

Camden Safeguarding Adults Partnership Board

Establishment Concerns Procedure

This procedure provides a framework for partners to respond to concerns of abuse and neglect occurring on an organisational level.

July 2018



1. Introduction

The Establishment Concerns Process (ECP) provides a framework for the management of enquiries into concerns involving actual or potential abuse or neglect of adults with care and support needs on an organisational scale within a regulated or contracted health or social care setting. This includes hospitals, Care Homes (Residential and Nursing Homes), Supported Living, Domiciliary Care and Support Services.

This process can be applied in other circumstances where a number of adults have experienced abuse, or are at risk of abuse; for example:

- In supported living where an individual, or group of individuals, have targeted a number of service users, or similar situations such as bogus callers etc.
- Where there may be multiple victims but one perpetrator for example; a staff member has abused a number of service users over a long period of time.

The ECP requires a multi-agency response to large scale concerns. The ECP is a collective responsibility to contribute resources and expertise from Safeguarding Adult Board partner agencies to achieve the best outcomes for service users.

2. Purpose of the ECP

The purpose of this process is to:

- coordinate a complex enquiry involving a number of investigations and processes, often by a range of organisations;
- ensure the safety of adults at risk who receive services from an establishment about which there are serious concerns;
- hear the voice of the service user where there are concerns and ensure this influences improvements;
- drive up quality of care from establishments; and
- share information to prevent further abuse or neglect and escalation to ECPs.

3. Organisational abuse

The ECP addresses concerns on an organisational scale. Abuse, neglect and poor practice may take the form of isolated incidents of poor or unsatisfactory practice, at one end of the spectrum, through to persuasive ill treatment and gross misconduct at the other. Repeated instances of poor care may be an indication of more serious problems. Not all abuse that occurs within settings that provide health or social care will be organisational; incidents between service users or actions by individual members of staff may occur without any failings on the part of the organisation.

The Care and Support Statutory Guidance (2016) defines the category of organisational abuse and neglect. Organisational abuse is the mistreatment, abuse or neglect of an adult at risk by a regime or individuals in a setting or service where the adult lives or that they use. Such abuse violates the person's dignity and represents a lack of respect for their human rights. Organisational abuse occurs when the routines, systems and regimes of an organisation result in poor or

inadequate standards of care and poor practice which affects the whole setting and deny, restrict or curtail the dignity, privacy, choice, independence or fulfilment of adults at risk

There is a need for assessment and judgement in determining when poor practice becomes an adult safeguarding issue leading to potential concerns of organisational abuse. Addressing four key questions will support the decision to initiate the ECP:

- Does the type of incident indicate organisational abuse?
- Does the nature of the incident indicate organisational abuse?
- Is the incident of a degree to indicate organisational abuse?
- Considering answers to the previous three questions, is there a pattern and prevalence of concerns about the Service and/or Organisation?

Further guidance on identifying organisational abuse can be found in Appendix 1 of this document and should be provided to members of ECP strategy meetings and Panels to support and evidence decision-making

4. Scope and Limitations of the ECP

The Camden ECP addresses organisational concerns for all adults at risk regardless of funding stream or funding from out of Borough. People who fund their own care are equally entitled to be safeguarded and should be treated the same as other residents who are funded by the local authority or health services.

The ECP **does not** replace individual adult safeguarding enquiries, **nor** does it replace Serious Incident (SI) investigations in the NHS, **nor** Care Quality Commission (CQC) regulatory action.

Providers are subject to a number of Quality Assurance Frameworks (Health and Social Care Contracts and Commissioning, CQC regulatory arrangements) and it is essential that evidenced based information is used to support decision making. The ECP should not be seen as a substitute for regulatory or contract monitoring arrangements.

The ECP should be read in conjunction with the London Multi- Agency Safeguarding Adults Policy and Procedures 2015 (in particular, section 5 on Provider Concerns). It should also consider any relevant commissioner and/ or regulator policies, procedures and guidance.

In June 2016, ADASS updated the Guidance for 'Out of Area Safeguarding Adult Arrangements'. The ECP sets out both strategic and operational responsibilities and actions to be taken by host authorities and placing authorities with respect to people who live in one area, but for whom commissioning responsibility remains with the area from which they originated. <https://www.adass.org.uk/out-of-area-safeguarding-adult-arrangements/>

5. Working Principles

The Camden ECP is intended to reflect the safeguarding principles of:

- **Empowerment** – presumption of person-led decisions and informed consent.
- **Protection** – support and representation for those in greatest need.
- **Prevention** – it is better to take action before harm occurs.
- **Proportionality** – the least intrusive response appropriate to identified risks
- **Partnership** – local solutions through services working with their communities.
- **Accountability** – transparency in delivering services, including safeguarding.

6. Police

Police: Where there are concerns/indications that a criminal offence may have been committed, the initial referral information should be shared with the Police, followed up with a discussion by the ECP Chair. It may be necessary to put all or some parts of the ECP on hold during Police enquiries. Any agreed action plan should focus on the immediate protective measures whilst the Police investigation takes place.

The involvement of police partners is of crucial significance at this early stage with regard to the investigation of any potentially criminal acts perpetrated under s 44 of the Mental Capacity Act 2005 (if there is evidence of wilful neglect where individual(s) lack capacity to consent to their care), s127 of the Mental Health Act (if there is neglect of people with mental disorder) or the Criminal Justice and Courts Act 2015 s20/21 (under which it is a criminal offence for care workers or providers to ill-treat or willfully neglect someone in receipt of care, including adults with capacity to consent to their care.)

Consideration will also need to be given to as to whether any alleged victims should be offered Special Measures as detailed in 'Achieving Best Evidence in Criminal Proceedings' (2011), if deemed eligible as a vulnerable witness as defined by the Youth Justice and Criminal Evidence Act 1999

7. Care Quality Commission

CQC: Must be informed of any safeguarding concerns relating to a regulated service. It is important to ensure that each organisation is aware of the others' concerns. The CQC also has its own organisational market failure, safeguarding and whistle blowing protocols. As part of the safeguarding process, the CQC will determine whether a breach in regulations has occurred and what action needs to be taken. Enquiries may have overlapping concerns since both will relate to the quality of care provided by the Service. To avoid duplication, it is essential to have a coordinated approach. However, whilst both organisations will co-operate in order to safeguard adults at risk, some decisions will need to be taken independently following consultation with the other, as a result of differing responsibilities as regulators, commissioners and safeguarding leads

8. Multi-Agency Escalation and Resolution

All professionals working with adults who have care and support needs must be able to challenge each other appropriately. When they believe that others are not working well together and, as a result, the Adult remains at what is thought to be an unacceptable level of risk then escalation should take place. If there are disagreements between agencies at any time during the ECP then the CSAPB Multi Agency Escalation and Resolution Procedure should be followed.

9. Considering an ECP

Concerns on a scale potentially requiring an ECP should be discussed at Director Level within LB Camden in partnership with their equivalent post in Camden CCG (usually the Director of Quality and Clinical effectiveness. The Local Authority and CCG will agree on an appropriate Chair should the ECP be initiated.

Patterns or concerns leading to ECP may be identified through a number of different mechanisms, such as (non-exhaustive):

- Contract monitoring processes by London Borough of Camden (LB Camden) or the CCG.
- Monthly complaints monitoring by LB Camden, the CCG or partner agencies.
- Monitoring of performance data by an individual agency or by Camden SAPB and its sub-groups.
- An allegation from a whistle-blower about the management/ regime of a service.
- During regular formal information sharing meetings between LB Camden, the CCG and CQC (through which LB Camden is made aware of CQC investigations and action, and vice versa).
- Information sharing agreements between the CCG, LB Camden and CQC.
- During/ following a section 42 safeguarding enquiry or health SI investigation.
- During/ following a Safeguarding Adults Review (SAR).

An ECP may run concurrent with a section 42 enquiry or SI investigation, but the ECP will take precedence over both processes. An ECP may also run concurrently with a SAR or CQC action. In all instances consideration must be given to reducing duplication. If it is suspected that a crime may have been committed, or if a criminal investigation is ongoing, the police must be consulted to ensure initiating an ECP will not compromise any criminal investigation.

If an ECP is initiated before any individual section 42 enquiries or SI investigations have taken place, action must be undertaken to safeguard each individual adult at risk but should be timed and coordinated as part of the ECP. At the very least each individual safeguarding concern should be considered for a section 42 enquiry under the London Multi-Agency Safeguarding Adults Policy and Procedures 2015, and a decision recorded at screening as to whether:

- The individual section 42 enquiry and safeguarding plan for each adult at risk will be addressed via the ECP.

- OR the section 42 enquiry and safeguarding plan for each adult at risk will be conducted separately and the enquiry report(s) fed into the ECP as evidence. Where individual section 42 enquiries or SI investigations have commenced or completed prior to an ECP being initiated, the completed findings reports should be fed into the ECP as evidence rather than enquiry work being duplicated.

- Section 42 safeguarding enquiries under the London Multi-Agency Safeguarding Adults Policy and Procedures 2015, possibly as an initial stage;
- Monitoring by the local authority and CCG quality and contract teams
- Action taken by the CQC

The responsible director must ensure all decisions, and the reasons for those decisions, must be clearly recorded on the Mosaic recording system.

10. Immediate Action on Initiating the ECP

The Director or their nominated lead taking the decision should arrange for the following decisions/ actions to be taken promptly:

Any further immediate actions required to safeguard adults supported by the establishment.

Referral to the police if required, and discussion on how to conduct the ECP in a way that will not jeopardise any criminal investigation.

- Whether to suspend use of the establishment's services, and all necessary steps taken to implement.
- Consideration of the interface with any statutory duties around market oversight and business failure.
- Whether to contact placing authorities and/ or health commissioners – considering the statutory duty to responsibly safeguard adults balanced with the legal requirement not to injure the proprietor's ability to trade.
- Notification to the Camden SAPB Quality and Performance sub-group (via CamdenSAPB@camden.gov.uk) of the decision to initiate ECP.
- Appointment of a lead organisation for the ECP and a suitable ECP chair along with any directions for membership and objectives of the ECP panel.
- Arrangements for a risk assessment and management plan to be drawn up.
- The securing of records, including asking any other relevant agencies to do so.
- The director/ assistant director will (or through delegation to the ECP chair) notify in writing the chief executive officer (or equivalent) of the establishment that an ECP has been initiated outlining the rationale and providing a copy of the ECP Framework
- The establishment should also be given the opportunity of meeting with relevant staff prior to the initial ECP panel meeting, in order to further understand the concerns and make any initial response to the evidence presented. Notification and meeting will be done as soon as it is safe to do so. If there is a criminal investigation, the establishment will be informed in accordance with Police advice.

Timescale: Escalation, decision to initiate and any actions should be completed within 5 working days.

10.1 Media Enquiries

Agencies should not underestimate the level of media interest in organisational abuse enquiries. Each representative engaged in the ECP process must ensure their organisations are appropriately briefed on the potential for media interest. Each organisation is requested to discuss a media strategy with LBC Communication Team. Under no circumstances should staff deal with enquiries from the media.

11. Initial ECP Panel Meeting

11.1 Convening the ECP panel

The ECP chair will convene an ECP panel of appropriate membership and representation. The ECP chair should ensure there is appropriate business support for the ECP panel (e.g. minute taking). The ECP chair must ensure records are agreed as accurate and stored on Mosaic.

11.2 Preparatory information for the ECP panel

The ECP chair must ensure that the following initial work and considerations have been drawn up into formal documents and shared by secure email to panel members ahead of meetings.

11.3 Communications strategy

A member of the communications team should be invited to the meeting or briefed by the chair to lead the partner agencies strategy for both internal and external communications relating to the ECP, including senior management, the establishment, frontline staff, press, elected members, placing authorities/

11.4 Out of Area Commissioners

Where placements are commissioned by another commissioning organisation, for example - another Local Authority, they must be formally notified of, and involved throughout, the ECP. While LBC retains the lead safeguarding role for all safeguarding concerns, the responsible commissioning bodies retain a duty of care towards the service user(s) and should be expected to fulfil this role in co-operation with the ECP. The placing authority is responsible for providing support to the adult at risk and should nominate a link person for liaison during the investigation. They will also consider whether to review any other placements that they have funded within the service. The placing authority must satisfy themselves that:

- They have an agreed method of contributing to safeguarding meetings (both ECP and individual cases as required)
- The continued placement is safe, is meeting the needs of the individual/s and is in their best interest
- The views and wishes of the adult at risk are central to any safeguarding
- The relatives or advocates of the individual/s have been kept informed of the investigation

11.5 The initial strategy meeting

An ECP strategy meeting will be called as soon as possible by the ECP chair. The purpose of the initial ECP panel meeting is to:

- Clarify roles and responsibilities – including confidentiality and information sharing arrangements
- Declaration of any conflicts of interest
- Consider the known views of the establishment
- Agree how to involve the establishment
- Agree how to involve adults, their families and carers
- Ensure access to appropriate advocacy and support
- Identify and consider the requirements of any adults who are subject to a Lasting Power of Attorney, deputyship or appointee-ship or are deprived of their liberty.
- Agree the communication strategy
- Agree the risk assessment and management plan
- Set a date of the ECP panel outcomes meeting – taking account of police advice if there is an on-going criminal investigation.

Timescale: The first ECP panel meeting should be completed within 5 working days.

11.6 Involving the establishment

Service Provider involvement is essential to ECP procedures. It enables steps to be taken for the immediate protection of people in the service and for the development and implementation of protection plans for individuals and improvement plans for the service. However, it may be necessary to hold an initial ECP meeting without the Provider present, for example if:

- There is possible complicity by the service's staff and managers in the issues under investigation
- There is a possibility that the Service Provider may tamper with or destroy evidence to protect themselves against allegations made
- Specific advice from the Police or CQC relating to the exercise of their statutory powers.

- Depending on the size of the Service Provider organisation, the nature of the allegations and the circumstances in relation to the investigation/s to be carried out, consideration should be given to involving the following:
- The Manager of the Service (the Registered Manager and Nominated Individual if the service is subject to CQC Registration)
- The Area or Regional Manager, particularly if concerns relate to the conduct of the Service Manager
- The Owner, Company Director or Accountable Officer (the 'Responsible Person' as registered by CQC may be the most appropriate person)

The Provider should:

- Ensure provision of information regarding service users names, the authority funding their placement if they are self-funding, their representative and/or their Next of Kin
- Support/assist in the investigation of any individual safeguarding concerns and actions taken or to be taken as a result. Clear instructions must be given to the Provider regarding timescales of the investigation and realistic outcomes, including their responsibilities in the investigation
- Assist in the investigation of allegations where appropriate/organisational abuse issues and to provide written reports of any findings and recommended actions
- Provide a detailed action plan, including milestones and review dates, setting out how service deficiencies will be mitigated. A single improvement plan should be used where possible to include the requirements of LBC, CCG and CQC.
- Provide appropriate representation at ECP meetings
- Ensure adherence to any agreement made during the ECP process including those relating to suspensions and responsibilities for ensuring that service users, and other stakeholders are kept informed of any organisational safeguarding proceedings taking place.
- Evidence a business continuity plan to assist them in working through any period of investigation. Where there are concerns of market failure, this should include details of the support that the Provider is delivering.
- While appropriate and co-operative behaviour by the service provider is expected, it may not be appropriate to delegate aspects of the ECP to the Service Provider. This will be discussed at the ECP strategy meeting. However, due regard will be given to the service providers own mechanisms such as, disciplinary procedures, and how any intention to deploy these relates to the ECP and quality improvement plan

11.7 Involving adults supported by the establishment

The experiences of people supported by the establishment, and their families/ carers/ advocates, should be central to the ECP. Their views may form critical

evidence for decision-making within ECP, and the desired outcomes they identify should shape the ECP enquiries plan and service improvement plan.

Service users supported by the establishment and, where appropriate, their family members/ carers/ advocates will have been/ will be invited to attend relevant meetings related to the section 42 enquiry on their individual case. ECP meetings are not attended by service users or their families.

Instead, the initial ECP panel meeting should agree, and set out in the ECP enquiries plan and communications strategy as appropriate, how to make service users and their families/ friends/ carers aware of the concerns and obtain their views and experiences in order to ensure they are safe and as evidence for the ECP. This could be done, for example, by: individual meetings; homes visits; use of existing group meetings for service users and families; surveys; or a dedicated telephone line for raising concerns etc.

Speaking out is not easy for people who rely on care and support services, and therefore encouragement and support should be provided to enable people to raise complaints, concerns and queries. Where individuals may have substantial difficulty in participating and giving their views, the ECP chair should ensure that appropriate advocacy is arranged for them in line with statutory duties set out in the Care Act 2014 and Mental Capacity Act 2005.

12. ECP enquiries and ECP panel outcomes meeting

The ECP enquiries should be undertaken by named leads and according to the timescale set out by the initial ECP panel

The data and information gathered through the enquiries should be brought back to the ECP panel in report format, including any findings reports (without person identifiable information) from individual section 42 enquiries and/ or SI investigations etc. that have concluded since the initial ECP panel meeting.

The reports will form the basis of discussion at the ECP panel outcomes meeting, the purpose of which is to consider and agree:

- The findings from all the ECP enquiries.
- Whether there are trends, patterns or evidence that indicates the establishment concerns are valid.
- The probability, level and impact of risk to the safety of people who receive care from the establishment, and update the risk assessment and management plan.
- Whether it is safe for all/ specific adults to continue to be supported by the establishment.
- Options for further action that could be taken to safeguard the adults at risk (including placement suspensions, relocation of residents, decommissioning of the service, and the risks associated with those actions).

- Any measures to be proposed as part of a quality improvement plan to minimise the risks of future abuse or neglect to other adults at risk within the establishment.
- The approach to monitoring and a quality assurance strategy to confirm that sustainable change has been achieved and risk is satisfactorily reduced.
- Triggers that would warrant re-escalating the risk.

The chair will ensure an agenda and supporting papers for the ECP panel outcomes meeting is sent in advance and make arrangements for appropriate attendance.

Decisions about how to proceed further will be agreed and the Chair will ensure they are recorded in the minutes and stored on Mosaic.

13. Quality improvement plan

This is a service level improvement plan to address the concerns and risks identified through the ECP; to secure sustained service improvement in the establishment; and to ensure the safety and well-being of adults receiving care and support. The plan must clearly set out the issues, actions to be taken (risk assessed for priority), action owners, timescales and expected outcomes/ measures of success. Overall ownership of the plan lies with the establishment but must be agreed and monitored by the ECP panel

The quality improvement plan will be the agreed reference point for assessing and monitoring progress, including quality assurance activities, the timescales for which must be agreed with the establishment.

Timescale: the conducting of ECP enquiries and convening of the ECP panel outcomes meeting will be according to timescales set in the ECP enquiries plan by the initial ECP panel meeting.

14. Monitoring and Escalation

The establishment, with the support of commissioners, procurement and regulators as appropriate, will implement the agreed service improvement plan with reviewing arrangements agreed by the ECP panel.

Monitoring will continue at appropriate time intervals until all actions are completed and the ECP panel is assured that:

- There are no further concerns.
- The establishment has implemented a sustainable change.
- Improvements are embedded in practice.
- On-gong risk is been satisfactorily managed.

It is the responsibility of multi-agency section 42 enquiries to monitor and review the implementation of any individual safeguarding plans put in place for adults supported by the establishment.

The ECP chair may arrange further ECP panel meetings to update stakeholders if and when necessary.

If there are serious delays by the establishment to implement the service improvement plan, a further meeting should always be held to consider the level of risk and appropriate action. If there is cause for further concern focus should be on the risk assessment.

In the event that the establishment advises of possible service failure or interruptions, and/ or there is high risk and likely need to source alternative provision, the local authority will initiate its Provider Failure Policy and Procedure to manage this working in partnership with the ECP.

Timescale: the scheduling of further ECP panel meetings will depend on the establishment's progress with the service improvement plan and the level of risk.

15. De-escalation and Conclusion

15.1 De-escalation and final ECP panel meeting

Following evidence-based improvement in the establishment's services, identified through the quality assurance process, the ECP will formally conclude.

The chair will arrange for a final ECP panel meeting, with the purpose of:

- Receiving the findings of the quality assurance strategy.
- Confirming that the service improvement plan has either been completed with sustainable change, or is making satisfactory progress and ongoing monitoring arrangements agreed for any outstanding actions that do not require ECP panel oversight.
- Reviewing and updating the risk assessment and management plan, to show that the probability, level and impact of risk to the safety of people who receive care from the establishment have been sustainably reduced.
- Reaching consensus that the ECP has achieved its stated aims/ outcomes.
- Ensuring clarity across all partners on the circumstances and conditions that would trigger ECP being re-commenced, and gaining assurance that people know how to raise any further concerns.
- Completing a reflection exercise and report

The ECP chair will formally notify in writing all relevant parties of the conclusion of the ECP, including the director and/ or assistant director, the establishment and the CQC where appropriate

16. Learning and continuous improvement

A review of each ECP should be held with stakeholders and representatives from across the establishment, services and agencies involved.

Actions agreed as a result of the learning exercise should be part of an action plan overseen by the Q&P subcommittee of the CSAPB. Recommendations will be

shared via, improve the safeguarding adults function and practice, and raise awareness with other staff members in order to improve quality and safety for people who use services.

Timescale: the Quality and Performance sub-group meets quarterly and therefore the presentation of the outcomes report and cascading of learning should happen within three months of the report being agreed.

17. Information Sharing and Record Keeping

All aspects of the ECP will comply with GDPR (<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/>) and information shared within usual safeguarding adults principles.

18. Storage of ECP Documentation

It is the responsibility of the Local Authority to retain safe storage of information relating to the ECP. The ECP chair will notify the lead commissioner with the Local Authority who is responsible for the service involved. The lead commissioner will be responsible for setting up a shared file within the Local Authorities network to ensure all documents relating to the ECP are uploaded and maintained with clear version control.

This will also enable Camden to maintain a record of all ECP investigations for future profiling, background information and monitoring. The documentation will be treated as confidential and shared only with permission from the Chair.

Records of individual adult(s) at risk must be kept up to date during an ECP investigation, for example, if they are subject to a section 42 enquiry safeguarding plan, require reassessment of needs, move elsewhere or any decision processes made under the Mental Capacity Act framework. The outcome of the ECP enquiry must also be recorded on any open safeguarding referral connected with the ECP concern.

Appendix 1

Organisational or institutional abuse

Types of organisational or institutional abuse

- Discouraging visits or the involvement of relatives or friends
- Run-down or overcrowded establishment
- Authoritarian management or rigid regimes
- Lack of leadership and supervision
- Insufficient staff or high turnover resulting in poor quality care
- Abusive and disrespectful attitudes towards people using the service
- Inappropriate use of restraints

- Lack of respect for dignity and privacy
- Failure to manage residents with abusive behaviour
- Not providing adequate food and drink, or assistance with eating
- Not offering choice or promoting independence
- Misuse of medication
- Failure to provide care with dentures, spectacles or hearing aids
- Not taking account of individuals' cultural, religious or ethnic needs
- Failure to respond to abuse appropriately
- Interference with personal correspondence or communication
- Failure to respond to complaints

Possible indicators of organisational or institutional abuse

- Lack of flexibility and choice for people using the service
- Inadequate staffing levels
- People being hungry or dehydrated
- Poor standards of care
- Lack of personal clothing and possessions and communal use of personal items
- Lack of adequate procedures
- Poor record-keeping and missing documents
- Absence of visitors
- Few social, recreational and educational activities
- Public discussion of personal matters
- Unnecessary exposure during bathing or using the toilet
- Absence of individual care plans
- Lack of management overview and support

<https://www.scie.org.uk/publications/ataglance/69-adults-safeguarding-types-and-indicators-of-abuse.asp>