

# **Market Oversight of ‘difficult-to-replace’ providers of adult social care**

## **– a quick guide**

### **What is Market Oversight?**

Market Oversight aims to protect people using adult social care services from having their care interrupted where a large or specialist care provider is at risk of financial failure and has to close one or more of its services. Where we assess that this is likely we will notify the relevant local authorities where the affected service(s) deliver care so they can draw up specific contingency plans to preserve continuity of care. Local authorities have a legal duty to ensure people continue to have their care needs met if a provider stops being able to do so.

### **Why is this being introduced now?**

In 2011, the largest national care provider, Southern Cross, faced severe financial difficulties which put thousands of people across the UK at risk of losing their care service: the actions of local authorities, other providers and other stakeholders such as the Department of Health and Southern Cross’s own landlords prevented this happening but it did cause significant concerns for residents of Southern Cross’ homes and their families at the time. This led the Government to establish a new system in England to better predict a similar situation happening in the future. The Market Oversight scheme (‘the scheme’) at the Care Quality Commission (CQC) is the result.

### **Why has CQC been given the responsibility for Market Oversight?**

Quality of care and the financial performance of a care organisation are closely linked. If one starts to deteriorate, the other can quickly suffer too. We have a national role in overseeing the quality of adult social care services and collecting information and intelligence about them. It therefore made sense for us to be given the responsibility for Market Oversight.

### **When does Market Oversight start?**

Market Oversight comes into effect from 6 April 2015.

## **Which care providers are included in Market Oversight?**

The scheme includes only those providers who are large in size, regional presence or specialism. If any of these providers were to fail and their services closed, they would be very difficult to replace at local, regional or national level. Failure would present significant challenges for local authorities in affected areas to ensure that people continued to receive a care service that meets their needs. Providers are not in the scheme because we think they are more likely to fail – it is only that they would be difficult to replace.

## **How is large scale or size defined?**

Legislation sets out criteria to identify providers who are large in size locally, regionally or nationally. Different criteria apply to both residential and non-residential adult social care services.

### **Residential Care criteria**

For a residential care provider, the provider must have bed capacity:

- (a) of at least 2,000 anywhere in England (ie. significant size of provider); or
- (b) between a total of 1,000 and less than 2,000 with at least 1 bed in 16 or more local authority areas (ie. significant scale regionally or nationally); or
- (c) between a total of 1,000 and less than 2,000 and where capacity in at least 3 local authority areas is more than 10 per cent of the total capacity in each of these areas (ie. significant scale in a local or geographic area).

### **Non-Residential Care criteria**

For non-residential care, such as domiciliary care, the provider must:

- (a) provide at least 30,000 hours of care in a week anywhere in England (ie. significant in size); or
- (b) provide at least 2,000 people with care in a week anywhere in England (significant in scale); or
- (c) provide at least 800 people with care in a week anywhere in England **and** the number of hours of care divided by the number of people provided care must be more than 30.

### **Why are smaller providers not included?**

If small providers have to stop providing care, local authorities have shown that they manage the impact well at a local level. Where providers are so dominant in the market (in size, regional presence or specialism), it would prove difficult for individual local authorities to manage the impact of any failure, which is the reason for the Market Oversight scheme only including larger providers.

### **How are specialist providers identified?**

Where providers are specialist, a panel established by the Department of Health will make recommendations to the Secretary of State for Health.

### **Are any providers excluded from the scheme?**

Yes. Local authorities are not included in the scheme even if they provide care services, because different arrangements apply to monitoring their finances. This avoids duplication.

### **How many providers do you expect the scheme to include?**

We expect there to be about 40 corporate providers of residential care and home care to be in the scheme, including private providers and charities. The corporate providers in the scheme will control around 400 registered providers operating from over 4,000 locations.

We do not yet know how many specialist providers will enter the Market Oversight scheme.

### **Does inclusion in the scheme mean a provider is at risk of failing?**

No. Entry to the scheme means that the provider is of such a large size, scale or so specialist that **IF** they failed, they would be difficult to replace. It does not mean that the provider is at risk of failing.

### **Should I be concerned if my care provider enters the scheme?**

No. By itself, a provider entering the scheme is not a cause for concern, it simply means the provider has a significant presence in the care market or provides specialist services that would be difficult to replace if the provider failed.

### **How long are providers included in the scheme?**

The scheme applies to providers for as long as they satisfy the entry criteria. After entering the scheme, however, a provider must remain in it for a minimum of 12 months. This means we can continue to monitor providers who meet the criteria irregularly (for example, some home care providers may provide different hours of

care from week to week and may rise above or fall below entry criteria). Continuous monitoring makes it easier to monitor sustainability and identify risks.

### **How does Market Oversight work?**

The scheme works by CQC collecting and monitoring information about a provider's finances and quality of care. We use this to assess the level of risk to the provider's financial sustainability. We already look at the quality of care of all providers but combining this with financial monitoring is new.

We have designed a model working with providers and other stakeholders which shows the actions we will take if risks increase. This covers risk from very low to significant levels to where we assess that business failure is likely.

### **What does the Market Oversight model look like?**

The model is made up of 6 stages:

#### **Stage 1 – Entry to the Scheme**

The provider has satisfied the entry criteria.

#### **Stage 2 – Regular Monitoring**

We start to collect information about the provider's business context and financial information, such as quarterly information. We will do this on a routine basis where risks remain low.

#### **Stage 3 – Further Risk Analysis**

We conduct further analysis to explore in more depth issues we have found and to check whether risks may be increasing and what the provider plans to do about this.

#### **Stage 4 – Provider Engagement on Risk**

We will seek more information about the future business strategy and plans for development of the business in a sustainable way.

#### **Stage 5 – Regulatory Action & Engagement**

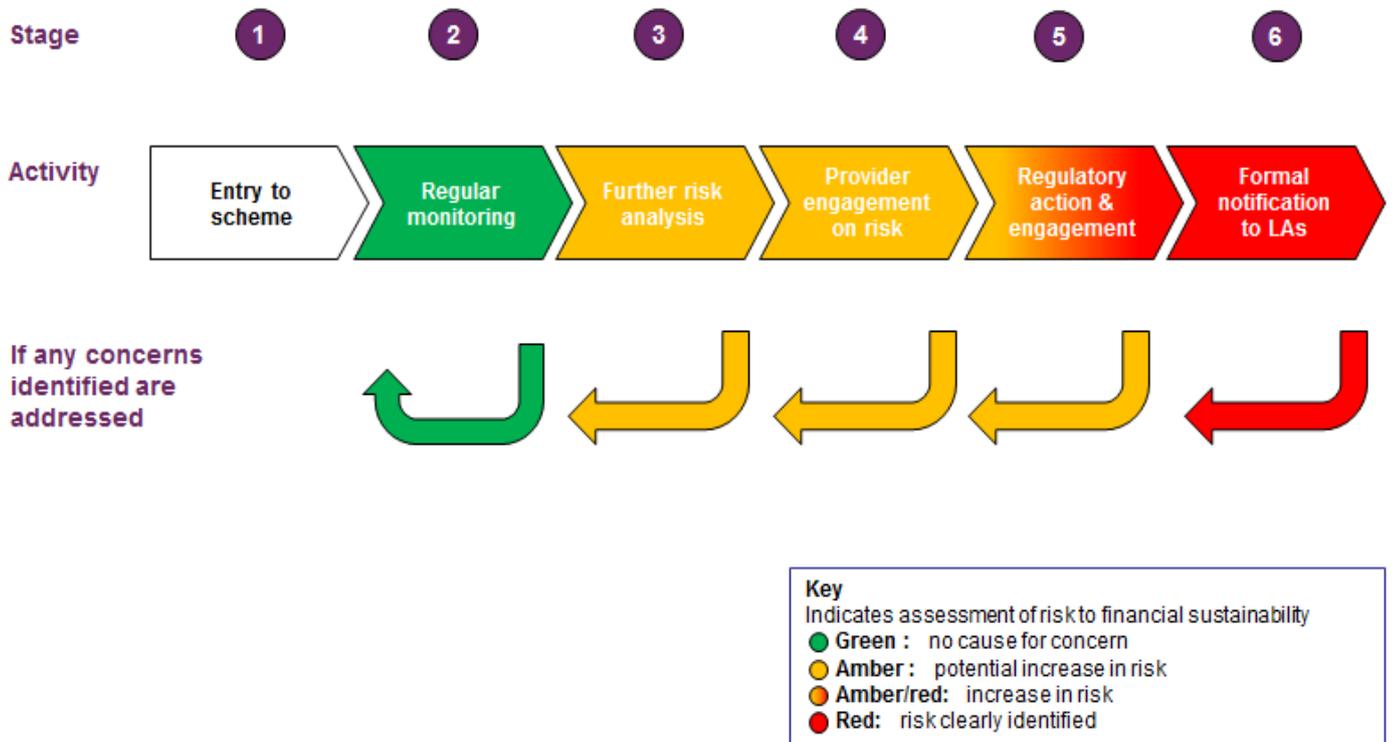
Where we believe risks have increased significantly, we will use a broader range of tools and methods to get more information about a provider's intentions and ability to reduce risk. We will increase our engagement with the provider. We will also speak with other stakeholders, such as landlords or lenders, in the business to understand their intentions and how or whether they plan to continue to support the business in the future.

#### **Stage 6 – Formal Notification to local authorities**

This is the final stage. It indicates the highest level of risk. This is where we consider that business failure is likely and that the provider is unlikely to be able to continue to provide one or more services. We will notify local authorities in the

areas likely to be affected so that they can draw up specific contingency plans to support people using those care services which might be affected and to help ensure that they continue to receive care.

### Market Oversight model



### Does *likely* failure mean that failure will always happen?

No. There may be times when a provider which we assess is likely to fail is able to recover and does not need to close services.

### Why do you notify local authorities?

Local authorities have a legal duty to step in where care providers fail and risk leaving people without a care service. For the most difficult-to-replace providers, the Market Oversight scheme aims to help local authorities know in good time where any risk of failure is likely to occur and have an impact on people using services.

### Will Market Oversight prevent businesses from failing?

The scheme has not been created to prevent business failure, only to identify where risk of failure is likely. CQC cannot rescue a provider which is failing – that is not our function and we are not resourced to do this. The scheme will allow the right people to take the right action to ensure people who use services continue to have their care needs met.

**When will people using services and their families and carers know if their care is at risk?**

We will not be providing a running commentary on the financial health of providers who are in the scheme – this is not the purpose of the scheme. We will however publish a list of who is in the scheme.

The effect on people using services will be at the heart of our decision to let people know that we have notified local authorities of a provider’s likely failure. When we notify local authorities we will make a decision on whether and when to notify others.