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Written submission for Members of the Joint Committee on Human Rights

In advance of hearing evidence from the Care Quality Commission on 18 May 2020

1. These submissions are intended to assist members of the Joint Committee on Human Rights at its session from 3:15pm to 4pm on Monday 18 May 2020 when it will hear evidence from the CQC managers:
 - a. Dr Kevin Cleary, CQC deputy chief inspector of hospitals and lead for mental health and community services; and
 - b. Ms Kate Terroni, CQC chief inspector of adult social care.
2. The questions have been written on behalf of eleven organisations that protect the rights and wellbeing of people with learning disabilities, autism, mental health issues and older people:
 - a. Challenging Behaviour Foundation
 - b. Respond
 - c. Rightful Lives
 - d. Learning Disability England
 - e. Bringing Us Together
 - f. Foundation for People with Learning Disabilities
 - g. Hourglass
 - h. Bristol Reclaiming Independent Living
 - i. People First
 - j. Inclusion London
 - k. Reclaiming Our Futures Alliance
3. The organisations and their lawyers are on standby on Monday should any member of the JCHR have any questions or require further information. To contact the organisations and lawyers, please email mvarney@leighday.co.uk and bmorgan@leighday.co.uk

Context

4. In November 2019, the JCHR published a report into the human rights of people with learning disability and/or autism in mental health hospitals.¹ The JCHR found:
 - a. The CQC's "approach and processes are in need of urgent reform" (para. 124);
 - b. Mental health services had a "closed culture" (para. 137);
 - c. Of the 20 services analysed, 18 had a total of 136 whistleblowing contacts, but only 7% of these had resulted in an earlier than planned inspection (para. 145);
 - d. The CQC's commitment in 2016 to "[l]ook at potential changes in quality by bringing together relevant information about a provider" was "not happening, at least not consistently" (para. 146); and
 - e. The CQC "appears to be starting tom a perspective of defending the judgments to service providers rather than that of responding to families and individual" (para. 148).
5. On 16 March 2020, the CQC announced that it had stopped routine inspections to mental health hospitals and care homes.² In a very brief note on its website, the CQC explained that during the pandemic, its "primary objective will be to support providers to keep people safe during a period of unprecedented pressure on the health and care system". The CQC did not suspend all inspections, stating that, "[i]t may still be necessary to use our inspection powers

¹ <https://www.parliament.uk/business/committees/committees-a-z/joint-select/human-rights-committee/news-parliament-2017/detention-learning-disabilities-autism-young-people-report-published-19-20/>.

² <https://www.cqc.org.uk/news/releases/cqc-stop-routine-inspections-focus-supporting-providers-deliver-safe-care-during-cov-0>.

in a very small number of cases when there is clear evidence of harm, such as allegations of abuse”.³

6. On 30 April 2020, the CQC published its “Emergency Support Framework” (ESF) which is attached to these submissions. The document is not a framework but a list of “questions together with supportive conversation prompts” for CQC staff to ask providers during brief phone calls. These phone calls replace routine inspections. There is no suggestion in the ESF that the CQC will seek to speak with patients/residents. The ESF does not set out the criteria against which the CQC will take a decision to carry out a face-to-face inspection or its process for coming to such a decision.
7. The organisations instructed Leigh Day and counsel to act on their behalf. On 4 May 2020, they sent a letter to Ian Trenholm, the CQC Chief Executive.⁴ The letter expressed concern that the ESF leaves people with learning disabilities, autism, mental health issues or dementia in mental health hospitals and care homes at risk of inhuman and degrading treatment or punishment, contrary to Article 3 of the European Convention on Human Rights. This is especially the case in respect to those hospitals and care homes that the CQC has rated ‘inadequate’ or ‘requires improvement’ overall or in the domains of ‘safe’ and ‘effective’.
8. In their letter, the organisations sought a commitment from the CQC to resume face-to-face inspections as a matter of urgency, albeit in a strategic way (for example targeting hospitals and care homes rated ‘inadequate’) and in a safe way (for example, wearing PPE so as not to put inspectors, patients/residents and staff at risk).
9. On 11 May 2020, the organisations received a reply from Mr Trenholm, which is attached to these submissions. The organisations consider the response to be wholly inadequate, failing to address any of their concerns. The organisations are considering next steps.

Questions

10. The organisations invite the JCHR to ask the following questions to the CQC representatives:
 - i. How many in-person inspections has the CQC undertaken to mental health hospitals and care homes since 16 March 2020?
 - ii. Does the CQC have any in-person inspections scheduled over the next two months?
 - iii. How many in-person inspections of mental health hospitals and care homes providers who had previously been rated ‘inadequate’ or ‘requires improvement’ would the CQC usually have carried out over a four month period (March – June 2020)?
 - iv. In compliance with the UK’s obligations under the Optional Protocol to the UN Convention against Torture (“OPCAT”), the CQC is part of the UK’s National Preventive Mechanism (“NPM”).⁵ NPMs are mandated to make recommendations to the authorities aimed at, first, “improving the treatment and the conditions of the persons deprived of their liberty” and, second, “to prevent torture, cruel, inhuman or degrading treatment or

³ In his letter dated 11 May 2020, Ian Trenholm wrote that the CQC would carry out face-to-face inspections where it is “concerned that there are significant human rights breaches”.

⁴ A copy of the letter is here:

https://www.leighday.co.uk/LeighDay/media/LeighDay/documents/Human%20rights/LTR-TO-CQC_4-5-20-Readcted.pdf.

⁵ The UK ratified the OPCAT in December 2003. The website of the UK NPM is here:

<https://www.nationalpreventivemechanism.org.uk/>.

punishment”.⁶ The CQC has dropped its preventive focus whereby it must address systematic gaps and practices, the root causes of ill-treatment. How is this consistent with the UK’s obligations under OPCAT?

- v. As a result of the pandemic, hospitals and care homes have banned or reduced visits by family and friends as well as statutory advocates. The CQC is aware of the ‘closed culture’ of many hospitals and care homes. In these circumstances its watchdog role is more important than ever. Why can’t the CQC continue routine inspections of ‘inadequate’ hospitals and care homes, using PPE?
- vi. In lieu of regular visits, the CQC says that it is “contacting third parties such as families and advocates”.⁷ How are families and advocates supposed to know what is going inside closed hospitals and care homes when they’re been banned from visiting?⁸
- vii. Remote (telephone/online) inspections may work for GP surgeries, dental surgeries and acute hospitals. But many people with learning disabilities, autism or dementia are unable to use such technology. Some have no verbal communication. Suspending regular inspections of places in which they are detained leaves them exposed to ill-treatment, doesn’t it?
- viii. Why, from 16 March when it announced the cessation of regular visits, and 4 May when it published the Emergency Support Framework, has the CQC not conducted a consultation with disabled and older people and their representative organisations?
- ix. Why has the CQC itself become a ‘closed culture’ by not taking on board any of the suggestions made by civil society organisations who are concerned that the CQC is leaving vulnerable patients/residents exposed to ill-treatment?

⁶ This is set out in Article 19 of OPCAT:

Article 19

The national preventive mechanisms shall be granted at a minimum the power:

- (a) To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in article 4, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;
- (b) To make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;
- (c) To submit proposals and observations concerning existing or draft legislation.

⁷ Letter from Trenholm dated 11 May 2020, top of (unpaginated) page 3.

⁸ In response to this question, CQC staff may say that it is using social media to reach out to families. Since 5 May 2020, (the day after receiving the organisations’ letter) it has published 10 Tweets such as this:



Support with answering the ESF questions – Adult Social Care Services

This guidance will be updated regularly in the light of feedback and experience.

REMEMBER: the main way we will gather information from providers is in our conversations with them when working through the monitoring and engagement tool. **Requests for information and documents will always be exceptional.**

Planning

Check the information we already hold about services when completing the ESF planning tool (e.g. whistleblowing information stored in CRM). Also consider information from external sources, such as other stakeholder organisations and professionals.

When using the ESF Tool

Always remember that the primary way to answer the questions is through conversation with the provider. The table below shows the ESF questions together with supportive conversation prompts for discussing them with ASC providers, and sources of support that may be able help them if their experiencing difficulties.

Please note in particular Skills for Care's support offer to registered managers. Managers can find out more about it at these links and phone numbers:

Skills for Care's COVID-19 resources for registered managers:

- [Advice line](#) for registered managers and other frontline managers
- [Recorded webinars](#) on COVID-19 related topics and guidance
- Local [WhatsApp groups and virtual network meetings](#) for registered managers
- [Facebook group](#) for registered and front-line managers
- Guidance and funding related to [essential training](#).
- [SfC advice line](#) for managers 0113 241 1260 / RMAdvice@skillsforcare.org.uk

1. Safe care and treatment	
<p>1.1 Had risks related to infection prevention and control, including in relation to COVID-19, been assessed and managed?</p> <ul style="list-style-type: none"> • <i>How do you keep up to date with current Infection Prevention and Control (IPC) guidance/practices?</i> • <i>Have your existing IPC arrangements been reviewed and amended in response to the pandemic – have you needed to make any changes?</i> • <i>How are changes in guidance and processes being communicated to staff?</i> • <i>How is COVID-19-related training being provided?</i> 	<p>Link for providers to find their local health protection team</p> <p>Gov UK COVID-19: guidance for stepdown of infection control precautions within hospitals and discharging COVID-19 patients from hospital to home settings</p> <p>Gov UK guidance on COVID-19 for supported living</p> <p>Gov UK guidance on COVID-19 for home care provision</p> <p>Government guidance on infection prevention and control</p>

	<p>Government guidance on Covid-19: how to work safely in care homes</p> <p>Government Coronavirus (COVID-19) guidance: admission and care of people in care homes</p>
<p>1.2 Were there sufficient quantities of the right equipment to help the provider manage the impact of COVID-19?</p> <ul style="list-style-type: none"> • Are you able to get hold of supplies of PPE and equipment? <ul style="list-style-type: none"> ○ Are these Of an appropriate standard? ○ Are you able to get hold of enough PPE to meet your needs? ○ If no, what could be improved? • Do you know where to get PPE supplies and information? 	<p>Government guidance on using appropriate personal protective equipment</p> <p>Government guidance on Covid-19: putting on and removing PPE – a guide for care homes (video)</p> <p>HSE guidance on Respiratory Protective Equipment (RPE)</p> <p>Gov UK Guidance: COVID-19 personal protective equipment (PPE)</p> <p>NHS letter to health and social care providers re guidance on supply and use of PPE 20 March 2020</p>
<p>1.3 Was the environment suitable to containing an outbreak?</p> <ul style="list-style-type: none"> • What environmental issues have you identified in relation to managing the pandemic? (e.g. people moving around a care home, social distancing and access to hand gel in a DCA office?) • What changes have you made to the layout / environment to manage environmental safety? For example: <ul style="list-style-type: none"> ○ Alternative use of premises and areas ○ Additional signage ○ Ensuring COVID positive / non-COVID people using your service avoid contact with each other where possible. 	<p>Government guidance on Covid-19: how to work safely in care homes</p> <p>Gov UK guidance on COVID-19 for supported living</p> <p>Gov UK guidance on COVID-19 for home care provision</p>
<p>1.3 Were systems clear and accessible to staff, service users and any visitors to the service?</p> <ul style="list-style-type: none"> • Where changes were needed so that the service could provide care to both people with and without COVID-19 symptoms or confirmed diagnoses: <ul style="list-style-type: none"> ○ How do you share information about health and safety risks with staff, people using your service and any visitors? ○ How do you ensure staff, people using your service and visitors understand the arrangements (e.g. signage, accessible information, information on your website)? 	<p>Government guidance: Supporting vulnerable people during the COVID-19 pandemic.</p> <p>Government guidance: Digital innovations tested to support vulnerable people during COVID-19 outbreak</p> <p>SCIE: Mental Capacity Act (MCA) and the COVID-19 crisis</p>

<ul style="list-style-type: none"> ○ <i>How have you supported vulnerable people and those with communication requirements i.e. accessible information needs?</i> 	
<p>1.4 Were medicines managed effectively?</p> <ul style="list-style-type: none"> • <i>Has COVID-19 impacted your ability to manage medicines? E.g.</i> <ul style="list-style-type: none"> ○ <i>Sufficient medicines in stock?</i> ○ <i>Medicines stored/transported safely?</i> ○ <i>Future supply of medicines assured?</i> ○ <i>Service users' prescriptions are assured?</i> • <i>Have you encountered any challenges when working with your local healthcare professionals, including community pharmacies?</i> 	<p>The Framework for enhanced health in care homes v2 March 2020</p> <p>Advisory Council on the Misuse of Drugs (ACMD) advice on COVID-19 emergency legislation to enable supply of controlled drugs</p> <p>NICE guidelines on managing medicines in care homes</p> <p>NICE guidelines on managing medicines in care at home</p> <p>MHRA Yellow Card scheme: guidance for healthcare professionals, patients and the public</p>
<p>1.5 Had risk management systems been able to support the assessment of both existing and COVID-19 related risks?</p> <ul style="list-style-type: none"> • <i>How are your existing systems coping with assessing new risks presented by COVID-19, as well continuing to review existing risks?</i> • <i>Have you taken any new action in response to new and emerging risks, including but not limited to those posed by COVID-19?</i> • <i>Have there been any significant events related to COVID-19? If yes, how is learning from these being identified and shared?</i> 	<p>Government guidance on Covid-19: how to work safely in care homes</p> <p>Gov UK guidance on COVID-19 for supported living</p> <p>Gov UK guidance on COVID-19 for home care provision</p> <p>HSE guidance on safety in care homes</p> <p>HSE guidelines on equipment safety in care homes</p>

<p>2. Staffing arrangements</p>	
<p>2.1 Were there enough suitable staff to provide safe care and treatment in a dignified and respectful way during the COVID-19 pandemic?</p> <ul style="list-style-type: none"> • <i>If the pandemic has affected your ability to staff the service, what action have you taken to manage this?</i> • <i>Have you been able to make sure that people get care and support from workers with the right knowledge and skills?</i> • <i>How are you making sure that new staff and any volunteers have been safely recruited and appropriately inducted?</i> • <i>How are you ensuring that staff are still able to work in a way that respects and maintains people's dignity?</i> • <i>How are you proactively supporting staff who may be at increased risk of getting COVID-19? (including: Black, Asian and Minority</i> 	<p>Disclosure and Barring Service updates to support providers during Covid-19</p> <p>Skills for Care's COVID-19 resources for registered managers:</p> <ul style="list-style-type: none"> • Advice line for registered managers and other frontline managers • Recorded webinars on COVID-19 related topics and guidance • Local WhatsApp groups and virtual network meetings for registered managers • Facebook group for registered and front-line managers • Guidance and funding related to essential training. • SfC advice line for managers 0113 241 1260 / RMAvice@skillsforcare.org.uk

<p><i>Ethnic (BAME) colleagues, older colleagues, pregnant women, returnees, people with underlying health conditions)</i></p>	<p>Skills for Care: Core and mandatory training for social care</p>
<p>2.2 Were there realistic and workable plans for managing staffing levels if the pandemic leads to shortfalls and emergencies?</p> <ul style="list-style-type: none"> • <i>Do you have plans for responding to unforeseen and critical staff shortages?</i> • <i>How would you escalate concerns if you were unable to provide a safe service?</i> • <i>Have you engaged with local system arrangements and agreements for staff sharing and other contingencies?</i> <ul style="list-style-type: none"> ○ <i>Do you have confidence in the arrangements?</i> ○ <i>If you've used them, are they proving effective?</i> 	<p>Gov UK guidance on COVID-19 for supported living</p> <p>Gov UK guidance on COVID-19 for home care provision</p>

<p>3. Protection from abuse</p>	
<p>3.1 Were people using the service being protected from abuse, neglect and discrimination?</p> <ul style="list-style-type: none"> • <i>How are you managing restrictions that might deprive people of their liberty? (Note: not just relating to managing COVID-19)</i> • <i>How do you ensure that people's diversity and human rights are recognised and respected?</i> • <i>Has the pandemic affected your ability to protect people?</i> • <i>How have you enabled people to stay in contact with family and friends? (methods, frequency.)</i> 	<p>Statement on advance care planning during the covid-19 pandemic</p> <p>Guidance on decision-making and mental capacity</p> <p>DHSC guidance on the application of the Mental Capacity Act (MCA) and Deprivation of Liberty Safeguards (DoLS) during Covid-19</p> <p>The Framework for enhanced health in care homes v2 March 2020</p>
<p>3.2 Had the provider been able to properly manage any safeguarding incidents or concerns during the pandemic?</p> <ul style="list-style-type: none"> • <i>Have your local safeguarding arrangements and systems remained effective?</i> • <i>How have identified and supported particularly vulnerable people during the pandemic? (e.g. older isolated people, victims of domestic abuse, children who are at risk etc).</i> • <i>How would you escalate any concerns?</i> 	<p>Public Health England guidance on shielding and protecting people defined on medical grounds as extremely vulnerable</p>

4. Assurance processes, monitoring and risk management	
<p>4.1 Had the provider been able to take action to protect the health, safety and wellbeing of staff?</p> <ul style="list-style-type: none"> • <i>How are you supporting and protecting the health and safety of staff during the pandemic?</i> • <i>How have you managed challenges to staff wellbeing during the pandemic?</i> • <i>What changes have you made to ways of working to support your staff and ensure their safety?</i> • <i>How do you make sure staff are provided with suitable emotional support (e.g. counselling)?</i> 	<p>DHSC guidance on coronavirus testing for staff HSE guidance: RIDDOR reporting of COVID-19 https://www.nhsconfed.org/news/2020/04/action-needed-to-mitigate-covid19-risks-to-bme-communities-and-staff Government support app for social care workforce</p>
<p>4.2 Had the provider been able to implement effective systems to monitor and react to the overall quality and safety of care?</p> <ul style="list-style-type: none"> • <i>How are 'business as usual' processes and systems being managed?</i> • <i>Has the pandemic impacted your ability to monitor the overall quality of care?</i> • <i>Are there any unique pressures that are challenging your usual systems?</i> • <i>How are you keeping up to date with relevant standards and guidance relating to the delivery of care during the pandemic?</i> • <i>Have you been able to develop effective contingency plans relating to COVID-19?</i> • <i>Have any areas of improvement been identified and actioned?</i> 	<p>Social Care Institute for Excellence: Quality assurance resources and services</p>
<p>4.3 Is the provider able to support staff to raise concerns during the pandemic?</p> <ul style="list-style-type: none"> • <i>Have you put any extra measures in place to support and encourage speaking up?</i> • <i>How are you ensuring that leaders are accessible to staff and service users when needed?</i> • <i>How have you managed to promote team working, for example, team meetings?</i> • <i>Have any areas of improvement been identified and actioned?</i> 	<p>CQC and National Guardian joint statement: Safety and speaking up during the COVID-19 emergency</p>
<p>4.4 Had care and treatment provided to people being sufficiently recorded during the COVID-19 pandemic?</p> <ul style="list-style-type: none"> • <i>Has the impact of the pandemic affected the ability of staff to keep records?</i> • <i>Do staff get the information they need to provide care and support?</i> 	<p>NHS X information Covid-19 information governance guidance Covid-19: Information governance advice for the social care sector</p>

<ul style="list-style-type: none"> • <i>Has the impact of the pandemic led to changes in how records are kept and shared?</i> • <i>Are you experiencing any barriers to sharing or accessing information with other providers?</i> 	
<p>4.5 Had the provider been able to work effectively with system partners when care and treatment is commissioned, shared or transferred?</p> <ul style="list-style-type: none"> • <i>How effectively is information being shared across the system?</i> • <i>Is planning and partnership working effective?</i> E.g. <ul style="list-style-type: none"> ○ <i>Effective hospital discharges?</i> ○ <i>Co-ordinating care with other partners (e.g. GPs, district nurses, LAs, etc.)</i> 	<p>Data management and preparedness for COVID-19 related information sharing</p> <p>The Framework for enhanced health in care homes v2 March 2020</p> <p>COVID-19 response: Primary care and community health support care home residents - Letter from NHSE/1 1 May</p>

Other sources of support and guidance:

[Government guidance on COVID-19 for residential care, supported living, and home care providers](#)

[Government guidance on Coronavirus \(COVID-19\): admission and care of people in care homes](#)

[NICE guidelines on managing medicines in care homes](#)
[NICE guidelines on managing medicines in care at home](#)

[HSE guidance on safety in care homes](#)

[HSE guidelines on equipment safety in care homes](#)

[Skills for Care: Core and mandatory training for social care](#)

[Social Care Institute for Excellence: Quality assurance resources and services](#)

[Data management and preparedness for COVID-19 related information sharing](#)

[Government guidance on COVID-19 for supported living and home care](#)

[Government guidance on using appropriate personal protective equipment](#)

[Government guidance on Covid-19: how to work safely in care homes](#)

[Government guidance on Covid-19: putting on and removing PPE – a guide for care homes \(video\)](#)

[Government Coronavirus \(COVID-19\) guidance: admission and care of people in care homes](#)



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11 May 2020

Your ref: MVA/002242919/1
Our ref: CA-013557HF

Dear Sirs

Thank you for your letter dated 4 May 2020 highlighting your concerns about CQC's Emergency Support Framework (ESF) during the Covid-19 pandemic and your helpful suggestions.

We are equally concerned about the care for vulnerable people during this period, particularly their human rights, as we have highlighted on several occasions, for example <https://www.cqc.org.uk/news/stories/our-concerns-about-mental-health-learning-disability-autism-services> and <https://www.cqc.org.uk/news/stories/joint-statement-our-regulatory-approach-during-coronavirus-pandemic>. We conducted an Equality and Human Rights Impact Assessment to evaluate how we will meet our duties under the Human Rights Act 1998 and other legal duties during this time. This can be found [here](#).

Firstly, we want to reassure you that our primary purpose remains the same – to make sure services deliver safe, effective, compassionate and high-quality care.

Our ESF does not replace our inspection framework but rather enables us to provide a more structured monitoring approach tailored to the challenges of this period, in order to allow us to prioritise our resources and help providers keep people safe. Our existing monitoring work will continue alongside the use of the ESF.

Our engagement with care services as part of the ESF will be used, alongside other data sources including feedback from people who use services and care staff, to help us to identify where people are at most risk, which providers need further assistance and those requiring greater scrutiny. It will also inform the next steps taken by us and system partners, including inspection and use of our regulatory powers, to take action to keep people safe and protect their human rights. Where we are concerned about services, we will still take action to inspect, and we have done this since our decision to cease routine inspection activity on 16 March 2020.

In addition to this, we have a bespoke approach to people detained under the Mental Health Act in hospital. This [approach](#) includes conducting visits to services where we are concerned there are significant human rights breaches.

Engagement with people who use services

The ESF will be further developed and adapted following feedback from people who use services and care staff. We are committed to hearing from people who use services and using their voice to drive our work.

The ESF has been developed during an unprecedented period when it has not been possible to conduct the level of co-design and co-production with people who use services that we would prefer. The ESF is a risk assessment tool and does not replace our inspection framework, therefore we are not required to formally consult.

National Preventive Mechanism role in relation to people deprived of liberty

As an active member of the UK National Preventive Mechanism (NPM) against torture and ill-treatment, we meet our duties through monitoring and visiting places where people are or may be deprived of liberty. We have been in discussion with the UK NPM secretariat and other UK NPM bodies over our fulfilment of the NPM mandate from the commencement of lockdown in March 2020. We have established that, in common with other international NPMs, much of the UK NPM was moving to a system of visiting by exception, with remote monitoring being adopted as an interim measure.

We have not made a blanket decision that there could be no visits to services: rather that such visits would be undertaken, during the lockdown period and in recognition of the serious risk to life posed by Covid-19 infection, only where we had serious concerns that could not be addressed through monitoring and discussion, and such visits could be undertaken without placing patients, residents or others at serious risk.

Our temporary approach to the monitoring of Deprivations of Liberty during the Covid-19 pandemic has been established with regard to the OPCAT guidance. We have taken on many of the suggestions put forward by this guidance. Many of the steps we are implementing are ones which you have

also identified such as establishing an NPM hotline within places of detention; electronic communication with those in places of detention; and contacting third parties such as families and advocates.

Our Mental Health Act (MHA) reviewers have maintained their monitoring role with an interim methodology to reflect the unprecedented context. They have conducted triaging of the services that they were responsible for visiting and decided, based on previous knowledge and emerging intelligence, which of these need to be prioritised for a potential site visit. Remote monitoring has involved contact with services, patients, carers and advocates, and feedback to date is that it has been a very worthwhile exercise, often capturing provider and patient feedback in a more detailed way than the one-day unannounced visit allows for.

Closed cultures

We acknowledge that more services have become closed environments due to the Covid-19 restrictions. The ESF has been designed to incorporate some of the issues in relation to closed cultures as set out in the Covid -19 EIA referenced above. This is currently being updated to reflect new equality and human rights risks that have emerged during the pandemic.

PPE

Where visits do take place, our inspectors have been provided with the appropriate PPE so that they can carry out inspections without risk to themselves, or people who use a service, or care staff. It is important to note that we have been conscious of not diverting PPE that may be needed elsewhere, ordering only the minimum to support our inspections. Our inspectors are being trained on all aspects of safety during Covid-19, including use of PPE and social distancing.

Hearing from people who use services including people who are made vulnerable by their circumstances

We are increasing our efforts to hear from people, particularly those made vulnerable by their circumstances, during this period. We are working with Health Watch England (HWE), Think Local Act Personal (TLAP) and voluntary and community organisations to do this. We are working on adapting the role of Experts by Experiences to better enable us to hear from people who use mental health, learning disabilities and adult social care services. We also have new services in the Experts by Experiences contract with Choice Support to gather intelligence from seldom heard communities and people and are developing these at pace.

In response to your specific suggestions, listed below, I also want to assure you that we are already implementing many of them.

- The ESF tool identifies and prioritises services rated inadequate or requires improvement overall and in specific areas such as safety, (particularly safety and effectiveness), where it is known patients/residents have been infected with Covid-19, and where there are particular risks to people.
- In terms of engagement and our give feedback on care programme we are prioritising services where virtual means of contacting people who use the service are not possible.
- We are asking services to confirm how they are supporting people to stay in touch with family members and will be highlighting good practice
- We will be publishing reports of any inspections undertaken during this period as usual, and these will be available in accessible formats as usual.
- We will be publishing regular updates on what we are hearing and seeing from the ESF.

I hope this letter offers your clients the assurance they seek.

We enclose a copy of the ESF for your consideration. Please note that the questions are likely to change and evolve as we progress with this approach.

Yours faithfully,



Ian Trenholm
Chief Executive
Care Quality Commission