

Amnesty International Care Homes Report (England) Briefing Paper - October 2020



Introduction

Amnesty International has published a damning report about care homes during the COVID-19 pandemic stating that the UK government's response to the pandemic violated the human rights of older people in care homes in England.

In July 2020 Prime Minister Boris Johnson committed to an independent inquiry into the COVID-19 pandemic "in the future." Amnesty International state that a full independent public inquiry should be established without further delay— much time has been lost already – and must consider the overall pandemic preparations and response in adult social care and care homes, including a full investigation into actions taken to ensure a comprehensive and timely cross-government response for social care and a review of the adequacy of the funding made available to support adult social care services and care homes in responding to the pandemic.

Any public inquiry must be grounded in a human rights framework, recognising the government's international and domestic obligations to uphold the human rights of all.

Crucially, the inquiry should commence with an immediate interim phase which could examine on an urgent basis key policies and decisions that have impacted the human rights of older people living in care homes in England, notably their rights to life, to health, to non-discrimination, to private and family life and to not be subjected to inhuman treatment.

This interim phase should be completed as promptly as possible, preferably by the end of November 2020, so that its findings and recommendations can inform the management of care homes as the pandemic continues.

Recommendations

The inquiry's immediate interim phase should include the following steps:

1. Expeditiously gather all relevant records, policies, documents, minutes and other relevant material retained by institutions, organisations and officials.
2. Summon witnesses to give evidence on oath as to decisions and actions taken, and their appropriateness.
3. Ensure the effective participation of care homes residents and their families, including bereaved families.
4. Make recommendations on an urgent basis.

The interim phase should aim to establish the following:

1. To what extent the decision on 17 March 2020 to urgently discharge hospital inpatients into care home contributed to the spread of the virus and the deaths of care home residents
2. To what extent access for care homes residents to NHS services during the pandemic, including to general medical services and hospital care, was subjected to restrictions.
3. To what extent there was inappropriate use of DNARs (Do Not Attempt Resuscitation) by health and care professionals, including the incorrect interpretation of them to mean that a person should not be sent to hospital.

4. The reasons for the continued failure to enable and ensure full and regular testing of care home staff and residents up-to and including on 31 August 2020.
5. The adequacy of the government's support to the care home sector with regard to workforce issues during the pandemic, and the extent to which the limitation of staff movement between homes has been achieved.
6. The extent to which the rights and safety of care workers have been upheld during the pandemic, including whether the necessary measures were taken to ensure that they had access to adequate PPE (Personal Protective Equipment) (quantity and quality), guidelines and training (to protect themselves and the residents).
7. The extent to which the Care Quality Commission fulfilled its obligations to ensure the safety and quality of care within care homes during the pandemic, and the extent to which its decision to suspend inspections resulted in/contributed to creating an environment which allowed malpractices to occur in care homes.
8. The extent to which the Local Government and Social Care Ombudsman fulfilled their obligations to ensure the safety and quality of care within care homes during the pandemic, and the extent to which his decision to suspend casework and receipt of complaints resulted in/contributed to creating an environment which allowed abuses to occur in care homes.
9. The adequacy of the measures taken by local authorities to meet their statutory safeguarding duties with regard to care homes during the pandemic.
10. The extent to which gaps and delays in the availability of data has hindered efforts to adequately assess and respond to the needs of older people in care homes during the pandemic. In addition, the Department of Health and Social Care must also ensure that the necessary mechanisms are put in place without delay to ensure:
11. That medical decisions are always and solely based on individualised clinical assessments, medical need, ethical criteria and on the best available scientific evidence.
12. Full access for care home residents, staff and visitors to frequent regular testing.
13. Adequate and continued supply of PPE for care homes to enable them to comply with national guidance and ensure all staff have undertaken training on its purpose and correct use.
14. That employers—whether public or private—provide all care home workers with the necessary grade of PPE and put in place other IPC (Infection Prevention and Control) measures in line with international standards.
15. That care home workers continue to form part of the priority groups for COVID-19 testing and have timely and frequent access to testing services for COVID-19 in order to keep themselves and those they care for, safe.
16. Adequate mechanism to assess the capacity of care homes to deliver appropriate infection prevention and control, including in regard to their ability to isolate new or returning residents effectively and limiting the movement of staff as much as possible between care homes; and to provide adequate care for residents with COVID-19 and other residents.
17. Full and equal access for care home residents to NHS services.
18. An urgent and thorough review of all DNACPR (Do Not Attempt CPR) forms that have been added to care home residents' file since the beginning of the pandemic to ensure they have been completed with the full knowledge, consideration and consent of the resident and/or their family or legal guardian

where they do not have mental capacity according to the terms set out in the Mental Capacity Act. Ensure all staff working in the home understand when and how DNARs/DNACPRs apply and that they do not in themselves indicate that a patient does not want to be taken to hospital or does not want to receive (non-CPR) medical treatment.

19. That guidelines for care home visits put the best interests of the residents at the centre, taking into account the different sources of risk and exposure and the possible risk-mitigating measures – such as more frequent testing for care workers, residents and visitors, work protocols and provision of adequate grade PPE to minimise risk of infection.
20. That care homes are empowered to develop visiting policies which respect and fulfil the residents’ human rights and which give voice and agency to them, their families and/or their legal guardians, and which ensure the safety of residents, visitors and staff.
21. The adequate representation and involvement of the social care and care home sector in planning and decision-making processes related to matters which impact care homes residents at all levels.

Conclusion

While the future of social care more generally was beyond the scope of the Amnesty International investigation, a public inquiry would present an opportunity to examine the multiple underlying and long-term issues facing the sector that have long been neglected and which urgently need to be addressed to ensure the rights of older people and other residents in care homes are upheld in the context of COVID-19 and beyond.

Key issues regarding governance, accountability and financing must be addressed and the role of government, voluntary sector, non-profit sector and for-profit businesses in delivering social care to some of the most vulnerable sectors of society must be scrutinised to ensure compliance with its obligations under human rights law to uphold the fundamental rights of care homes, all of which are core elements in the National Pensioners Conventions report *Goodbye Cinderella - A New Settlement for Care Services*.

The pandemic is not over and it is therefore all the more important that no effort be spared to establish the factors that resulted in such disproportionate impact on older people in care homes. Lessons must be learned; remedial action must be taken without delay to ensure that mistakes are not repeated; flawed decision-making processes must be reviewed and rectified, and those responsible for negligent decisions must be held to account.

Further information

Amnesty International Report - <https://www.amnesty.org.uk/care-homes-report>

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