

## Written evidence from Mrs Rachel Barber (HCS0004)

The Committee is interested to hear the responses to the following questions:

- What human rights issues need to be addressed in care settings in England, beyond the immediate concerns arising from the Covid-19 pandemic?
- How effective are providers at respecting the human rights of people under their care?
- How effective are regulators in protecting residents from human rights breaches and in supporting patients and residents who make complaints about their care provider?
- What lessons need to be learned from the pandemic to prevent breaches of human rights legislation in future?

I am Rachel Barber, founder of Living 4 Moments, a consultancy firm which aims to improve the quality of life for residents in care homes and the wider community. This includes training on the MCA, Care Act and Human Rights together with risk assessments. Our services when used enable care homes to meet the wellbeing needs of every resident. We do this by identifying the talents and skills of everyone living and working in the home.

Over the past 18 months we have seen an abuse of human rights by government, statutory bodies and providers in care/hospital settings.

The guidance issued by the government showed ignorance of the Human Rights articles. There are several that have been blatantly ignored: the right to privacy and family life (article 8), the right to live free from torture and degrading treatment (article 3) and the right to liberty and freedom from restraint (article 5) and the right to choice, autonomy and equality before the law (article 14).

The government guidance did not go far enough in making sure providers and regulators enforce these rights. The guidance in all its various stages was a backward step in a knee jerk reaction to its initial failures to protect residents' rights to life (article 2). Over the past eighteen months more residents have died of loneliness and isolation than covid. Their families too have been tortured with the degrading treatment of their loved ones. They have not been treated the same as other people when we came out of lockdown. They are still not. This breaches the Equality Act as well as the Mental Capacity Act, and Care Acts.

The mental deterioration seen over the past 18 months has included family members. For example: How can anyone justify separating couples married over 60 years? This is the reality happening on the ground but has been allowed to continue by providers and their regulators.

Regulators such as CQC and local authorities have failed in their duties. Instead of concentrating solely on preventing infection and protecting themselves for insurance claims, homes should have safeguarded residents' rights and ensured that their welfare was fully regarded. CQC and local authorities should have taken a firm line with care homes that ignored residents' rights.

Residents and families have been psychologically abused by inhumane treatments. There has been: physical, psychological, organisational, neglect and discriminatory abuse. When

individuals and groups (e.g. Rights for Residents, relatives groups, care right groups etc) have raised concerns with the CQC and Local Authority many families have faced the threat of their loved ones being evicted. Far too many providers have abused their power. Furthermore CQC and Local authorities and PHE have not done enough to ensure providers are listening and responding to residents' needs.

I know as a former care home manager that even with residents who are suffering from dementia it is possible from their behaviour to see whether they value the visits from their friends and family. We have absolutely no right to deny people what matters to them. Human Rights are the foundation for the MCA and the Care Act. **MCA is a framework for promoting human rights, choice and control.** The MCA provides the framework for all of us to enable individuals to make choices and take control. Yet the MCA and Human Rights Act have been ignored and overlooked by far too many professionals. We do not need a law to say **visiting is a right** but more needs to be done to ensure people in power understand the laws which underpin residents' rights and are held accountable when they ignore them. Regulators should not turn a blind eye to these serious failures in care.

For example, in May last year I reported to CQC my concerns about their blindness to the blatant abuse of MCA in care homes yet I have received no response from them. Even when I raised it again at NEC event recently (16th September) I was promised a response but to this day have received nothing back. Others have also tried and have been ignored by CQC and the local authority. Some people have risked evictions or even more abusive treatment of their loved ones when they have raised their concerns. This is wrong and is a form of abuse which should not be allowed. Homes which use the excuse "no longer meet the needs" should be investigated fully because too often it is just an excuse to move someone on whose family has criticised the management. Furthermore the denial of visiting leads to the physical and mental decline of residents seen in homes so the homes' actions are contributing to the resident's decline which they now say puts the resident beyond the home's ability to cope.

There have also been abuses with issuing DNAR with no consent. Again why is this not being investigated with the rigour and urgency required.

Lessons to be learned from the pandemic to avoid breaches of human rights:

1. Regulators, owners and staff need to understand and enforce the existing legislation more consistently. Make training on the legislation to regulators, statutory bodies and providers compulsory.
2. Value everyone for who they are as individuals with rights and wishes.
3. Respect and respond to suggestions made by people important to those individuals.
4. More accountability of owners who see homes as a property investment instead of for the homes they are for our most vulnerable. Residents no matter how frail, ill or disabled should have their views respected and heard. These homes are for the residents, not the owners or staff who work there.
5. More transparency in care homes on their rules. These rules have been downright bizarre and inhumane at times. Homes should be able to justify their actions because most homes who have imposed strict rules have not and are not justifiable.

6. Safeguarding - accountability to all who have breached this because the treatment we have seen over the last 18 months have shown care providers, CQC and local authorities get away with inhumane treatment of individuals and their friends and families.

*15/10/2021*