Scottish COVID-19 Inquiry

Hearing on the impacts of Health & Social Care

Opening statement by rradar on behalf of Central Scotland Care Homes

Introduction

1. I am Alastair Gray, Solicitor Advocate, and I, along with my colleague David Fitzpatrick of rradar represent a group of independent care home operators consisting of Oakminster Healthcare Ltd, Thistle Healthcare Ltd and Keane Premier Group Ltd. They will collectively be referred to during this Inquiry as "Central Scotland Care Homes" or "CSCH".

2. Together, the members of CSCH operate 21 care homes throughout the Scottish central belt, with the majority concentrated in the Greater Glasgow area. They are small to medium sized care home operators, with the maximum occupancy of their homes ranging from 24 to 106. They employ varying numbers of staff across their homes, with around 30 to 140 staff members assisting with the care of their residents at the smallest and largest homes respectively. CSCH's staff care for elderly residents who have a range of needs and care requirements.

3. This opening statement is focused upon the Impact Hearings on the Health and Social Care Portfolio, but the members of CSCH wish to outline their ongoing commitment to assisting the Inquiry generally by working with the Inquiry Team to provide invaluable evidence of their experiences during the pandemic. Our members were brought together by a common desire to have their voices heard and the fact that, as small to medium-sized care home operators in the central belt, they operate in the same space and had similar experiences of the pandemic. They have a particular story to tell as they operate in the most densely populated areas in Scotland.

4. The members of CSCH wish at the outset of this Inquiry to extend their deepest condolences to the bereaved family members and friends of all of those that lost their lives during the pandemic through Covid or related factors. Every life lost was a tragedy. Their sympathies are also extended to those other individuals who have been significantly impacted by the effect of conditions associated with the virus such as long Covid. It is hoped that this Inquiry will serve as an appropriate legacy to their lives or their continued suffering, by ensuring that future generations are equipped with the plan and information required to avoid a repeat of the devastating impacts felt by the people of Scotland. The care which our members provide to vulnerable elderly residents is a service which all of us here today and across Scotland, our children and generations beyond them may come to rely upon. The people deserve an Inquiry which gets to the truth of how and why policy decisions were made by key stakeholders; including those decisions which affected the care sector and, importantly, vulnerable individuals such as care home residents.

5. It has often been said but it is worthwhile repeating that care sector staff were working under significant pressure in a fast-developing global pandemic and attempting to implement rapidly changing government guidance while caring for vulnerable residents. CSCH's staff, at all levels, worked under extreme strain in exceptional conditions. They had to continue their vitally important day-to-day care providing jobs, whilst also dealing with the significant toll of the pandemic which meant, given the government's lockdown rules, taking on new responsibilities such as being the only channel for communication between family members and vulnerable, sick and, tragically, dying residents.

6. The stories of the CSCH members are unique. They can provide insight into what was experienced on the ground in care home settings during the period that this Inquiry has been established to consider. These stories cannot be told by the deceased, nor can they be told by families, who had very limited access to their loved ones at the height of the pandemic. In essence, our members are able to provide the best evidence of the myriad impacts felt by those in this significantly impacted sector.

7. The members of CSCH report very challenging circumstances presented by the pandemic, not least because of the nature of the virus itself but also due to difficulties with issues such as testing; the effects of hospital discharges; communication of guidance and the expectations around implementing that guidance placed upon them by external agencies. At its conclusion the Inquiry must be able to report why key guidance and policy decisions were made and set out the lessons to be learned about those decision-making processes.

Guidance and Outbreak Management

8. The members of CSCH report a lack of consultation with the sector from decision makers during the pandemic. The issued guidance changed frequently and, whilst that was to be expected as knowledge and understanding evolved, the messaging which came through was sometimes contradictory, and, one member of the group advises, changed twice in one day. The timing of guidance was often sub-optimal, being issued late on a Friday or on a bank holiday, making dissemination of new guidance to staff more difficult.

9. There were unrealistic expectations as to the pace of implementation of advice and change. There was a rigid expectation that guidance would be implemented and implemented immediately. These attitudes led to a demoralising work environment for staff and service managers. The rapidly changing nature of the advice meant that there was worry amongst staff that they had been "doing something wrong" when following previous guidance. If there had been a collaborative approach with greater input from the sector, the CSCH members are confident that it would have led to better outcomes.

10. Discharges from NHS hospitals to care homes were made at very short notice to help free up beds within the NHS. Many of the residents arrived without prior testing for Covid-19. At the beginning of the pandemic, there were issues around the declinature of treatment for care home residents when they became unwell and needed to go to hospital. Accident and emergency units would

refuse to take residents, and care home staff were expected to deliver care outwith their regular scope of practice. During this time, staff of all levels within CSCH reported as feeling helpless, knowing that medical care in hospital would not be given even when residents desperately needed it.

External Agencies

11. The CSCH members report that at the beginning of the pandemic, from March 2020 until around May or June that year, limited external agency visits to their care homes were carried out. This led to feelings of isolation for staff within the sector, who were trying their hardest to navigate through the toughest times. When the media reported cases of Covid in care homes it prompted a very aggressive response by external agencies where, rather than support care homes, the members received several inspections and visits within a short space of time. These inspections were often unannounced, and the expectation was that all work was halted to enable participation in the inspections. There was no recognition of the extra responsibilities taken on by care home staff such as becoming the only conduit of communication between residents and family members. Very little support or guidance was given and many of the inspection reports did not highlight any positives and focused only on negative aspects. No context was taken into consideration and little support was offered.

12. An example of this is where there was an active Covid outbreak in one home and staff were required to isolate for 14 days. At this point in time, as part of a contingency plan, housekeeping colleagues helped to support residents who were unwell during staffing shortages rather than completing deep cleans. This was highlighted in one report as being negative however no support or advice was ever given as to how the situation could have been handled differently. When external agencies did visit care homes it was evident that they were unaware of the practicalities of working within a care home. They had unrealistic expectations of advice implementation and changes. This left the service managers and staff feeling deflated and worthless. This contributed

to what felt like a culture of blame and exacerbated the feeling of divide between external agencies and care homes, at a time when everyone ought to have been working together.

13. The members of CSCH were advised that although it was down to individual services to implement guidance, and that it was "only guidance", they were expected to follow it. Any inspections or health and social care partnership visits were judged using this guidance, thus removing the autonomy of services to make their own risk assessments based upon their unique knowledge, experience and judgement.

14. The members of CSCH faced a significant increase in administrative duties during the pandemic. There was a requirement to report all confirmed and suspected Covid-19 cases to the Care Inspectorate, Public Health Scotland and local authorities. There was a major duplication in this workload. It is not known what the level of communication was between these and other agencies, but there appeared to be a lack of cohesion.

15. In addition to the that, all positive staff cases required to be notified to the Health and Safety Executive and when a resident passed away due to Covid-19, reports and information required to be supplied to Police Scotland as part of Operation Koper. This was extremely time-consuming for staff and service managers who were trying to navigate Covid recovery plans whilst supporting hands on care delivery to patients who were ill.

16. When senior managers shared clinical observations with local GP teams and regulators in an attempt to collaborate and raise awareness of methods that had led to recovery of some residents, their professional opinions were disregarded. Our members felt that they had to advocate for their patients to be given a chance of survival and push external medical staff to help support this. This state of affairs made them feel utterly helpless, anxious and exasperated as it was contrary to everything that they believed in and had been trained to do.

Personal Protective Equipment (PPE)

17. At the outset of the pandemic our members felt that there was a lack of clear instruction with regard to PPE (including the use of face masks). Instructing staff, visitors and service users on what PPE to use and how to use it was frustrating and demoralising for staff who complained of feeling undermined and distressed.

18. One member reported that they had no significant supply issues with PPE, however obtaining top-ups, initially at support hubs, was difficult.

Hospital Discharges to Care Homes

19. It is well known that in the early stages of the pandemic decisions were made to discharge patients from NHS hospital settings to free space for acute Covid-19 admissions. Between 1 March 2020 and 20 April 2020, clinical advice was that a Covid-19 test was not required prior to discharge of asymptomatic patients. CSCH feel that many of these decisions led to outbreaks in their homes and would ask the Chair to carefully analyse the evidence in this regard.

20. CSCH is aware of research from Public Health Scotland published on 28 October 2020, and similar publications since that date, which indicate that hospital discharges to care homes were a factor, but not a significant factor, in leading to outbreaks. According to the Public Health Scotland report, the most significant factor leading to outbreak was the size of a care home in terms of its number of residents. It ought to be determined, as far as possible, whether the decisions to discharge patients from hospital settings to care homes did in fact lead to greater instance of outbreaks. If it is ultimately concluded that size of care home was the main driver of outbreak instance, CSCH wants to know why that was the case. If indeed that is found by this Inquiry to be correct, it would suggest that a risk-based approach should be taken to management of future pandemics so that

resources and support are appropriately concentrated in larger care homes where they would seem to be needed most.

Do Not Attempt Cardiopulmonary Resuscitation (DNACPR) requests

21. The CSCH group wish to highlight their concerns about the use of DNACPR requests from health care professionals where it was not always apparent that the appropriate consultations had taken place. To be clear, where appropriate, such requests were declined by the members of CSCH. Similarly, some Advanced Care Plans prepared between families and residents, setting out the intentions for care towards the end of life, were disregarded by hospital consultants. The assumption, in the main, was that Covid was the likely diagnosis, and this limited treatment and intervention. Again, the impacts of those decisions on residents, care home staff and family members were profound and must be examined.

Right to Life

22. The Inquiry is required to take a human rights-based approach to its findings in fact and recommendations. At the Preliminary Hearing in August this year, the Chair reaffirmed his intention to do that from the beginning of proceedings. As part of this approach the right to life will be in sharp focus during this Inquiry. In that regard our members would simply wish to remind the Inquiry that the right to life is universal, applies equally to all, and does not diminish with age.

Cooperation with the Inquiry

23. As the Inquiry progresses the members of CSCH intend to cooperate fully with the Inquiry Team. It is hoped that in line with this spirit of cooperation, the Inquiry Team will commit to making disclosure and communicating important updates in a timely manner as expressed previously by the Chair at the Preliminary Hearing and in the published protocols for the Inquiry.

Conclusion

24. In conclusion, the members of CSCH look forward to assisting the Inquiry in fulfilling its terms of reference in every way that they can, in the hope that recommendations will be made that have a genuine and positive impact on future generations and serve as an appropriate legacy to all those that tragically lost their lives, or continue to suffer immensely, as a result of the Covid-19 pandemic.

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