**SCOTTISH COVID-19 INQUIRY**

**OPENING SUBMISSIONS FOR INDEPENDENT CARE HOMES SCOTLAND (ICHS)**

[1] The following submissions are made on behalf of Independent Care Homes Scotland (ICHS) in response to the direction of the Chair, Lord Brailsford. This statement relates solely to the Impact Hearings fixed for late 2023 and early 2024 on Health and Social Care.

[2] Independent Care Homes Scotland (ICHS) is a distinct group comprising 12 independent care home operators within Scotland. ICHS is a conglomerate group set up to form one distinct voice for the independent care home sector. It has been set up for the sole purpose of providing evidence and submissions to this Inquiry.

[3] Two statistics best explain why ICHS can assist this Inquiry. First, about a third of all deaths registered as due to Covid-19 were from within care homes. Secondly, about three quarters of care homes looking after elderly residents in Scotland are operated by independent providers. Listening to the independent care sector is accordingly a central part of understanding the Covid tragedy. Our focus is to put that essential experience and evidence before the Chair and before the public.

[4] ICHS wish, first and foremost, to express their profound and sincere sympathy for the families of those who died or were otherwise affected by the COVID-19 pandemic. The members of ICHS were responsible for the staff and residents during the pandemic. Those staff were the primary point of contact for families of those in care. The passage of time cannot be allowed to obscure or diminish the trauma and the tragedy of what occurred. This Inquiry rightly has at its core the family members and friends who lost loved ones due to the pandemic. ICHS members were at the frontline and dealt with many elderly residents who fell ill and in many cases tragically lost their lives. That burden was an extraordinary and, at times, intolerable burden for staff to carry.

[5] This Inquiry will look at processes, structures and decision-making. It is right to do so. But none of that can ever be allowed to distract the Inquiry from the human aspect of this tragedy. That sense of hurt, grief and confusion which defined the experience many had in trying to understand and accept the inability to visit sick and dying relatives was real. It remains real for most. If this Inquiry cannot get to the heart of why those making decisions and implementing national policy made the choices they did, it will have failed.

[5] Families and friends who had become an essential part of daily life in many care homes were barred from entry due to Government restrictions. Those people were not able to say goodbye to relatives in their last hours or to comfort them and maintain essential human contact with those they loved.

[6] Our role in this Inquiry will be to give evidence, make submissions and seek both clarity and accountability. That starts in these first impact hearings by listening to the voices of those families and residents. It will then be about making our contribution by explaining, as best our members can, what decisions were being taken and which agencies and authorities were driving those policies. It will be about shining a light on areas of confusion throughout the pandemic response and ensuring that the public have access to the truth of what was happening. It will also be about making sure, as we look to the future, that there is no misunderstanding about the relationship between those making the laws and regulations and those charged with the responsibility for implementing on the ground. ICHS members approach this Inquiry with humility and with an openness to learn. What this Inquiry should insist upon is that those in power and the key decision-makers at the time do so also.

[7] By way of background to those who are unaware, ICHS employ thousands of staff. Those are the people in care homes looking after residents day and night. Accordingly, the group had many staff and residents directly and indirectly affected by the pandemic, both in terms

of their own physical and mental health, and in their care and interactions with residents and their own families. The pandemic was very tough for most of us but for those staff it was at times a burden almost too great to bear. The statements and testimony of some of those staff will be submitted and will, we hope, be made public.

[8] During the pandemic, Care Homes endeavoured to adhere to ever-changing guidance from central and local government and regulatory bodies. ICHS intend to provide evidence on how such changes affected key decision-making and, at this Impact stage, in relation to how that landscape profoundly affected staff both on the ground and at managerial levels. It will also consider carefully and respond to any evidence disclosed by the inquiry to assist the Inquiry reach conclusions or make recommendations for the future. ICHS is committed to being a constructive part of ensuring that the recommendations for change are practical, informed by reality and will deliver for the public the greatest benefit. That means ensuring that a vibrant independent care sector with decades of experience and daily responsibility for residents is at the heart of policy formation, not simply a passive recipient.

[9] ICHS is well placed to assist this Inquiry. ICHS collectively operate 166 Care Homes around Scotland. The members of ICHS employ in the region of 14,000 staff within the health and social care industry. They are here not just to ensure a voice for the independent sector, but to represent staff, families and residents based on a vast collective pool of expertise and experience.

[10] One of the key aims of the inquiry is to investigate the strategic elements of the handling of the pandemic. That is expressed in the remit as being “in care and nursing homes: the transfer of residents to or from homes, treatment and care of residents, restrictions on visiting, infection prevention and control, and inspections”.

[11] All of the investigations into the key strategic elements had a direct impact on employees within the ICHS group who provided frontline care for the most vulnerable members of society. They were placed in a position of increased risk of infection. Care Home employees required to adapt to the ever-changing circumstances and were expected to implement novel changes required by amendments to guidance from both government (at all levels) and regulatory bodies. They were expected to do so both instantly and constantly. They required to care for elderly and vulnerable patients, many of whom had cognitive difficulties and who did not necessarily understand what was happening. It fell on the shoulders of those people to deliver the impossibly difficult news to family members and friends that they could not visit. As a consequence, the need for external communication with families was massively increased. Families unable to visit had a legitimate and desperate need for constant information about their loved one. Ensuring continuing lines of communication amid a global pandemic was exceptionally tough. Beyond that, and on a daily basis, the care had to continue. This was a pandemic which hit the elderly and infirm the most significantly. This included situations where, if infected, Covid often led to a rapid deterioration and in many cases death. Employees were deeply scarred not just by the number of deaths but by the isolated nature of those last hours for too many. Nothing this Inquiry can do will remove those memories and fully heal those scars.

[12] We anticipate that evidence will be led during the inquiry (both in written and, in some cases oral form) from employees of ICHS members. It is likely that witnesses of ICHS can provide vital insight that will assist the impact hearings including in the following areas of scrutiny : -

**1. Distinction between Private and Public Sector**

1.1 ICHS witnesses can address the key differences in the private and public sector which arose during the pandemic. During the pandemic, there was a variety of guidelines not only

across health board areas, but across local authorities and from central government which appear to have led to diverse approaches between the public and private sectors.

1.2 It was felt by some ICHS members that priority appears to have been provided to the public sector which was, at times, detrimental to the private sector and their ongoing operations during the evolving circumstances. One such example was the use of NHS terminology in guidance. Guidance was often lengthy and confusing, but this confusion was added to by the use of acronyms or 'lingo' which was not used by private care home operators. Another example is the introduction of weekly testing of care home staff in the independent sector which wasn't required by those operating in the NHS. 1.3 We hope that the evidence our witnesses provide under this topic can identify lessons to be learned by the health and social care sector moving forward.

**2. The Impact of Government's Guidance**

(i) Central Government

2.1 Our members have profound concerns across a range of the decisions made by Government. Those, we understand, will be explored in later hearings but we note them in this submission because of the significant impact they had on residents, staff and families. The issues include:

i) Whether care homes should have been closed earlier than they were in March 2020.

ii) The delay in the introduction of weekly testing for all Scottish care home staff.

iii) A six-day delay in April 2020 between England stopping NHS hospital discharges without testing and Scotland also doing so.

iv) The decisions of the Scottish Government and specifically the failure to lift visiting restrictions in the summer of 2020.

v) Attempts by the Scottish Government to shift responsibility onto the independent care sector.

vi) Delays between government announcements and policy implementation and their impact on employees within the care sector.

**(i) Timing of Updates**

2.2 Our key witnesses will be able to explore the direct impact on the handling of frequently changing government guidance. That is not simply in relation to the content of that guidance but also on matters of practical implementation. Our witnesses identified key issues in the timing of the government guidance that had a direct impact on their individual work, their colleagues' work, on their residents and, as a consequence, on families. For example, one key factor which hindered the sector was the announcements routinely being made on a Friday evening. Key administrative staff members who were required in order to implement the guidance and who did not typically work on weekends required to work extra hours and on their days off to implement any key changes.

**(ii) The impact of Local Councils**

2.3 Members within our group operate around the whole of Scotland in both rural and urban areas. The impact that local governments had through issuing their own guidance and measures for restrictions within their community had a significant effect on the management of individual care homes. Given that some of the members operated nationwide across Scotland, there were a variety of different national and local guidelines that they required to review and provide specific advice in each local area and to each care home to try and

comply with the current measures that were being implemented. This had a direct impact on the capacity of already pressurised managers within each individual care home as well as area managers for the whole of Scotland who had a variety of diverse measures to address.

2.4 The level of support afforded to care homes varied from one local authority to another. Our witnesses will be able to provide examples of both positive and negative experiences when reaching out and asking for help from their local council. Some were more 'hands-on' than others and we are conscious that the Chair, as noted in the Preliminary Hearing, would like to understand regional differences when considering impact.

**(iii) The Impact of Regulatory Bodies**

2.5 Care home operators in Scotland are regulated by the Care Inspectorate. They regulate care homes for adult care providers using the Health and Social Care Standards and the Public Services Reform (Scotland) Act 2010. During the pandemic, care home managers required to report to the Care Inspectorate, as normal. In May 2020, the Scottish Health Minister raised her concern that private care homes were not following government guidance. As a result, the NHS Care Home Support Team was set up. NHS staff were re-deployed to become infection control specialists, referred to as inspectors. These inspectors comprised of nurses who were trained in other medical disciplines and completed a training course to become infection control specialists. The majority of the nurses had little prior experience in infection control and this created tension between care home employees (with many years of such experience) and the inspectors. Our members have explained that care home staff are trained in infection control as standard practice. That is so precisely because care homes are particularly susceptible to the spread of flu and viruses. Moreover, the impact on elderly residents of such infection is disproportionately serious when compared to the general population. Care home staff already understood the importance of controlling infections, limiting the spread and managing the risks. They had specific protocols in place

to do so and staff were trained on an ongoing basis. The advice of inspectors was often inconsistent with care home infection control policies, or the advice given by other members of the Care Home Support Team. This created additional confusion, contradiction and obstruction for our members and their employees, which they will be able to speak to in their evidence.

2.6 Staff and residents were also impacted by the delay and disconnect between the public announcement of weekly testing for all care home staff in Scotland made in May 2020 and the actual delivery of this testing, which didn't happen to the end of June 2020. By that time, the first wave of the pandemic was receding. In a context of worry and anxiety about the pandemic, the public identification of the urgent need for such testing raising that expectation for families, staff and residents required immediate action. Instead, the delay created concern that the necessary safeguards for all were not being implemented.

**(iv) Equipment**

2.7 Our members will also speak to the difficulties they faced in procuring personal protective equipment ('PPE') and the stress, and sometimes fear, that this caused their staff. Guidance changed during the pandemic in relation to the types of PPE staff were required to wear. When this happened, demand dramatically increased, and it was often very challenging for private care home operators to locate and secure what they needed to protect their staff and their residents.

[13] The principal purpose in the formation of ICHS, and our participation in this process, is to ensure the integrity of the Inquiry's investigation and provide transparent evidence to assist the Chair in making his recommendations for the bereaved families involved. Our members had employees who were at the forefront of the health and social care sector and the COVID-19 pandemic had a direct impact on their lives. Care home staff endeavoured to

adhere to all measures and guidance, which was constantly changing, all while trying to provide the best possible care to their residents. Working in a care home during the pandemic has been described by staff members as “being in the trenches”. They were not just carers for their residents; they tried to protect them from a deadly virus, and they held their hands when their family members could not. They witnessed, first hand, unimaginable loss of life. Many staff members are still struggling to process what happened and how to ensure it never happens again. For staff and for families, that is what this Inquiry must deliver.