



From Rt Hon Harriet Harman MP, Chair

Peter Wyman CBE DL
Chair, Care Quality Commission

29 October 2021

Dear Peter,

I am writing on behalf of the Joint Committee on Human Rights (JCHR) regarding visiting restrictions and the process for escalation of complaints in care homes, assessment and treatment units, and other mental health institutions.

Thank you for giving evidence to the Committee during our recent inquiry into visiting restrictions in care homes during the covid-19 pandemic. You will recall that we raised significant concerns around the lack of data on the care sector's adherence to the Government's guidance on care home visiting. We made a number of urgent recommendations to the Care Quality Commission (CQC), including to:

- establish better processes for collecting data and monitoring the right of care home residents to receive visitors;
- collect and publish live data on levels of visiting in every care home, the number of complaints that have been received and how these have been resolved;
- work together with the Government to implement a new complaints process for residents that guarantees anonymity and provides families with confidence that their relatives will not face retaliation for raising.

We are concerned the difficulties we have highlighted in our previous work persist and that these recommendations have not been acted upon, which might lead to further infringements of residents' human rights during the coming winter.

Visiting restrictions

It is clear that many care homes are implementing highly restrictive visiting rules, potentially contrary to the Government's guidance. Responses to our recent survey, undertaken as part of our new inquiry into *Protecting Human Rights in Care Settings*, have shown that there is a widespread concern among relatives and patients that restrictions are still being applied indiscriminately, and that family members are being barred from seeing their loved ones without proper individualised risk assessments being carried out.

One respondent noted:

"There is no individual risk assessment for my mother, visits are not based on her needs. I had to ask for Essential Care Giver (ECG) status, no attempt was made to share this information with families. When residents asked about the



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changes to visiting guidelines, they too were not told about ECG or any other changes.”

Another individual said:

“My mom has been locked away along with other residents from their loved ones due to covid cases every other week at the home. They had a 3rd lockdown (14 days or more each time) in less than 12 weeks. My mom has stopped talking to us and refusing to look at us through her bedroom window and she is declining rapidly. We feel so helpless when we can't comfort her and because of her dementia she thinks we have abandoned her. We watch her breaking her heart and all we can do is run around the other side of the home, ring the bell and ask a carer to help and comfort mom, then run back to mom's window and wait and cry with her. We only want to hold her hand and spend time with her while she is still with us.”

This unfortunate reality has also been shown by multiple media outlets, such as the Mail on Sunday, which published an article on 3 October 2021 showing that many care home residents have been isolated from their relatives and loved ones due to draconian restrictions.

In her response to our report published in May, your Chief Inspector of Adult Safe Care said:

“We have concerns that ‘live data on levels of visiting in every care home’ would not give assurance on person centred care. [...] We believe that a better way of supporting all care homes to deliver person centred care is through supporting our experienced inspectors in their work to understand whether a care home is performing individual assessments for the benefit of each resident.”

Considering the reports we have received, we are not convinced that this approach has guaranteed compliance with the Government guidelines. As the guidelines do not have statutory force, we reiterate the importance of establishing better processes for data collection and for monitoring the right of residents and patients to receive visitors.

In this regard, we would like to know:

- Is the CQC aware of ongoing concerns around visitation rights in the care sector and the scale of the problem?
- What data is currently being collected from care providers to monitor compliance with the government's guidance on visiting care homes, particularly in relation to individualised risk assessments, and how is this information used by the CQC to determine potential actions required?
- How do your inspectors engage with the evidence received and how do they follow up in case additional action is required from care providers?



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- What further actions has the CQC taken to make sure it fulfils its responsibility to promote compliance with guidelines on visitation restrictions?

Effective complaints mechanism

At a time when the human rights of residents and patients are at increasing risk, there continues to be a concern about the effectiveness of mechanisms for them to make anonymous complaints about care providers.

We have received reports showing that existing processes are not good enough. Individuals have suffered retaliation after escalating complaints about care home providers, and have not had their concerns adequately investigated.

One respondent said:

“I was banned (...) because I raised concerns (...) about poor care and after I raised safeguarding issues. They banned me from visiting for over two months despite being an essential care giver for my mother. She deteriorated significantly as a result and I could do nothing about this but to move my mother as she was evicted.”

Another person noted:

“When asked for increased communication (summer 2020) regarding my mother I was told by a director that if I ‘didn’t like the rules you should pick your mum up and bring her home’. At the time all care homes were locked down so I could not place mum elsewhere if she was evicted. This nightmare lives with me still.”

Responding to our report, which outlined this issue, your Chief Inspector of Adult Social Care said:

“A solution must be sought through collaboration between all parts of the social care system that seeks to offer reassurance to people using services and their loved ones that feedback, concerns and complaints are welcome.”

We would like to know:

- Has there been progress in establishing a more effective complaints mechanism for care residents?
- What is the CQC doing to ensure that residents, patients, and relatives, who need to complain about their providers in the short term, can do so, with a view to protect anonymity and to ensure that concerns are seriously investigated and dealt with?
- What processes are in place to fully investigate reasons for eviction, discharge, or transfer, of every resident or patient, with the aim of ensuring freedom from



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retaliation and with the goal of providing the best possible care services to individuals?

As these are matters of urgent concern, I would be grateful if you could provide me answers by 19 November 2021.

Yours sincerely,

Harriet Harman

Rt Hon Harriet Harman MP
Chair of the Joint Committee on Human Rights