



Quality of Regulated Care in Leicester City

For consideration by: ASC Scrutiny Commission

Date: 6th March 2023

Lead director: Kate Galoppi

Useful information

- Ward(s) affected: All
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1. Purpose of report

- 1.1 This report sets out the quality of care in regulated services for Adult Social Care in Leicester, and describes the assurance processes within the LA to ensure that residents receiving their care through the independent sector are supported by safe and high quality care provision.
- 1.2 In light of the recent CQC ratings covered through the media, the report details the governance arrangements that are in place across the health and care system to ensure that there are effective information sharing processes in place, and that performance and quality concerns do not go without challenge.
- 1.3 The report also highlights the work programmes across health and care that are proactively supporting the care sector in Leicester to be of high quality

2. Summary

- 2.1 The Council has a duty under the Care Act to facilitate a diverse, sustainable, high quality market for the whole local population, including those who pay for their own care, and to promote efficient and effective operation of the adult care and support market as a whole.
- 2.2 Leicester has a large market of independent care providers that support the provision of regulated care and support for more than 3000 people in the city. The market generally performs well but more recently concerns have been raised in response to the decline in ratings issued by the CQC when they have conducted inspections.
- 2.3 The Leicester City Council (LCC) Contracts & Assurance Service (CaAS) works closely with providers to ensure that issues are addressed, and standards raised. Using contractual levers and the provision of practical support and guidance around best practice, CaAS seeks to ensure that care provided to people needing this support is able to meet their needs and achieves the required quality standards.
- 2.4 There are established information sharing processes across health and care partners and with the CQC, as well as clear routes for family members and staff to report concerns, providing the Council with timely information about quality issues that are promptly investigated. Officers respond to this intelligence, investigating concerns raised and identifying appropriate actions to turn around performance as a matter of priority.
- 2.5 The contractual arrangements in place with providers give a mechanism to require the provider to make improvements, or else risk legal action which could result in the removal of the contract and ultimately in people funded by the Council being moved to alternative placements that are better able to meet their needs.

3. Recommendations

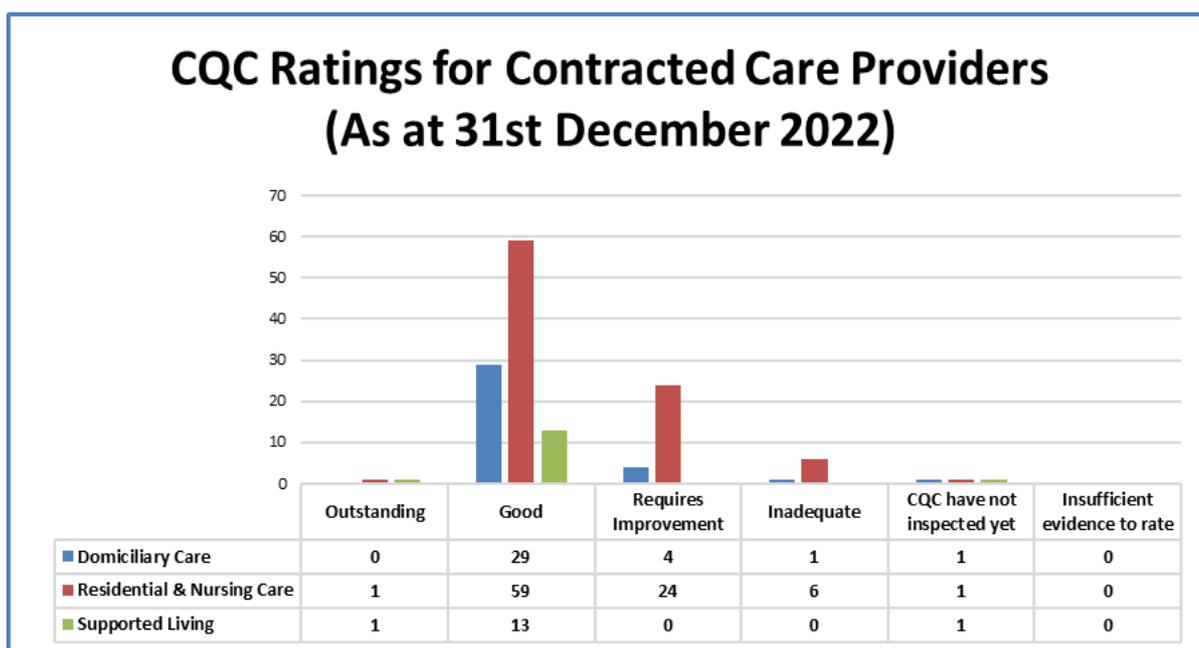
- 3.1 For members to note the content of this report and the changes within the local care market during and since the pandemic.
- 3.2 For members to be aware that any report that identifies poor quality or dangerous care is treated as a matter of concern, and as such the LCC contracts team takes urgent action to support providers to address issues and raise standards, ensuring people are safe from harm and neglect

4. Report/Supporting information including options considered:

The Market and its Performance

- 4.1 All providers who deliver care which includes personal care are required to be registered with the Care Quality Commission (CQC). Providers register either to deliver care in the community (which includes both domiciliary care and supported living) or care in a care home (which may or may not include nursing care).
- 4.2 In Leicester there are 94 independently owned care homes operating currently and LCC contract with all except one home. 50 contracted homes deliver care to older people and currently 803 people are supported by LCC in these services. A further 748 people live in these homes, who are either funded by other councils, by the NHS, or who fund their own care. The total spend on residential and nursing care for older people was £36m in 2021- 22 including payments to providers not based in the City.
- 4.3 The remaining 43 care homes are primarily delivering support to working age adults who need support with learning disabilities and / or mental health needs, and 364 people currently live in these homes. . A further 169 people live in these homes, who are either funded by other councils, by the NHS, or who fund their own care. In 2021 – 22 LCC paid £31m for these services, however it should be noted that this figure includes payments to residential care providers across the Country
- 4.4 Within domiciliary care, the market currently has 141 registered providers operating in the city. 32 of these providers are on the LCC framework agreement and deliver 374,000 hours of care per year on behalf of LCC. The remaining 109 providers deliver care on behalf of the ICB, or else directly to people buying their own care and those who make use of a Direct Payment. The number of hours delivered is unknown within this market, as there is no requirement on them to report their activity levels to the Council. LCC paid £32m in total for domiciliary care from contracted providers in 2021-22, in addition to £26m to people using a direct payment to purchase their own care.
- 4.5 There are 15 Supported living providers on the current framework, although 4 do not currently deliver care to people who are funded by LCC. 362 people use the framework and the cost of this support is £15m per year. A further 212 people use a

direct payment to access supported living from providers who are not part of the framework agreement at a cost of £12.5m.



4.6 The table above shows that in December 2022 73% of the contracted providers in Leicester City are rated Good or Outstanding. While poor quality care is never acceptable this demonstrates that while problems do exist the problems are not systemic in our contracted care. The tables shows that only 6 care homes and 1 domiciliary care provider are inadequate which is less than 3% of the total contracted market.

4.7 Following the end of the pandemic and the lifting of visiting restrictions there have been concerns raised about the quality of care homes within the city following inspections by the CQC. A significant number of reports which have identified concerns have been published in the Leicester Mercury and the supporting editorial has portrayed a local picture which raises significant concerns.

4.8 Work is underway to help providers make the required improvements. Although the numbers reported are correct, the picture painted by The Mercury from that data is misleading, as the data demonstrates that of the 39 homes inspected during 2022:

- 50% had a rating reduction
- 29% kept the same rating
- 17% had an improved rating
- 4% received a rating for the first time

4.7 The approach by CQC to inspection has changed following the pandemic, they now operate a fully risk based approach only visiting those services where intelligence identifies a cause for concern which could be partly responsible for the dip in ratings. By only visiting services where concerns are suspected the CQC limits their opportunity to identify good practice. In 2020 LCC care home ratings were:

- 1 Outstanding service, this remains the case
- 59 Good rated services, reduced to 59 in November 2022
- 25 services rated Requires Improvement this has increased to 26 in November 2022

- 0 Inadequate services, there are now 5

4.8 The change in ratings not just in Leicester City but across the East Midlands has been so dramatic that ADASS commissioned a piece of work to look at the data and developed a number of scenarios to try and determine why the CQC data for the East Midlands is so out of step with that of other areas and England in general. The data in this table refers to March 2022 ratings across the East Midlands

Confidential
Draft

Ratings by Service Type

There is significant variation in published ratings between service types in some local authorities, and across different local authority areas compared to national and regional averages.

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	Total - % Good & Outstanding	Care Homes with Nursing % G/O	Care Homes without Nursing % G/O	Domiciliary Care Services % G/O
Derby	83.7%	84.6%	82.1%	85.2%
Derbyshire	80.5%	71.8%	79.4%	89.6%
Leicester	72.0%	61.5%	69.5%	75.2%
Leicestershire	82.5%	96.2%	77.0%	86.1%
Lincolnshire	79.6%	65.2%	80.1%	82.0%
North Northamptonshire	74.0%	64.0%	75.0%	74.7%
Nottingham	73.6%	63.2%	75.4%	73.2%
Nottinghamshire	80.6%	69.6%	82.4%	85.0%
Rutland	81.8%	100.0%	62.5%	90.9%
West Northamptonshire	68.1%	65.8%	67.1%	68.4%
East Midlands	77.8%	71.1%	77.5%	80.5%
National	83.3%	76.9%	82.9%	86.0%

- 4.9 Work to further unpick this data and understand the reason for the differences is ongoing. A working group of East Midlands Commissioners will be discussing the issues with CQC Inspection managers working in the East Midlands to establish why the data is out of step with that elsewhere and what action is required to bring the data into line.
- 4.10 The recent work to establish a Fair Cost of Care demonstrated that the price paid for care in Leicester City, in some cases, is below the cost providers evidenced as the cost of delivering care to people they support, and below the median cost established through this exercise.
- 4.11 LCC is ranked the lowest of all Councils with regards to the number of people whose care attracts Continuing Health Care Funding (CHC), which is an amount paid by health to cover specific health needs (usually behaviours that challenge) and Funded Nursing Care (FNC). This is a weekly payment of £209.19 by the NHS to cover the costs of nursing interventions in nursing homes. There will be work undertaken to further examine this anomaly which has resulted in lower rates paid for delivery of complex care.
- 4.12 This complex picture of funding and NHS contributions requires further analysis but demonstrates that the quality of services locally may be negatively impacted by the price paid for the provision of care. Quality of care requires investment in staff training, supervision, retention, property maintenance and with the increasing

pressures from the cost of living crisis these are crucial components of quality care that could be negatively impacted.

The Local Authority Quality Assurance Process (QAF)

- 4.13 Leicester City Council operates a Quality Assurance Framework to assess the quality of care within our regulated services. This provides assurance against a number of quality statements and seeks to ensure that all sources of information and intelligence are interrogated during the assessment.
- 4.14 A minimum of 2 visits are undertaken to the provider location, one will be announced and at least one more will be unannounced. The visit is used to observe care delivery and interactions, to talk to people drawing on support their friends and families, to talk to staff and ascertain their views on the service, the management as well as their competence and skills in key areas, as well as examining documentation to ascertain whether the quality of recording and auditing meets the standard we require.
- 4.15 A range of checks are undertaken remotely, and these include analysis of the Business Continuity arrangements, staff achievement / attainment against mandatory and other required training. Records are searched to establish any issues identified by the Food Safety team or Leicestershire Fire and Rescue Service.
- 4.16 For care homes and supported living schemes, the LCC Corporate Health & Safety team will undertake an audit to ensure safe systems and processes are in place and evidence that people are not exposed to avoidable risks.
- 4.17 The LCC Public Health team have employed a nurse to support care home providers with Infection Prevention and Control requirements and is developing training to support staff to achieve compliance with the national guidance standards.
- 4.18 Once all elements have been collected an assessment of compliance will be made. Where there are issues that impact on the health safety and wellbeing of people drawing on support the provider will be required to remedy the concerns and a proportionate timescale will be implemented. An action plan will be produced, and this will detail the standard not met, the reason this is a concern, the action required and the allowed timescale for remedy.
- 4.19 If a visit finds significant concerns, then a multi-agency partners meeting will be called to agree actions and next steps. The partners meeting will include all funding authorities, ICB representation where there are people funded by health, CQC representation, representation from social work teams. The partners agree next steps and any actions are assigned. A regular series of meetings will be arranged and these range from meeting monthly to situations where the risks require partners to meet on a daily basis to discuss concerns and issues.
- 4.20 To prevent undue pressure the provider may be asked to agree to a suspension of all new packages until the concerns are remedied, however if the provider does not agree to do this voluntarily a formal suspension of LCC funded placements will be imposed.

- 4.21 Partners may feel that regular safe and well checks are required and a rota for this will be compiled. This can be every day or at random intervals throughout the week. Where there are concerns that lead partners to believe that the provider requires day to day intensive support to improve the situation then officers will be assigned to deliver this support.
- 4.22 Any standards not met will be graded as either Major Moderate or Minor non-compliant. Major issues require action in less than 28 days, moderate within 12 weeks and Minor before the next QAF. Visits to validate progress will be made as required and if the provider has not made the required improvement, then a breach of contract notice will be issued, and this can lead to a situation where LCC take the decision to terminate the contract where providers are judged to be unable to make the required changes and keep people they support safe.
- 4.23 Alongside the planned QAF programme the contracts team will undertake reactive visits to investigate concerns raised. These will be focussed and looking to validate the concern or to take a decision as to whether the concern is not substantiated. These can occur following whistleblowing from staff or members of the public, concerns from health colleagues, or as a result of cumulative intelligence reports that indicate patterns of concerns that require investigation. These also occur when a CQC inspection report is produced which finds the provider requires improvement or has been judged inadequate. In these situations, the CQC actions will be added to those identified from a contract perspective.
- 4.24 Ultimately, if services fail to make improvements, we may decide that the only safe option is to terminate the contract with them. Alongside this it is possible that CQC may act to de-register the service. While rare this has happened on a number of occasions and officers from contracts and care management will work closely to safely manage the closure of the service and support people under their care to find alternative arrangements.
- 4.25 Following moves to alternative services follow up visits are undertaken to make sure that people are happy with their new home and that they have not been negatively impacted by the need to leave their previous provider.
- 4.26 Routine lessons learnt exercises are undertaken following provider closures whether this is because of quality concerns or a providers decision to exit the market.
- 4.27 The next priority for LCC is to ensure that we are aware of what pressures and changes within a service could indicate that quality of care may be at risk. Recent CQC reports are being analysed to establish the themes and trends of concerns identified. This will feed into the work of the CHSG and the Leicestershire Social Care Development Group (LSCDG) which is a partner organisation funded by the LLR local authorities to develop and deliver training and support the ASC workforce. The analysis of current concerns across LLR will be used to help formulate the training plan for the future.

Effective partnership working

- 4.28 LCC operates a system which provides for all partner agencies to be notified of any contractual or safeguarding concerns to allow them to make an informed decision as to their own course of required action.
- 4.29 The value of effective partnership working cannot be underestimated. Within Leicester, Leicestershire and Rutland there are a number of regular information sharing meetings. These include partners from the 3 local authorities, the ICB and their contract management unit, and the CQC, and follow a standard agenda which allows both significant contractual concerns and lower level issues of quality to be shared. This enables all commissioners to have in depth knowledge of the local situation and any particular issues which may require their attention.
- 4.30 Despite a number of significant changes within the CQC staff who have responsibility for Leicester City Council over the past 3 years, the Council has been able to maintain a good working relationship. They communicate concerns in a timely manner and seek our views on providers performance and concern.

Quality Development

- 4.31 The challenges faced by the provider market over the past 3 years should not be underestimated. There have been a significant number of providers who have exited the market both as a result of quality concerns and financial viability issues. In response to these challenges and to support the providers and people drawing on support there is an explicit commitment to a range of quality improvement initiatives.
- 4.32 The recruitment of quality care staff including effective managers is a nationally recognised concern. The Skills for Care annual report evidences a significant national recruitment challenge that includes the problems with recruiting nurses to work in Adult Social Care (ASC). While work is ongoing to support providers with recruitment campaigns the quality of candidates for roles in ASC has been variable. This may in part be due to the industries competing for staff willing to work for minimum wage or just above this level. Supermarkets and logistic companies are recruiting from the same pool of people as ASC and the hours and working conditions could be considered as more favourable.
- 4.33 To address this ongoing concern, the Council has taken a number of actions within LLR. Inspired to Care have been commissioned to deliver best practice guidance in recruitment and retention across the sector. In addition, there is a close working relationship with our regional Skills For care Development Manager who is instrumental in providing development opportunities across the entire Adult Social Care workforce, including workshops for managers and aspiring leaders.
- 4.34 In recognition of the need for joined up working across all partners in LLR there is a monthly Care Home sub group (CHSG) meeting. This forum attended by a wide range of partner organisations considers the needs of the care home market and how these can best be supported by partners who use their services to care for people, as well as those organisations responsible for monitoring the quality of service deliver. An example of what has been achieved in this group is work that has commenced in response to growing concerns about the quality of diabetes care for people living in residential homes in LLR. A health initiative has been established which delivers best practice training to support non clinical carers to support people living with diabetes.

- 4.35 To help providers easily access best practice guidance and information on local initiatives the CHSG has developed the Providing Care website. The site has been developed as part of a Leicester, Leicestershire and Rutland Enhancing Health in Care Homes programme. It is care home focused at the moment, but the aim is to begin to include information for all branches of care.
- 4.36 For people living with learning disability and autism (LDA) a new quality group is in place. Officially launched in Aug 2022, this group is part of the new governance arrangements now in place in response to the Innovation and Integration White Paper (2021) and NHSE guidance, which stated that from July 2022, all NHS trusts providing acute and mental health services were mandated to join a provider collaborative. The group has a membership representative of the three LAs, ICB and LPT and where needed UHL, and its focus is on system learning to ensure our health, care and support arrangements for people with LDA is of a quality that is required. A system wide quality benchmarking audit is currently being undertaken across our inpatient and community teams and services which draws on national recommendations, standards and best practice. Any improvements identified will inform an action plan which will help target any quality improvement work with our providers, teams and services.
- 4.37 Our intensive provider support team in addition to the hands on support currently being delivered to City providers who have been identified as having quality concerns, is developing a series of workshops to offer best practice guidance and resources for all regulated providers. These workshops will be delivered face to face and remotely to encourage widespread uptake of the offer. The 27 topics to be covered will include the mental Capacity Act and how to complete mental capacity assessments for people who draw on support, management of behaviours that challenge, how to audit falls and incidents to minimise the risk of reoccurrence, effective care planning and others that have been designed to support providers to review their systems and processes and implement best practice to help improve the quality of their care delivery.

5. Financial, legal and other implications

5.1 Financial implications

There are no financial implications arising at this time.
Martin Judson, Head of Finance

5.2 Legal implications

There are limited legal implications arising from the recommendations of this report. Advice should be sought from Legal Services prior to triggering the termination provisions of a contract and /or the replacement of a provider. Legal advice should also be sought in the event that legal action is considered.

Annie Moy, Solicitor, ex 6669

5.3 Climate Change and Carbon Reduction implications

There are no significant climate emergency implications directly associated with this report.

Aidan Davis, Sustainability Officer, Ext 37 2284

5.4 Equalities Implications

Under the Equality Act 2010, public authorities have a Public Sector Equality Duty (PSED) which means that, in carrying out their functions, they have a statutory duty to pay due regard to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited by the Act, to advance equality of opportunity between people who share a protected characteristic and those who don't and to foster good relations between people who share a protected characteristic and those who don't.

Protected Characteristics under the Equality Act 2010 are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

This means the council has a duty to consider the diverse needs of the individuals we serve, minimising disadvantage and ensuring the inclusion of under-represented groups. It must ensure that those organisations carrying out duties on its behalf also comply with this duty. Service providers must comply with equalities law and the commissioning authority must ensure providers are able to meet the requirements of the law.

Equality and diversity are essential components of health and social care. Good equality and diversity practices make sure that the services provided to people are fair and accessible to everyone. They ensure that people are treated as equals, that people get the dignity and respect they deserve. This is particularly important for adults in need who, because of a disability, illness, or their age, are unable to take adequate care of themselves and keep themselves from harm. The report highlights the work programmes across health and care that are supporting the care sector. The people using the services will be from across many protected characteristics, initiatives that are designed to improve the provision of care should lead to positive impacts. It is important that the routes available for people to raise concerns are accessible.

Equalities Officer, Surinder Singh Ext 37 4148

5.5 Other Implications (You will need to have considered other implications in preparing this report. Please indicate which ones apply?)

No other implications apply to this report

6. Background information and other papers:

7. Summary of appendices:

8. Is this a private report (If so, please indicated the reasons and state why it is not in the public interest to be dealt with publicly)?

Yes/No

9. Is this a “key decision”?

Yes/No

10. If a key decision please explain reason

In determining whether it is a key decision you will need consider if it is likely:

- to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council’s budget for the service or function to which the decision relates.
- to be significant in terms of its effects on communities living or working *in two or more wards in the City*.

Expenditure or savings will be regarded as significant if:

- (a) In the case of additional recurrent revenue expenditure, it is not included in the approved revenue budget, and would cost in excess of £0.5m p.a.;
- (b) In the case of reductions in recurrent revenue expenditure, the provision is not included in the approved revenue budget, and savings of over £0.5m p.a. would be achieved;
- (c) In the case of one off or capital expenditure, spending of over £1m is to be committed on a scheme that has not been specifically authorised by Council.

In deciding whether a decision is significant you need to take into account:

- Whether the decision may incur a significant social, economic or environmental risk.
- The likely extent of the impact of the decision both within and outside of the City.
- The extent to which the decision is likely to result in substantial public interest
- The existence of significant communities of interest that cannot be defined spatially.