

Written submission from David Hogarth (HCS0027)

This submission addresses the question of the effectiveness of regulators in protecting residents from human rights breaches and supporting patients and residents who make complaints about their care provider and how this might be improved.

1. My name is David Hogarth. I am 83 and therefore retired but still active as the coordinator of Neighbourcare St John's Wood and Maida Vale, a local charity which befriends isolated people, mostly elderly. I have been in this role since 1997 and have seen much care, both care homes and home care, both good and bad.

2. From 2008 to 2013, I was a member of my local involvement network (Link), the predecessor of Healthwatch. We were appalled by the feebleness of our local authority in monitoring the quality of home care and struggled hard to correct this. From 2013 until the onset of the pandemic I attended CQC board meetings as a member of the public. When allowed to speak, I consistently flagged the ineffectiveness of CQC in uncovering inhuman and degrading treatment (IDT). Again and again I asked why it would make no use of cameras nor support concerned families who wished to do so.

3. During 2016/17 I collected 60 reports of care scandals from the national and local media and then checked what CQC had said about the provider in its last report before the scandal broke. These never showed any sign that CQC was aware that anything was wrong. Mostly the ratings were "Good". I submitted my work to every member of the board but I saw no change. [REDACTED]

4. When in the spring of 2021 it was clear that this was not going to happen, I engaged solicitors to examine whether a test case could be brought against CQC and/or a local authority and/or the police and/or a care home acting in a public capacity for breach of duty to conduct an effective investigation into an alleged breach of human rights

5. We have come up against the following obstacles:

5(a) The RIPA. Effective investigation often requires intrusive surveillance. Only the police are permitted to use it.

5(b) The human right of privacy. This limited right is regularly cited by CQC as a reason for not using surveillance to investigate possible breaches of the absolute right to protection from IDT.

5(c) The high level of evidence required before a human rights investigation duty is triggered. A suspicion is not enough but that is normally all that concerned families can produce.

6 Legislation could address these obstacles.

7. However legislation is unlikely to be able to address what I suspect is the real reason why these public bodies are reluctant to investigate effectively.

8. If IDT were to be discovered, it would rarely be possible to avoid giving the provider an Inadequate rating, making it unlikely that it could fill its beds and remain a viable concern. The service might therefore have to close leaving the LA with the problem of finding alternative placements for existing residents and permanently reducing the pool of locally available beds.

9. It is perhaps no wonder that the LAs and by extension the CQC and police do not lightly act on allegations of IDT.

10. Nor is it only the public bodies that are adversely affected by home closures. Unlike many other countries, our society does not impose a duty on children to care for their parents in dementia and old age. Even where they wish to do so, their houses and flats are too small for this to be possible. Care homes and home care are therefore essential. It is beyond the scope of legislation to address the problem,.

11. However the fact that children are unable to personally look after their parents does not mean that they do not care deeply that they are well treated by care services. There are things which Government can do to make it easier for children to ensure this

11a. Care homes quite often classify concerned relatives as vexatious and ban them from visiting. They should have to make their case to an independent body e.g. the LA before they can take this step..

11b. Where residents or their concerned relatives or friends have installed covert surveillance and this is discovered by the provider, it should only be tampered with or removed by permission of an independent body such as the CQC or the local LA

11b. Where residents wish it or are deemed likely to have wished it by a Best Interest meeting, families or friends should be entitled to install overt two way visual communication equipment. This will sometimes expose and frequently deter IDT.

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