

**QUALITY, SAFEGUARDING AND COURT OF PROTECTION  
CONTINUING HEALTHCARE  
ANNUAL REPORT 2021/22**

**JUNE 2022**

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# QUALITY, SAFEGUARDING AND COURT OF PROTECTION CONTINUING HEALTHCARE REPORT

## 1 INTRODUCTION

- 1.1 The functions of quality assurance, safeguarding and Court of Protection for people eligible for Continuing Healthcare (CHC) are managed within the Continuing Healthcare Team rather than the wider function of the CCG.

## 2.0 SAFEGUARDING

- 2.1 The Care Act statutory guidance defines adult safeguarding as:

*'Protecting an adult's right to live in safety, free from abuse and neglect. It is about people and organisations working together to prevent and stop both the risks and experience of abuse or neglect, while at the same time making sure that the adult's wellbeing is promoted including, where appropriate, having regard to their views, wishes, feelings and beliefs in deciding on any action. This must recognise that adults sometimes have complex interpersonal relationships and may be ambivalent, unclear or unrealistic about their personal circumstances'.*

2.2 Safeguarding was first introduced by the Department of Health in 2011, but is now embedded in the Care Act. These six principles apply to all health and care settings.

### 1) Empowerment

People being supported and encouraged to make their own decisions and informed consent

### 2) Prevention

It is better to take action before harm occurs.

### 3) Proportionality

The least intrusive response appropriate to the risk presented.

### 4) Protection

Support and representation for those in greatest need.

### 5) Partnership

Local solutions through services working with their communities. Communities have a part to play in preventing, detecting, and reporting neglect and abuse.

## 6) Accountability

Accountability and transparency in safeguarding practice.

- 2.3. The team ensure that all the principles described above are adhered to.
- 2.4. Section 42 of the Care Act 2014, are enquiries where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):
- (a) has needs for care and support (whether or not the authority is meeting any of those needs),
  - (b) is experiencing, or is at risk of, abuse or neglect, and
  - (c) because of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.

The local authority must make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide whether any action should be taken in the adult's case (whether under this Part or otherwise) and, if so, what and by whom.

“Abuse” includes financial abuse; and for that purpose “financial abuse” includes—

- (a) having money or other property stolen,
  - (b) being defrauded,
  - (c) being put under pressure in relation to money or other property, and
  - (d) having money or other property misused.
- 2.5 The Local Authority has delegated this responsibility to the CCG to undertake this function for CCG funded individuals.
- 2.6 The CHC team has undertaken twelve Section 42 enquires on behalf of Somerset Council over the last twelve months. This represents a 60 % reduction in referrals to the team.
- 2.7 An explanation of the reduction in referrals may be that CHC assessors were conducting the majority of assessments remotely in line with national guidance to manage the spread of Covid 19. From March 22 CHC adjusted its position in line with national guidance and is now undertaking most of the assessments/reviews face to face with exceptions completed remotely.
- 2.8 Approximately 15 clinical reviews have been undertaken for people not CHC funded, but in cases where a Section 42 enquiry would benefit from an independent nursing review. Two staff completed a whole service visit to check service users' welfare following allegations of serious sexual abuse – whilst there were no CHC funded service users using the service, this collaboration assisted our colleagues in seeking immediate assurance.

### **3. ENQUIRIES**

- 3.1 This quality process is used when the threshold for safeguarding has not been met and is a proactive approach to address concerns about practice standards. CHC enquiries align with the Somerset Council, Service Quality Feedback Form (SQF) and both enquiries are supported by the Joint Contract, Quality and Risk management policy.
- 3.2 In contrast to the drop in Safeguarding referrals the team has seen an increase in the number of CHC enquiries completed. The reasons for this are as yet unknown.

### **4.0 PROLONGED DISORDER OF CONSCIOUSNESS**

- 4.1 The Prolonged disorders of consciousness national clinical guidelines (2013) are clinical and ethical standards of care for people with prolonged disorders of consciousness (PDOC) – including vegetative (VS) and minimally conscious states (MCS) – following sudden onset brain injury, not only in the UK but internationally. For England and Wales, they provide clarity on legal decision-making.
- 4.2 The team have prompted a learning review for the management of a person in Somerset with a Prolonged Disorder of Consciousness (PDOC). This has led to the development of a PDOC pathway in CHC and shared learning for the wider system in the implementation of the Mental Capacity Act. A training event is being planned for Autumn 2022 which will see internationally recognised experts in this field deliver a training event in Somerset to raise awareness of best practice in this specialist area.

### **5.0 LUKE'S SAR**

- 5.1 The Care Act 2014 states that Safeguarding Adults Boards must arrange a Safeguarding Adults Review (SAR) when an adult in its area dies as a result of, or is thought to have suffered, abuse or neglect, whether known or suspected, and there is concern that partner agencies could have worked more effectively to protect the adult.
- 5.2 In March 2022, the team completed an audit of the CHC teams' performance in applying the lessons learnt from Luke's SAR, the case of a man from Somerset who died in receipt of care where several issues/omissions were identified following review.
- 5.3 The most recently completed reviews were audited from across all the 5 CHC teams (25 in total) The audit focused on whether weight/BMI had been accurately recorded, whether the reviews indicated that the person may lack mental capacity to consent to their care arrangements and whether self-neglect was a feature.
- 5.4 In addition, the ten most recent annual contract management meeting minutes were reviewed to identify whether learning from Luke's SAR had been

discussed with providers. The finding from the audit were generally reassuring:

- 89 % of people had their weight accurately recorded.
- 93 % of people had their BMI recorded.
- 89 % of people had their Mid Upper Arm Circumference (MUAC) measured, when necessary.
- Self-neglect was not indicted in any of the cases.
- 60 % of Annual contract meetings evidenced a discussion about the findings of Luke's SAR.

5.5 Feedback to the CHC teams following these audits was provided as follows:

- Not all staff were using the most up to date assessment, review, and meeting templates (latest version had prompts embedded following recommendations from Luke's SAR)
- Where old templates were being used colleagues were more likely to omit details required to evidence learning from Luke's SAR.

## **6.0 COMMUNITY DEPRIVATION OF LIBERTY SAFEGUARDS (DoLs)**

6.1 Over the last year, all outstanding community dol applications have been submitted to the Court of Protection for scrutiny. The application process has ensured the CCG is lawfully commissioning care and enabled vulnerable people to realise the safeguards in the law when they are being deprived of their liberty.

6.2 Two CHC Best Interest Assessors are now working with Somerset Council to complete outstanding dols assessments for people that are fully funded by CHC in care homes as all CHC people in their own home have up to date assessments (The Local Authority usually completed all Dols applications for people in care homes and CHC completed them for people in their own homes).

## **7. LIBERTY PROTECTION SAFEGUARDS**

7.1 The Liberty Protection Safeguards (LPS) will replace the Deprivation of Liberty Safeguards (DoLS) soon. This was announced in a Mental Capacity (Amendment) Bill which passed into law in May 2019. Key features will include starting at 16 years of age, and deprivations of liberty having to be authorised in advance by the 'responsible body'.

7.2 A business case for the implementation of LPS in the CCG was developed but declined due to the implementation date for LPS being postponed until Autumn 2022 and is outside of the date the CCG ceases to operate. Work is underway with colleagues within the CCG to ensure readiness for implementation.

## **8 QUALITY ASSURANCE**

- 8.1 A growing number of regulated care providers have received an over-all inspection outcome of Requires Improvement or Inadequate during the period of the pandemic. In 2020 13 % of providers fell within this category and has risen to 16.5 % in 2022. This is placing an increasing demand on CHC and SCC Quality, Safeguarding and Contract teams as well as reducing the number of beds available for commissioning. Alongside this trend there has been an increase in support required during business closures and to the number of services receiving financial support from SCC.
- 8.2 Further investment has been made in the Quality Assurance Framework. This is a joint assurance tool developed with Somerset Council. Alongside the quarterly nursing returns we now have Learning Disabilities and Domiciliary Care services completing returns. This tool allows us to monitor services for changes in their performance and direct system wide support to providers to avoid a service deterioration/failure. Recent developments in the platform have improved the quality of data being produced and this has created more opportunities to work proactively to support and seek assurance from providers going forward.

## **9 Coroner's Inquest**

- 9.1 Following the death of a resident in Somerset in 2019 from choking, a coroner inquest has now been held. In establishing the facts of the persons death, the coroner also noted that a disproportionate number of people with a learning disability die from choking related incidents.
- 9.2 Consequently, a Regulation 28 report will be issued to NHS England to request that Dysphagia awareness training is made available to all Learning Disability providers across the country. In Somerset there is an e-Learning package available free to health and social care colleagues and the CCG is working to strengthen this offer by the making practical sessions available. Once this is in place, we will embed an expectation that dysphagia awareness training as mandatory across all Somerset services and monitor compliance.

## **10. LEGAL EXPENDITURE**

- 10.1 For the financial year 21/22 CHC legal financial spend equates to £86,388.60

## **11 UPCOMING PRIORITIES**

- 11.1 To ensure readiness for the implementation of LPS guidelines.
- 11.2 The introduction of mandatory Mental Capacity Act Training for CHC staff followed by roll out to all CCG colleagues.
- 11.3 Dysphagia training implementation for all Learning Disability providers.

- 11.4 Delivery of a Prolonged Disorder of Consciousness regional conference
- 11.5 Continue to develop the joint Quality Assurance agenda with Somerset Council and coordinate system wide support to address changes in care delivery