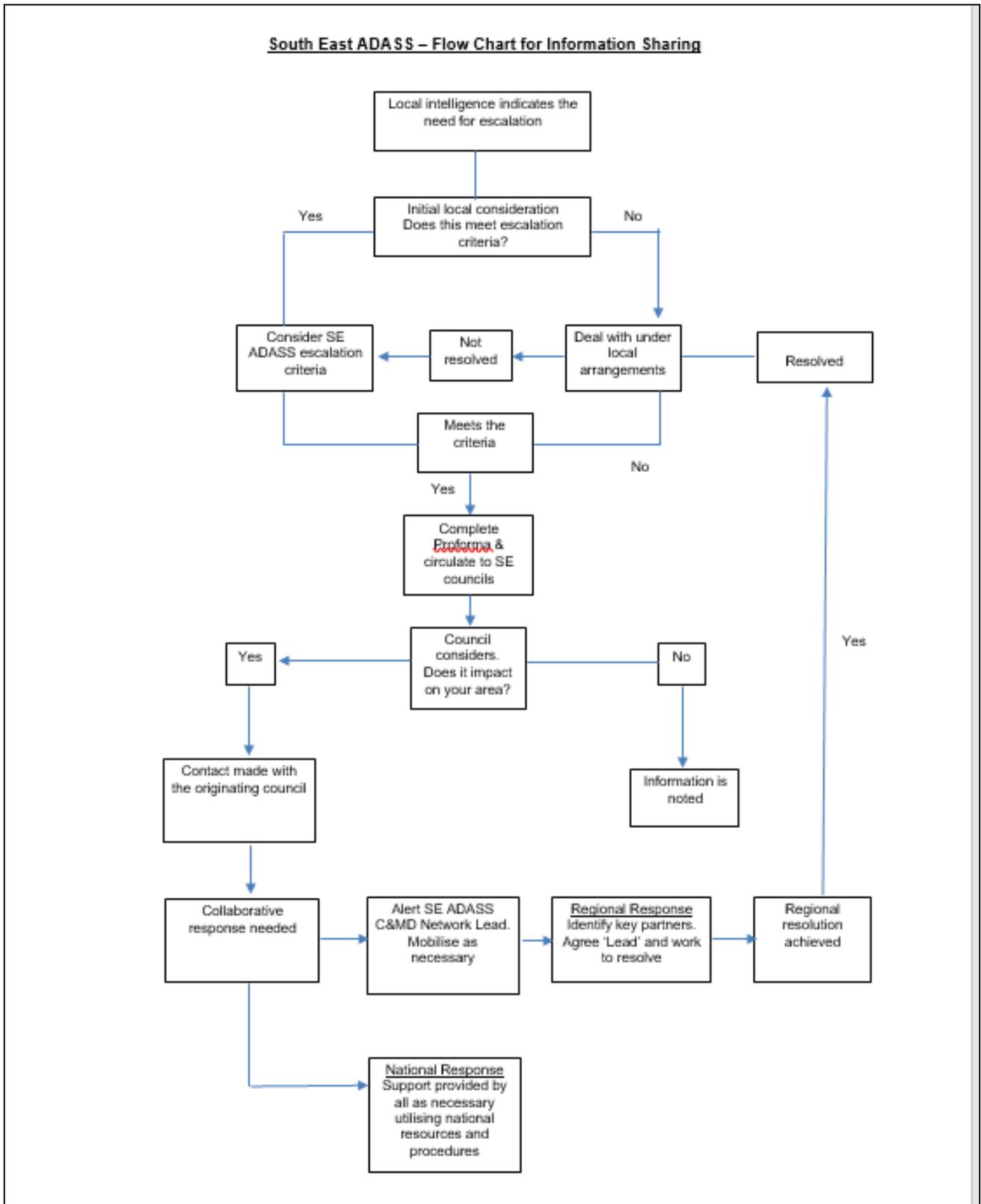
## **7.0 List of councils within the scope for this MoC**

1. Bracknell Forest Council
2. Brighton and Hove City Council
3. Buckinghamshire County Council
4. East Sussex County Council
5. Hampshire County Council
6. Isle of Wight Council
7. Kent County Council
8. Medway Council
9. Oxfordshire County Council
10. Portsmouth City Council
11. Reading Council
12. Southampton City Council
13. Surrey County Council
14. Slough Council
15. West Berkshire Council
16. West Sussex County Council
17. The Royal Borough of Windsor and Maidenhead
18. Wokingham Borough Council

## Version Control

| <b>Date</b>      | <b>Version</b> | <b>Author</b>            | <b>Circulation</b>   |
|------------------|----------------|--------------------------|--|
| 06.09.18         | Draft v1       | ADASS Yorkshire & Humber | SE ADASS C+MD Network Task + Finish Group                  |
| 08.10.18         | Draft v2       | Alison Blight            | SE ADASS C+MD Network Task + Finish Group                  |
| 19.10.18         | Draft v3       | Andrew Colling           | SE ADASS C+MD Network Task + Finish Group                  |
| 24.10.18         | Draft v4       | Alison Blight            | SE ADASS C+MD Network Task + Finish Group                  |
| 21.1.2019        | Draft v5       | Alison Blight            | SE ADASS C+MD Network Task + Finish Group                  |
| <b>25.1.2019</b> | <b>Final</b>   | <b>Alison Blight</b>     | <b>SE ADASS Commissioning + Market Development Network</b> |

# APPENDIX 1: Flow Chart - For Information Sharing



## APPENDIX 2 – Notification Proforma

### Activation of South East ADASS Regional Information Sharing and Support Protocol

| NOTIFICATION FROM:                    |  |
|---------------------------------------|--|
| Date of Notification                  |  |
| Local Authority:                      |  |
| Name of key contact and lead manager: |  |
| Office Phone and Mobile:              |  |
| Email address:                        |  |

| CONCERNING:                    |  |
|--------------------------------|--|
| Type of Provision:             |  |
| Provider/Legal Entity:         |  |
| Group (if part of one):        |  |
| Home Name or Home Care Branch: |  |
| Location:                      |  |

| ESCALATION TRIGGER         |  | OTHER INFORMATION  |  |
|----------------------------|--|--|--|
| In Administration/For Sale |  | Is the provider part of the CQC Market Oversight Scheme? |  |
| Financial Difficulty       |  |  |  |
| CQC – Notice of Proposal   |  | Is this a Specialist Provider?                           |  |
| CQC - Warning Notice       |  | If so, which Specialism?                                 |  |
| Contract Closedown         |  | Is the service/provider Hard to Replace?                 |  |
| Major Incident             |  |  |  |
| Other Serious Concerns     |  |  |  |

| Details of the concerns (why sharing the info):    |
|--|
| <br><br><br><br><br><br><br><br><br><br>           |
| Predicted Timeline/Impact of any On-going Concerns |
| <br><br><br><br><br><br><br><br><br><br>           |

This proforma does not contain all information regarding this provider.  
Please contact the Lead Officer listed above for further information regarding this.

# APPENDIX 3: Schedule of Financial Questions for Contract Reviews

## INTRODUCTION

Credit Checks show historical information and may become quickly out of date. Council leads within the South East ADASS Commissioning and Market Development Network identified that Credit Rating Checks could not be trusted as the only indicator of a provider's sustainability/viability. Below is a suggested schedule of key questions about financial performance which can be used to shorten the gap between provider financial reports and current performance at contract review stage.

## CONFIRMATION OF COMPANY STATUS

1. Is your organisation part of a parent company or part of a larger set up where the home care provision is part of a bigger picture?
2. Please confirm who this is/what the whole organisation covers and what proportion the home care market is.

## STAFFING

3. What is the average hourly pay rate for staff?
4. What is the monthly staff bill?
5. What proportion of your staff are on fixed contracts?
6. What proportion of the work is covered by agency?
7. What is the average cost of agency staff in comparison to the cost of covering the work with permanent staff?
8. WAGES Were all your wages paid over that past 6 months, and on time?
9. PAYE – was this fully paid over the past six months, and on time?
10. Pension Contributions - were these fully paid over the last 6 months, and on time?

## INCOME & LIABILITIES

11. What is your organisations income position at end of last reporting period?
  - a. Is your income on target?
  - b. What is your actual income for the previous 6 months (Council and Private)?
  - c. Over the last 6 months has your income increased, remained static, reduced?
  - d. Your forecasted income for the next 6 months?
  - e. Over the next 6 months will your income increase, remain static, reduce?
12. What is the position with your current liabilities at the end of last reporting period?
  - a. Over the last 6 months have your liabilities increased, remained static, reduced?
  - b. What are your forecasted liabilities for the next 6 months?
  - c. Over the next 6 months will your liabilities increase, remain static, reduce?
13. What are your profit margins?
  - a. At the start of the contract
  - b. Current
14. Please provide a bank letter confirming the current cash and credit position

## STRATEGIC BUSINESS

15. Business Plan – are you able to provide us with a business plan based on the information provided above?
16. What is your financial contingency plan – to ensure you are financially able to meet unexpected costs?
17. For smaller single-owner services – what is the contingency for delivery of normal operations if you/ a key staff member is absent for a protracted period?

## APPENDIX 4 – Key Contact List

| Council                               | Contact | Post | Contact Details |
|---------------------------------------|---------|------|-----------------|
| Buckinghamshire                       |         |      |                 |
| Bracknell Forest                      |         |      |                 |
| Brighton and Hove                     |         |      |                 |
| East Sussex                           |         |      |                 |
| Hampshire                             |         |      |                 |
| Isle of Wight                         |         |      |                 |
| Kent                                  |         |      |                 |
| Medway                                |         |      |                 |
| Oxfordshire                           |         |      |                 |
| Portsmouth                            |         |      |                 |
| Reading                               |         |      |                 |
| Royal Borough of Windsor & Maidenhead |         |      |                 |
| Slough                                |         |      |                 |
| Southampton                           |         |      |                 |
| Surrey                                |         |      |                 |
| West Berkshire                        |         |      |                 |
| West Sussex                           |         |      |                 |
| Wokingham                             |         |      |                 |