

CQC Responses to emailed questions received following Stage 6 notification up to 8th November 2018

Comms

Does CQC have any updates on internal comms of Allied and if so can this be shared with Local Authorities?

We have chased for this information, and also a central point of contact for Local Authorities. We have yet to receive a response from Allied.

Are Local Authorities free to share the S.56 information with other providers?

Local Authorities should be mindful of taking action which may worsen the financial position of Allied or cause its failure. The letter was written with a Local Authority audience in mind we would ask that it is not more widely shared. Local Authorities are also free to engage with each other regarding the notification. Public information regarding the issue of a Stage 6 notification such as the CQC press release can be shared more widely.

Who should Local Authorities be speaking to at Allied? Are there named contacts or is it the usual branch contacts?

Until Allied advise of a central point of contact for Local Authorities, please use your usual business contact details.

How have comms been cascaded outside of Local Authorities (ie. NHS England/CCGs)?

DHSC, ADASS, LGA & NHS England Emergency Planning have all been briefed. NHS England have in turn cascaded this to CCGs via NHS England Regional directors. DHSC has advised NHS England, ADASS and the LGA.

Why did CQC issue a press release regarding the notification and could this increase the risk of business failure (which Local Authorities were told to be mindful of avoiding)?

As a regulatory body, CQC needs to be transparent regarding any regulatory action that it is taking as well as trying to ensure that there is one version of the truth.

S.56 notice

What would be the effect of a retraction of the S.56 notice?

Can't speculate on the effect. We would write to Local Authorities explaining that in possession of information that addresses our concerns, that business failure/cessation of care no longer considered likely.

The company remains in the MO scheme and we continue to regularly assess risk as we do with any other provider.

Is there an escalation from CQC beyond the S.56 notice?

There is no route for further CQC escalation beyond a Section 56 or "Stage 6" notification. Stage 6 represents the highest level risk indicator in the MO Scheme. CQC will make no further notifications in respect of the likelihood of business failure/cessation of care unless the current notification is withdrawn in response to us being provided with new information. CQCs ongoing role now is to provide updates on the situation only.

Will CQC be making any further S.56 notices in relation to Allied?

Not unless the current notification is retracted and a new notification then becomes necessary.

Is there a set notification window for the S.56 notice to Local Authorities?

No, however we use our best endeavours to provide Local Authorities with as long a window as practically possible in order for them to prepare to implement contingency plans. We can only make a Stage 6 notification when we are satisfied that there is likely to be service cessation as a result of likely business failure.

Business Failure

Is Government able to directly intervene to rescue Allied if necessary?

This is a question for DHSC.

CQC has no responsibility or regulatory power to intervene to prevent the failure of an individual corporate provider that is subject to CQC's financial monitoring and assessment.

If Allied did enter Administration what accountability to CQC would the Administrators have for continued delivery of safe services unless and until offers from alternative providers enable safe transfer?

An Administrator's priority is to maximise the realisation for creditors. The way to achieve this is to ensure high quality care. CQC would continue to track Allied's quality and respond to any intelligence suggesting an emerging quality risk.

Is CQC involved in any national plan for the transfer of services and employees between Allied and replacement providers?

No. CQC's responsibility is to issue the Stage 6 notification to assist Local Authorities to implement contingency plans. Business failure is not inevitable and CQC has no responsibility or regulatory power to plan for the transfer of services should that ever be needed.

Why does the message from Allied regarding funding differ to that relayed by the CQC?

The CQC has based its assessment on *confirmed* funding and not on conditional offers which are uncertain to materialise, and which if they did not would leave little or no time to provide advance warning of likely failure to Local Authorities. CQC set multiple deadlines for this to be achieved prior to issuing the Stage 6 notification.

Contracts

Are all contracts with Allied Healthcare covered by this notification and affected by the same cessation of care risks (private pay, local authority, provider subcontracted)?

The Market Oversight Scheme only applies to the regulated activities of 'residential care' and 'personal care'. The Stage 6 notification made in respect of Allied Healthcare relates solely to the regulated activity of 'personal care'. Any other business or activities which Allied Healthcare undertakes are not covered by this notification, however CQC has not had sight of information which demonstrates Allied's other business activities (i.e. other than the regulated activity of personal care) would *not* be impacted by potential business failure. Having said this we must stress that if any

Local Authority has concerns about other parts of the Allied business or any non-regulated activities which they may undertake then we would stress that you should independently carry out your own enquiries/due diligence, before making any decisions in relation to those other activities.

What we can say is that s.48 of the Care Act 2014, does make clear that Local Authorities have a duty to step in and ensure continuity of care in the event of business failure and that duty extends to people using services who are privately funded as well.

Based on the information provided to us by Allied we have not been able to target our notification to specific regions, branches or contracts.

Are there any other home care providers currently at significant risk of failure, and are you able to advise Local Authorities to avoid further future disruption?

CQC is unable to comment on the financial health of providers captured by the Market Oversight scheme prior to making a Stage 6 notification for reasons of commercial sensitivity and confidentiality. Market Oversight continues to analyse the quarterly returns of all providers in the scheme and should the criteria for us to make further Stage 6 notifications be met then we will issue those as required.

Questions during the telephone conference 8th November 2018

Can CQC assist in the provision of lists of affected people using services?

CQC confirmed this is part of ongoing discussions with Allied. Allied management had stressed delays in providing lists to Local Authorities were due to resourcing. CQC will look to agree a reasonable turnaround time for information requests and will cascade this to Local Authorities through ADASS.

How will Local Authorities be informed of significant changes outside the scheduled conference calls?

CQC confirmed that subject to agreement with ADASS and LGA, any significant changes would either be cascaded in writing directly, or details of a short notice conference call would be distributed through the ADASS/LGA networks.

Is there any broader analysis being undertaken to understand the impact of the failure of Allied?

CQC confirmed this is a question for DHSC [to be followed up].

Can Local Authorities rely on the assertion of Allied that there is definitely going to be continuity of care?

CQC confirmed its opinion on likely cessation of care as a result of likely business failure has not changed.

Given the current confirmed funding of 30 November, at what stage should Local Authorities move from preparing to implementing contingency plans?

CQC confirmed there will be no further instructions from CQC following the Stage 6 notification. Business failure is still not inevitable, and Local Authorities need to reach conclusions at a local level based on their own timelines (taking into account their individual communications with and their own independent assessment of the position in their area) to reflect what is best for people using services.

Local Authorities should remain aware of precipitating business failure. It may be helpful to Local Authorities to coordinate in respect of timelines to minimise overall market disruption. DHSC would be expected to take the lead on this.

CQC also request that Local Authorities inform Allied directly of the intention to withdraw contracts if this becomes necessary.

Would business failure likely occur in the form of an Administration process?

CQC noted that Administration is not an automatic option due to the complexity of the Home Care market, with people using services spread out across broad locations usually within their own homes. The most likely outcome would be a sales and contract novations broken down into branches or regions. It is likely that there would be some unprofitable contracts that will not be sold and will require short notice recommissioning. One challenge for CQC has been the lack of a profitability analysis of Allied's contracts allowing further understanding of where this is likely to happen. CQC continues to request this information from Allied, along with confirmation that contingency plans are being prepared and the nature of these contingency plans.

What was the rationale behind making the CQC press release so shortly after the notification to Local Authorities? Would consideration be given to a 24 to 48 hr window in future?

CQC confirmed that the communications timeline had not been discussed internally at present. CQC also confirmed that this request will be fed back for consideration when developing communications protocols for the future.

Is CQC able to influence other providers to discourage them from poaching staff from Allied?

CQC confirmed it had engaged with the trade association UKHCA to encourage this message. However CQC has no regulatory powers in this area, and experience is that where a regulator attempts to enforce outside its powers this can have an adverse effect overall.

Which Local Authority is responsible for self-funders – the Local Authority where the branch is located or the Local Authority where the services are delivered?

It's the local authority in whose jurisdiction the individual service user resides (for personal care).

Is CQC able to share the contingency plans developed prior to the CVA being approved with Local Authorities?

CQC confirmed the contingency planning document was prepared by a third party and therefore could not be shared. In any case, the contingency plans were not sufficiently advanced to be meaningful. CQC would reiterate that it continues to request confirmation from Allied, that contingency plans are being prepared and clarification on the nature of any such contingency plans.

What is the worst case scenario at 30 November?

CQC expects that if funding is withdrawn immediately with no replacement, the situation would unfold rapidly due to the payment of weekly wages expected. The incumbent lender could continue funding for a short time to allow a managed exit.

Has there been any indication as to the impact of the press release on Allied's staffing levels?

CQC confirmed staffing movements continue to be tracked on a weekly basis, however the latest data does not capture developments following the press release. Allied management has assured CQC that to date recruitment has not been impacted.

Have the equivalent Welsh and Scottish regulators been informed of the Stage 6 notification?

CQC confirmed both Welsh and Scottish regulators were made aware. CQC would reach out to both to request cascade of the information to Welsh and Scottish Local Authorities.