

The Rt Hon Harriet Harman QC MP  
Chair, Joint Committee on Human Rights  
House of Commons  
Westminster  
SW1A 0AA

21 April 2021

Our Ref: 726Harman

Dear Ms Harman,

**Subject: Access to visits for care home residents**

Thank you for the opportunity to give evidence to your Committee on 10 March. I am writing to provide further information in response to your question about the Commission's action on access to visits for care home residents during the COVID-19 pandemic.

We share your concerns about visits and we support the Committee's recommendation for mandatory guidance. In October we [published a briefing on COVID-19 and care homes](#), advising Government, public bodies and providers on the equality and human rights framework that should guide decision-making in the pandemic response. We were clear that blanket restrictions on visits would likely breach the right to a private and family life and called for an individual approach that reflects the specific risks in each case. We also recommended that the Government provide testing and PPE for designated visitors so care homes could facilitate safe, meaningful contact for residents, and we were pleased to

see this introduced last month. We continue to engage constructively with the Department for Health and Social Care on this issue.

[We have also issued a statement](#) calling for Parliamentary oversight of a time-limited scheme to ensure that if “vaccine passports” in workplaces such as care homes are introduced, they are proportionate. Whilst we welcome the Government’s confirmation that this would not include care home workers who can provide evidence of medical exemption, it is essential that these workers have easy access to exemption documentation. The risks of discrimination in care homes should be minimised by detailed guidance for employers.

We cannot take direct enforcement action (for example using binding agreements or investigations)<sup>1</sup> against care providers on human rights grounds, as our enforcement powers are generally limited to breaches of the Equality Act. However, we can use our strategic litigation powers to intervene in cases brought by others or to bring judicial review proceedings in our own name. We regularly monitor intelligence from our stakeholders to identify potential cases, and would not rule out litigation if we identify a serious or systemic breach and we consider that our action would achieve a successful outcome.

We also work closely with the Care Quality Commission, who would have primary responsibility for regulating the quality of care against their fundamental standards, which are grounded in human rights principles. We recently signed a new memorandum of understanding with the CQC,

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<sup>1</sup> Equality Act 2006 s23 and s20.

with the objective of strengthening our strategic partnership in order to safeguard the wellbeing and rights of people receiving health and social care in England. We have agreed a collaborative and flexible programme for the year ahead and I can confirm that we will make access to visits a priority in that work. More broadly, we have prioritised equality and human rights for care users in our [2021-22 business plan](#). This will include scoping an inquiry into how rights and equality can be strengthened in certain aspects of social care.

Thank you again for the opportunity to give evidence to the Committee. I look forward to future work together on areas of shared interest.

Yours sincerely,



Baroness Kishwer Falkner  
**Chairwoman**  
**Equality and Human Rights Commission**