HOUSES OF PARLIAMENT

Joint Committee on Human Rights

Oral evidence: The Government's response to Covid-19: human rights implications of long lockdown, HC 1004

Wednesday 21 April 2021

Watch the meeting

Members present: Ms Harriet Harman (Chair); Lord Brabazon of Tara; Lord Dubs; Lord Henley; Baroness Ludford; Baroness Massey of Darwen; Dean Russell; Lord Singh.

Questions 65-77

Witnesses

II: Helen Whately MP, Minister of State (Minister for Care), Department of Health and Social Care; Dr Éamonn O'Moore, SRO Adult Social Care C-19 Response, Public Health England.

Examination of Witnesses

Helen Whately and Dr Éamonn O'Moore.

Chair: Can I now turn to our second panel, which includes the Minister Helen Whately? Thank you very much indeed, Helen, for joining us. You have brought with you Dr Éamonn O'Moore, who is responsible for adult social care Covid-19 response in Public Health England.

Q65 **Lord Singh of Wimbledon:** Do the Government believe that they have got the balance right during the pandemic between protecting the lives of residents from the risks of Covid-19 and respecting the rights to private and family life?

Helen Whately: Thank you very much, Lord Singh. Could I say that I welcome this inquiry and this hearing as well? It is really important to talk about this aspect of the impact of the pandemic on people who receive social care and those living in care homes. The Government recognise, and I am sure all of those involved in this hearing recognise, that visiting is really important for those living in care homes, and for their relatives or those who are close to them who usually visit. It can make life worth living for somebody who lives in a care home. A husband may visit a wife who lives in a care home, or vice versa, every day or every week. Visiting can be very frequent. Sadly, for some residents in care homes, it is not so frequent. But it is really important.

It has been very hard to maintain a great deal of visiting during the pandemic because of the great risk of Covid to those who live in care homes. Very sadly, we have seen over 30,000 people who live in care homes die from Covid. Covid has been a huge danger to those living in care homes. Our visiting guidance throughout the pandemic has drawn on the clinical advice. I asked for Dr O'Moore to join me this afternoon because he would be helpful in providing some greater insight into that clinical advice on how we need to try to protect residents in care homes from the risks of Covid.

The problem is that every person coming into a care home when you have the prevalence of the virus introduces some level of risk. The question is: how can you best reduce those risks? The approach to the guidance in our approach to visiting has been trying to reduce risks during the pandemic, while recognising that visiting in its own right is a really important thing to the health and well-being of residents and their families. It has tried to achieve that balance there.

In fact, we have changed our guidance as the risks have changed. In July last year, when we had much lower rates of infection, we published guidance to encourage care homes to allow visiting to restart. In the autumn and winter of last year, when we went down into more restrictive measures, we published guidance to try to maintain some level of visiting, albeit restricted. That is why we have been introducing the guidance to support more visiting in the last few weeks when we have the combination of much lower rates of infection and vaccination and the availability of tests allowing us to reduce the risks of Covid being brought into the care home.

To the question, we had thought to achieve exactly that balance. I would not suggest that it is an easy balance to strike, but that is what we have been trying to do.

Q66 **Lord Singh of Wimbledon:** Thank you, Helen. You have rightly emphasised the importance of visiting to the people in care homes. Why does it seem to be okay for agency staff to go in and out of care homes, although they perform a vital function, but not a family member who also performs a vital care function given the risk from family members may be comparatively low?

Helen Whately: The guidance that we have been followed, and which I have received from my public health colleagues such as Dr O'Moore and Jenny Harries, the deputy chief medical officer, on this has been the importance of trying to reduce the risk of introducing Covid into a care home. With each additional person who comes into a care home, there is a risk that they may bring Covid in. In fact, we have seen from the recent introduction of testing of visitors that some people who were planning to go into a care home had positive tests, and they have not gone in. If we had not been able to do those tests, there would have been a risk that would have led to those in the care home getting Covid.

We have sought to reduce the numbers of people going into the care home. Of course, some people have to go into the care home. Your care staff have to go into the care home. Someone is living in a care home because they need a substantial level of personal care, so you have to enable your staff to be there. That is where, during the pandemic, we introduced the use of PPE for staff. We have distributed huge amounts of PPE for free to care homes to support that. We have introduced regular testing for staff and training for staff in their use of PPE to reduce the risk of staff giving residents Covid.

More recently, we have been able to introduce testing for visitors to allow more visitors to go in. As the greater availability of tests has come on stream, we have been able to do that.

Lord Singh of Wimbledon: Thank you. That is very helpful.

Q67 **Lord Henley:** Could I just start by declaring an interest in that my mother is in a care home and has been for some time? Obviously, I have not been able to visit for the whole of this last year, but one of my sisters has. Obviously, it is not the same as visits before this started. You spoke earlier on about just what makes life worth living while you are in a home like this. What would you say to those residents and their relatives who argue that, for those in their final stages of life, the quality of life is more important than the quantity?

Helen Whately: I have spoken during the pandemic to residents in care homes and family members through virtual visits rather than in person. I also know people in care homes myself. That is why I absolutely understand the importance of a visit and how difficult it has been with the restricted visiting over the last year.

I would say two things. I, too, recognise the limited time left. One thing is that, throughout the pandemic, we have always said that visits towards the end of life should absolutely be supported, recognising the importance of that particularly for the family members who visit their loved one. We have also developed that guidance. When I heard reports that that was being interpreted as in the final hours, we made a more substantial definition of end of life to make it absolutely clear that that should not be interpreted as the last few hours. That should be in not only the weeks, but the months, leading up to what could be the end of somebody's life to try to make sure that people would have the chance to spend that time together.

For those who are not in that situation but who may have been living in a care home for not very long that there is the problem of balance. You may have one individual resident who says, "I don't mind if I get Covid. I just want to see my family". You can completely understand that, but what do you do about the residents in the next room who might have a very different approach? They might say, "I really don't want to get Covid. I know I can get through the pandemic and then I'll be able to see my family again".

Similarly, the family members of residents have had very different views. Some family members have really welcomed the opening up of visits. Others have wanted us almost to be more cautious. For instance, now some are still choosing not to have physical-contact visits but are choosing to continue to visit through pods. They would rather take a more cautious approach.

You have different views as to what people want. The responsibility for the care home as well is to think not only about the individual, but about all the other individuals who could be affected. The problem that we have seen in the pandemic is that it has been very hard to control an outbreak of Covid once it gets into the care home. The resident who says that they do not mind if they get it unfortunately may lead to other residents and staff getting it. This is a very difficult situation in which we need to think about the whole of the care home, all the residents and staff, and therefore try to have visiting done in a way that really does mean that there is a very low risk of visiting introducing Covid.

Q68 **Dean Russell:** Thank you, Minister, for joining us today. The Government issued new guidance on care homes visiting, effective from 8 March 2021, and again earlier this month, effective from 12 April. Can you share what evidence you have that care homes are facilitating more visits as a consequence of the guidance, please? If I may add an additional question to that, have you found any discernible difference between the way the guidance has been implemented in the more expensive care homes and the more publicly funded provision?

Helen Whately: Thank you for the questions. I also heard your question to the CQC about monitoring. As somebody who is keen on data myself, I understand where this is coming from. Since, and even before, the guidance that you refer to, we have introduced ways of understanding the level of visiting going on.

We have two main ways of getting a sense of the situation. One is through the work that the CQC does. You heard from the CQC. We spoke with the CQC some time ago about making sure that it specifically looked at visiting as part of its inspections and had a question that would ask about whether the care homes were following the government guidance.

One route is the CQC. The other is the data collection system that we have established during the pandemic called the capacity tracker, which is filled in by social care providers. It up to them to do it. We strongly encourage it, I should say, and a significant proportion of care providers do fill it in frequently. That gives us a sense of the extent that visiting is going on. For instance, I have been looking at that since the latest guidance has been published and have been seeing a steady increase in the number of care homes that say that they are supporting visiting, including supporting indoor visiting. That is one form of evidence that we have.

Dean Russell: Sorry to interrupt. Following on from my questions

earlier, would you agree that it would make sense to have a very simple measure of the number of visitations for each care home so that there is a macro view of trends generally, whether there is a pandemic or not, and an ability to monitor and track that activity?

Helen Whately: I would also like that, but I am aware of needing to be conscious of the sector that we are talking about here. We have around 15,000 care homes, some of which may have 100 or so residents and administrative staff and IT. They may be well set up to be able to report a substantial amount of data. Other care homes will only have a handful. They might be converted houses with five or six people living in them. Some will not even have a computer. The department is doing a separate piece of work to improve the IT infrastructure and skills of the social care sector.

Another thing that we have heard during the pandemic is quite a lot of resistance on the administrative and reporting requirements which the department has made of care homes. For instance, we are asking care homes that, when their staff are tested, they should upload the test information. When they are testing visitors, they should also upload the result of that visiting testing. That is very time consuming. We are providing funding to support the extra cost of doing that. I give that context because asking for what seems like a straightforward piece of data can involve a substantial amount of work for care providers who are already really stretched. It would mean doing things that took extra time when they were working with PPE and supporting visiting in the very careful way that visiting is happening.

I am trying to be proportionate in what we ask of care homes, but this capacity tracker gives us a certain amount of evidence. We have created a regional assurance team, which is a small team based in the department of individuals who have experience in the social care sector. They are following up. Where it looks like visiting is not happening as you would expect, they are working with local authorities to ask what is going on and why visiting is not happening. So far, I have been hearing back that they are hearing of only small handfuls of care homes that are not supporting visiting. The most usual reason for that at the moment is because there is a current outbreak. Therefore, visiting is not advised except for the end-of-life exception.

Dean Russell: Thank you. May I just come back to the question about whether there is a discernible difference between the more expensive versus the publicly funded provision if you have that information?

Helen Whately: Yes. My apologies for not picking that up. I have not seen anything to suggest that. It is clear that there are some slightly different approaches. Some care providers have invested more in visiting pods and set-ups like that and have been keener to continue using those until their residents have had their second dose of the vaccination. I have not seen any evidence that shows me that there is a particular split along the divide that you suggest.

Chair: It was very interesting to hear about your capacity tracker. If we may, perhaps we can ask some more questions after this session to look into the data that you have. I absolutely take the point you make about you having to be careful about the administrative burden you place on this sector, and indeed on your department. Could you not at least do a sample? If I were you, I would think, "We can't do everybody of these 15,000, but let's take a representative sample of a range and ask them". Bearing in mind how absolutely crucial visiting is, it is so important that you have issued guidance on it, but Care England is saying that it is not bothered about this guidance one way or the other and is not taking any notice of it, and the CQC has no data.

If I were you, I would want at least to set up a representative sample and do some quick monitoring of the numbers as Dean has suggested. Have you thought about doing that so that you at least have a sample that will generally tell you what is going on in the sector, albeit not home by home?

Helen Whately: Yes. Let me set out the three ways in which we are taking of looking at this. First, as I mentioned, the approach in the regional assurance team is working with local authorities to get into what is going on in each local area. That way, a small team can fan out and work with the networks and contacts at local authorities, which in turn have relationships with care homes. That is one way of us reaching down to a very large number of care homes. That is happening at the moment.

The second approach is through the CQC, which in effect is talking to a sample. It is doing several hundred inspections each month. As it does that, it is assessing infection prevention control particularly, but now also visiting. Therefore, that is effectively a sample.

The other thing we are looking at doing as a next step is using our testing team, which has an outbound calling capacity, to contact care homes about the level of tests that they are using for visitors. It will understand what is going on with those that seem to have a much lower level of tests. Is it that they are just not registering the tests? Is it that they are not using tests and not doing so much

visiting for some reason? I hope we will be able to move onto that as that team becomes available to do that particular line of work.

Q69 **Baroness Ludford:** Minister, our Chair mentioned just now the evidence we had last week from the chief executive of Care England. You said in your last answer that you were only aware of a very small number of homes that were not allowing visits, but we were concerned when the chief executive of Care England described the 12 April guidance as a framework to aspire to rather than something that it should be expected to implement. He suggested that it was up to individual care homes to decide when it was safe to allow visiting.

What do you think is the status of the Government's guidance? Is it merely advice? Do you, as the chair of the CQC did earlier, agree with our Chair that it was guidance with a capital G that they were expected to comply with?

Helen Whately: I take the latter position, which is that it is very carefully thought-through guidance on what is safe and balances the importance of visiting with protecting residents in care homes from the risk of Covid. Therefore, I would expect care homes to follow that guidance. I recognise that some relatives of residents, for instance, may choose to wait until their relative has had their second dose of the vaccine and a few weeks after that to build up immunity before they, for instance, do an indoor visit, but that should be the resident and the relative's choice. I would expect care homes to follow the guidance as set out and give residents and their relatives the opportunity to visit in line with that.

Q70 **Baroness Ludford:** It is obviously up to the resident and family, but we were concerned that families who did want to have visits were not able to. I wondered whether you might agree that this situation shows that the Government should now support this committee's proposal to make visiting rights subject to an individualised risk assessment a legal requirement. In your letter to this committee of 22 February, you said that, rather than putting the guidance into law, "We have been pursuing non-legislative routes where visiting is much more restricted than our guidance". Can you tell us how effective those non-legislative routes have been?

Helen Whately: Yes. On the first point, it is really important that the individual risk assessments are carried out and an individual approach is taken by looking at an individual's needs while recognising that they are having to think about the whole population that they look after.

To the question about the effectiveness and implementation, our latest iteration of the guidance took effect as of 12 April. That is less than 10 days ago. I am looking and we are following closely through the information channels that I have described to understand the extent to which that is being implemented and follow up where it looks like it is not. We are working with the CQC and another panel to identify where there might be a gap between the guidance and what is happening in practice and to use those methods to make sure that it does get put into practice.

I would absolutely keep an open mind on this. If we do not see visiting continue to open up in line with the current guidance, and, I hope, as we can encourage greater flexibility in future stages of the road map to open up further, we should continue to keep an open mind about the best way to make sure that people get to visit as they should.

Q71 **Baroness Ludford:** Thank you very much, Minister. I have a last supplementary, which may be best directed towards Dr O'Moore. We heard last week that in some cases care home providers were getting advice from local public health directors that differed from the national guidance, which seemed to us a rather difficult situation. Could you tell us which of the national guidance and the advice from the local public health director should take precedence?

Chair: The national guidance said to start doing risk assessments to allow visiting to continue. Care homes said that they were being told by their local public health directors that it was too early, and they could not do the visits.

Dr Éamonn O'Moore: Thank you very much. Thank you for inviting me. This issue is really important to get right. We have clearly recognised that, from the national position, what we are attempting to do in advising on guidance for policy makers and the wider public system is to give people the best evidence-based and expert advice to guide decision making. We have long recognised that there is a very important role for the local public health system. Local directors of public health know their place very well and are very well integrated. It is a very important partnership approach.

We have also recognised in the risk assessment process for enabling visiting and other activities the importance of the context of place, the local situation, and the specific circumstances in individual care homes. In the vast majority of cases, in my experience, that work is generally all pushing in the same direction. There is really good partnership work between national and local.

National guidance is also informed by local experiences. In the main, this has been working very well.

I am aware, and your committee has heard, that there will be some places where advice is given that may be less enabling of visiting. If that is done within the risk assessment framework that we have asked people to think about, particularly if there are any concerns about local issues such as outbreaks that might be in particular places and communities, maybe linked to variants of concern and so on, it is reasonable for individual directors of public health and local public health systems to give specific guidance to some places. That would be normal practice. National guidance is often interpreted by local leaders who are implementing it.

I would be concerned if there was evidence that guidance was diverting people away from the intention of national guidance to enable visiting when we believe that the conditions that we have identified to make that as safe as possible have been met. That would be reasonable grounds for challenge. But in the main we have found a high degree of co-operation, a very collaborative approach, and, in the vast majority of circumstances, local systems following the national advice and interpreting the intention of the advice, which is to look at the context and the care home specific issues that might enable visiting or might advise against it at that particular time.

Q72 **Chair:** Thank you. Can I just ask about individualised risk assessments here? Leaving aside the issue where there is an actual Covid infection in a home, whether amongst staff or residents, the guidance is that individualised risk assessments should be undertaken for visiting in relation to residents. While this should prohibit blanket bans, would you agree that other blanket visiting policies would also be contrary to the guidance? They do not allow for an individualised risk assessment.

Therefore, what if a home says, "We're not going to have a blanket ban, but we are going to have a blanket 'It's only once a week', '30 minutes', or 'It can't be indoors,' and that's just a policy that applies to everybody, and therefore not an individualised risk assessment"? What if a home says, "We're going to allow visiting, but our policy is that it's all got to be people speaking behind screens through phones?"

Where are we left in terms of individualised risk assessment if, although you are not doing it, you are saying that the care home should do it? What if they just develop a policy that has the same blanket effect and does not respect the individuals' rights to have their own risk assessed, considering what the Minister has said

about the generality of safety in that home? Shall we ask the Minister? What about blanket policies that come sneaking along to undermine your guidance?

Helen Whately: I would understand that a care home may choose to share with its family members, for instance, "This is the policy that we are following", but I would expect it to make exceptions from a general policy in line with an individual risk assessment that, if some individuals within the home needed something different, that would be appropriate to do.

Chair: They could have a policy as a starting point and an approach within the guidance, then, but they would still have to do an individualised risk assessment within that.

Helen Whately: Yes.

Chair: Yes. Thank you very much indeed. Now we get to a very important point, which will be put to you by Baroness Ludford and is about visits being outside and the 14-day rule. Baroness Ludford, will you explain what is bothering us here?

Q73 **Baroness Ludford:** Yes, Chair. Government guidance requires that a resident making a visit outside the care home, for example to a park or to a café to sit outside, should isolate for 14 days on their return. The guidance acknowledges that this is likely to mean that many residents will not wish to make a visit outside the home. This certainly strikes me as somewhat excessive, given that there is an easing of restrictions in wider society and all residents have been offered the vaccine. Could the Minister tell me whether the Government intend, when they next review the guidance—maybe you could tell us when that is—to look at this aspect?

Helen Whately: Yes. It may be a good idea, Chair, to bring in Dr O'Moore on this, because he and I have had quite a number of conversations about this. I absolutely appreciate how important it is for those who can to be able to leave the care home in which they are living, whether that is for a trip out to a nearby park or a café to have lunch with the family, or—something that I know is particularly the case for those who are working age—to spend the weekend at the family home, for instance. That was often what somebody of working age was doing before the pandemic. It has clearly been very difficult to do.

Chair: Thank you. Dr O'Moore, we are thinking about younger people in residential care here as well those for whom getting out and being able to walk about a bit might be a way of communicating that is not possible if a visit is just sitting either side of a table. It especially strikes a contrast with the staff,

because the staff can go to a bar and sit outside, but they do not have to isolate for 14 days. They just go to work the next day. Is this fair? What are you going to do about it?

Dr Éamonn O'Moore: I will explain, if I may, the purpose and the thinking that is informing this guidance, which is to protect vulnerable people and settings from outbreaks of Covid. The challenge for visiting out for us, and what gives us pause to think about the risks that we may be managing, is that we will not have a perfect sight or understanding of the experience a person has when they leave the case setting. This is problematic, because there may be many examples, and you have listed some, where we could agree that some of those activities are probably low risk.

The challenge has been trying to define that in a way that enables the intention to be delivered, which is to protect care homes and care settings that are at high risk of outbreaks, have experienced outbreaks, and have had severe experiences of outbreaks from incursion of infection from a person who has visited out and may have become exposed to a risk.

There are a few things to say in this context. First, we are of course immensely grateful to the NHS for the programme of vaccination that has been delivered at pace and scale across care homes, and particularly care homes for older people. This has undoubtedly been part of the reason why we have been seeing a significant and sustained reduction in incidents and outbreaks of infections in these settings. None the less, in the main, most of that to this point in time has been dose 1 only. During this month of April, the NHS is delivering for care homes for older people the second round of vaccination. It is doing this with the intention of completing that during this month. The reports are that that is going well. That is part of the dynamics of the risk assessment that we are thinking about.

Secondly, even in care homes where there has been high coverage of vaccines, we have unfortunately seen some outbreaks and some with quite serious consequences. This is not entirely unexpected, but it talks to the complexity of the risk assessment that we are trying to do, which is to think about what we can assume regarding the level of protection that any intervention delivers and what we might see in real-world experience.

The other point is that, bearing in mind both the changing epidemiological situation and the very reasonable asks the Minister has been making of us to think again about how we can nuance some of the approaches to people who are returning from visits out, we are currently in the process of consulting with our experts

and stakeholders to see if there are ways in which we could more effectively delineate types of activities with appropriate safeguards that might not require isolation for 14 days.

I have to say that the Minister has been putting us under pressure to do that at pace. We have a workshop at the end of this month and, in the meantime, various consultations with stakeholders to seek views and consensus. Although we try all the time to deliver advice in a very strong, evidence-based way, the truth is that some of the evidence informing these discussions is still evolving, and we are still in the process of understanding it. We have to make some judgment call; we try to do that based on the best intelligence and risk assessment while bearing in mind the impact that decisions have for the lives and welfare of the people we are thinking about and looking after.

We are all pushing in the same direction. I will certainly say on behalf of PHE that our ambition is to have more visiting in and out, by more people, more of the time, and to enable that to happen safely. We absolutely recognise the huge impact for health and well-being not only of residents but of their wider family and friendship groups. This is a really important issue. We are very conscious of the harm that the impact of isolation has had on people in care homes.

If I may, I will take an opportunity just to acknowledge the work that care home staff have done to protect the well-being of the people they look after. This is heroic stuff in the truest sense of the word. It is humbling. But we are very conscious of the risks and the huge responsibility on us to make sure that, whatever we do, we do with the safety with the safety of all in mind. I can give you assurances that this is under active review with a timescale that coincides with the rolling implementation of the second dose of vaccine across care homes, cognisant of the reducing levels of infection in the community, mindful of the threat from variants of concern, and aware particularly of those that may have vaccine-escape potential and/or increased risk of transmissibility and/or more clinical impact.

We are balancing all those considerations and trying to do this in an appropriate, incremental way. We want to take steps that are measured and that hopefully enable us to move forward with increasing confidence. I am very clear that we are all trying to go in the same direction, but I am also very clear that there are risks with every step we take. We are trying to balance those risks with the clear benefits, which none of us would argue about, that come from enabling visiting in and out for people in our care settings.

Q74 **Chair:** Thanks very much. We would all strongly agree with you, Dr O'Moore, about the heroic nature of the work that care home staff have done and the many sacrifices they have made. Many of them have even had to not live with their own families because they have not wanted to risk bringing back infection to their families and then suffer isolation as well. That is a point that we fully agree with.

I know that this is a bit of a difficult question for you to answer, but I would like a rough ballpark answer. All other things being equal with variants et cetera, when might there be a bit of an easing up on visiting out?

Dr Éamonn O'Moore: Without the benefit of perfect foresight, but with the ambition to enable more activities to happen from the point in May to be determined onward, the Minister is very keen that we enable more quickly. I am keen to see that happen. We will take account of the input of our experts and stakeholders, including experts by experience.

Chair: I think you set out the process really clearly, which inevitably you will have to get under way. We all know about being led by the data, not by the dates. I just cannot help asking about the dates, bearing in mind the absolute anguish among so many families who would like to have a sense of how long this has to go on. Could I go to the next question from Lord Brabazon about the Care Quality Commission?

Q75 **Lord Brabazon of Tara:** Are the Government satisfied that, in the Care Quality Commission, care home residents have access to an effective and reliable mechanism to protect their human rights? For example, last week a representative of residents' families told us that it was very difficult to make a complaint to the CQC. Many residents are terrified that, even where it is technically possible to make an anonymous complaint, they will be identified by the care home provider and kicked out of their homes. Do you recognise these concerns?

Helen Whately: Yes. I heard the discussion with the CQC about this in the earlier part of this session. It is clearly quite a difficult situation that you can have when you have, for instance, a relatively small care home sometimes.

The CQC has been doing an admirable job during the pandemic. It has worked extremely hard and extensively to inspect and have oversight of care homes during times when there has clearly been lower footfall in and out of care homes and fewer people who might, for instance, raise an alarm. It has also been really flexible and adapted what it looks for in inspections. For instance, a lot of

its focus in inspections has been on infection prevention and control measures, the use of PPE and the staff skills in that. It would not have inspected for these things in the same way a couple of years ago. It has very much adapted its inspection approach.

As we have already said, we are also looking at implementation of the visiting guidance. Clearly, one channel when residents are concerned about visiting is to raise that concern with the CQC. They can do that anonymously without the CQC identifying them to the care home, and that may work very well in a large care home. As the CQC itself said earlier, relatives are worried that they are making a fuss, particularly if it is a smaller care home and it might be pointed out. It is an interesting question.

What is the solution to that? The CQC is a really important part of the system. My view is therefore that the other way we have to address this is the proactive steps that we are taking. When we have evidence that a care home is not implementing the visiting guidance, whether that is through our capacity tracker, the local authority contacts with the care home, or the testing data, we have another channel for asking the care home what is going on. We can intervene without it being so focused on a relative raising a complaint.

That is why there is more than one method of making this happen. We continue to work on trying to make sure that visiting really does open up. As we have talked about during this hearing, it is so important that that should be the case.

Q76 **Lord Singh of Wimbledon:** This is a closing question to you, Helen. Looking beyond the pandemic and the current restrictions, what do you see as the ongoing challenges for protecting the human rights of care home residents in the coming years?

Helen Whately: It is a very interesting big-picture question. We will obviously learn lessons from the pandemic, and I want us to come out of this with a stronger system than we went in with. One thing that we have created during the pandemic is a much greater level of oversight. We have created this data collection method. I have talked about the capacity tracker that we have and our regional team. We will also work closely with the CQC to have that increased level of oversight. Right at the beginning of the pandemic, we did not have very timely information about the situation in care homes.

In the health and social care White Paper, there are proposals for a new oversight system and assurance system so that we have greater methods of having insight into the local authority

commission for social care and provisions. There are also proposals for an opportunity to collect data from care homes. We are working, as I said earlier, on some of the IT that could support that. Having greater oversight should help to assure us of the human rights of those living in care homes.

We will also continue to look at the question of visiting, how that opens up, and the relationship between care homes and their residents and relatives. This feels like it will be an ongoing conversation in the months ahead. I very much hope that we will get to a situation come the summer or so in which visiting and life in a care home will be much more like normal, but we have yet to see exactly how far towards normal it will get, because there are many moving pieces in that.

The other area of work that we are clearly working on is the social care reform agenda. As part of that reform, I want us to have a system that provides more choice and quality of care to those who are in social care.

Finally, a bit along the lines of what Dr O'Moore said a moment ago, there is how much we appreciate care homes. Many of those working in care homes have really gone the extra mile during this pandemic to look after their residents, keep them healthy, and maintain their mental health and well-being during the really difficult time of this pandemic. I really want to show my appreciation and gratitude to them for doing that.

Q77 **Lord Singh of Wimbledon:** Thank you very much. We all share that. During the pandemic, we have learned about the important of visitors. Will there be a policy of encouraging more?

Helen Whately: At the moment, we are in the place of working out the next iteration of opening up visiting and making sure that that is also implemented. I want to get to a position where it is as normal as possible. This is something to come back to in the future, particularly if family members and residents feel that the situation is not working as they would want it to.

Chair: Thank you very much indeed for giving evidence to us. I can hardly think of a more important job in government than the one that you have, Minister. It is certainly important at any time, but it is incredibly pressured and important at this particular time. Thank you for your work and giving evidence to us. Thank you to you, Dr O'Moore, for your very lucid, helpful evidence to us. We do not rule out asking by letter for more data from your capacity tracker and everything else to help us, as accountability is so absolutely important here. It is not just the guidance that is put out

but what happens in people's lives. Thank you very much indeed for your evidence to us this afternoon. That concludes this evidence session.