

# How our approach supports rights-respecting care

Our approach to human rights is not new. We first published our human rights approach to regulation in 2014 and updated it in 2019. To embed this in all our work we have:

- built human rights topics into the scope of our previous assessment frameworks and methods
- provided learning for our staff and external guidance, for example on closed cultures and restrictive practice as outlined in our [restrictive practices policy statement](#)
- showcased how human rights oriented practices lead to outstanding care in [Equally Outstanding](#)
- highlighted human rights issues in national reports, such as [Protect, Connect, Respect](#) about the inappropriate use of Do Not Attempt Cardio-Pulmonary Resuscitation and [Out of sight – who cares?](#), which highlighted human rights breaches for people in segregation and seclusion.

But we know we can do more to promote rights-respecting care by using our new regulatory approach. The evaluation report from Alliance Manchester Business School and The King's Fund, [Impact of the Care quality Commission on provider performance: room for improvement?](#) describes how regulation can have an impact on the performance of providers. We will use the 8 regulatory impact mechanisms identified in the priority areas where we are committed to improving our human rights approach.

# Using our regulatory powers to protect and promote human rights

## Our new assessment framework

Our new approach to regulation enables us to focus more on human rights.

We now have our new [assessment framework](#) to judge:

- the quality of care in a service
- how well a local authority is delivering its duties under the Care Act
- the performance of an integrated care system

It also applies when registering providers as the first assessment activity. This is vital to ensure people's rights are protected.

The quality statements in the framework are the commitments that providers, commissioners and system leaders should live up to. They link to the regulations and to the FREDA principles, which are central to a rights-respecting culture and rights-respecting care.

Here are the 5 key questions and the quality statements that are linked to human rights:

### **Safe**

- [Safe systems, pathways and transitions](#)
- [Safeguarding](#)
- [Involving people to manage risks](#)
- [Safe environments](#)
- [Safe and effective staffing](#)
- [Medicines optimisation](#)

## Effective

- [Assessing needs](#)
- [Consent to care and treatment](#)

## Caring

- [Kindness, compassion and dignity](#)
- [Treating people as individuals](#)
- [Independence, choice and control](#)
- [Responding to people's immediate needs](#)
- [Workforce wellbeing and enablement](#)

## Responsive

- [Person-centred care](#)
- [Care provision, integration, and continuity](#)
- [Providing information](#)
- [Listening to and involving people](#)
- [Equity in access](#)
- [Equity in experience and outcomes](#)

## Well-led

- [Shared direction and culture](#)
- [Capable, compassionate and inclusive leaders](#)
- [Partnerships and communities](#)
- [Learning, improvement and innovation](#)

We can now gather evidence against 6 evidence categories to bring structure and consistency to our assessments. An important evidence category for our human rights approach is the People's experience category.

The learning from [Listening, learning and responding to concerns](#) report is supporting our work in this area to ensure we improve how we listen well to people's experiences of care. The [staff and leaders](#) evidence category will also support us to listen more effectively to experiences of frontline staff working in health and care and therefore take action sooner to protect the rights of people and staff.

#### **OUR COMMITMENT:**

**We understand the links between rights-rejecting care, power and epistemic injustice, so we will listen closely to those who are most likely to have a poorer experience of care. We believe people using care services, their unpaid carers, families, friends and advocates are the best sources of evidence about their lived experiences of care and how good it is from their perspective. We champion this in our work [using people's experience in our regulation](#). We will develop a similar approach for staff experience, focusing on staff most likely to experience epistemic injustice when they want to speak up.**

**This will include complaints. We need to understand these carefully as advocates for people using services told us this information is vital to understanding whether a service is rights-respecting.**

## On-site inspections

This approach means we can carry out on-site inspections through site visits more frequently where:

- There is a greater risk of a poor or closed culture going undetected – this is where people's rights are most at risk. Visiting a service, talking to people and observing care is often the only way to assess people's experience of care.
- We have a statutory obligation to do so, for example as a member of the National Preventative Mechanism, we must visit places of detention regularly to prevent torture and other ill-treatment.

#### **OUR COMMITMENT:**

**We will develop tools to support our staff when inspecting on site visits to understand whether there is a rights-respecting culture in the service. We can build on our work focusing on inspections of services for autistic people and people with a learning disability.**

## Safeguarding

Whether or not we are planning enforcement action, we will make a safeguarding referral to the relevant local safeguarding authority if:

- we believe that abuse or neglect is happening, or if there is a risk of serious or significant harm to a person or people
- we are the first organisation to become aware of this information.

## Enforcement

Under the Health and Social Care Act 2008, CQC must "have regard to the need to protect and promote the rights of people who use health and social care services" (section 4(1)d). This includes, but is not limited to, people's human rights.

The Human Rights Act 1998 incorporates the European Convention of Human Rights into UK law. We don't have regulatory powers to take legal action directly under the Human Rights Act 1998, which incorporates the European Convention of Human Rights into UK law. However, human rights are embedded into the regulations we use, which include [the fundamental standards](#). These are the standards below which care must never fall and are set out in [Health and Social Care Act 2008 \(regulated activities\) Regulations 2014](#). If we assess that health and care providers are not meeting the fundamental standards of care, we will consider using our powers to take enforcement action.

Our human rights approach to regulation means that although we are not required to assess human rights separately, they are embedded into our regulatory methods and processes.

Our process for taking regulatory action is supported by our [enforcement decision tree](#), which sets out how we make decisions about what action to take, if any. When there is a breach of the regulations, we consider whether there was an infringement of a person's rights or welfare, or whether there was a reduction in their quality of life. Where appropriate, we consider whether there was a potential infringement of a person's human rights. These factors affect whether a breach of regulations reaches our enforcement threshold.

If a breach of the fundamental standards does reach our enforcement threshold, we can take enforcement action where it's proportionate to do so – even when only one person's rights are infringed.

Our staff have told us they know upholding human rights is at the core of CQC, but that we need to make clearer the links with regulations that relate to human rights.

Our staff and senior leaders also said we can do more to ensure we use our full regulatory powers together with our understanding of the Human Rights Act.

**OUR COMMITMENT:**

**We will review our approach to enforcement where regulatory breaches involve human rights issues and will ensure we use the right approach to help us take action where we need to. This will improve how we make decisions about the thresholds for action. It will also enable us to test new ways of using our enforcement powers in the best way when people's human rights are at risk.**

## Joint working with the Equality and Human Rights Commission

Where we think the [Equality and Human Rights Commission](#) (EHRC) has more suitable regulatory powers than ourselves to address an issue, we can use our [memorandum of understanding](#). This enables both CQC and the EHRC to share information and refer cases where the other regulator has more suitable powers.

There are many areas relating to human rights where we can take regulatory action. Our [guidance for providers](#) on meeting the regulations cross-references the regulations to the Equality Act 2010 and the EHRC statutory guidance to the Act where applicable. In some situations, we may not need to refer a human rights issue to EHRC because we can take action ourselves, but we can work more closely together to use our respective regulatory powers to protect people's human rights.

**OUR COMMITMENT:**

**We will improve our information sharing protocols and risk sharing and escalation with the Equality and Human Rights Commission. This will enable increased joint working using our respective regulatory powers to ensure good quality care and protect people's human rights.**

## Engagement and our independent voice

We are already starting to build on work here, some of which has resulted from discussions with key partners when revising our human rights approach. This includes people who use services, providers, commissioners, subject matter experts, health and care staff, as well as our senior leaders and colleagues in CQC. We will continue to engage and work with others to achieve the commitments we have made.

This human rights approach serves as a clear organisational statement that states [our legal powers](#) to promote and protect the human rights of people who use health and care services.

To improve how we communicate and promote human rights concerns publicly, we are demystifying the language we use. This will help to build a shared understanding of the nature and importance of human rights among people who use health and social care services, providers, staff working in services and others across health and care.

We continue to use our independent voice to speak out about human rights from what we find through our regulation and prioritise work that addresses human rights concerns. This includes promoting stories of people who have had a good experience of care when their human rights have been fulfilled positively and of providers who have developed human rights-respecting cultures.

#### **OUR COMMITMENT:**

**We will use this human rights approach to engage with everyone about human rights matters and will publish what we find about both good and poor practice to further people's understanding and drive improvement.**

## Encouraging improvement

CQC is well placed to support and encourage improvement in the quality of care – including improvement on human rights. As a regulator, we can influence both national policy and local health and care systems, for example:



- at a local level through our responsibility to assess the performance of integrated care systems and how local authorities provide adult social care
- at a national level by using our independent voice to publish our findings.

We will use our human rights approach to encourage commissioners, providers, staff and people who use health and social care to join together to ensure rights-respecting care.

Our goal is to develop a shared understanding of human rights concerns across the whole health and care system to support sustainable improvement to benefit everyone.

We have already worked with others to improve human rights and tackle inequalities across health and social care. For example, we are supporting work at a national level to ensure race equality across mental health care, through the Advancing Mental Health Equalities Strategy and Patient and Carers Race Equalities Framework ([PCREF](#)). We have also supported development work to improve the [Accessible Information Standard](#) for disabled people using health services.

#### **OUR COMMITMENT:**

**We will continue to work with all partners to identify where people's human rights are not being met and find shared solutions. We will build a resource of evidence of what works and share it widely, supported by our new research capacity.**

## Capability, confidence and capacity

We provide learning that supports our own staff to understand the opportunities within our new framework to tackle inequality and protect human rights. This explains epistemic injustice and power, and how to understand the relationship between human rights and the quality of care. We will build on this for future learning and development for our staff in this area.

The [Joint Committee on Human Rights](#) has recommended that CQC check whether health and social care staff receive training on human rights. We expect providers to give specific training to their staff about human rights and the practical implications for delivering services and making decisions about care and treatment. We will consider evidence of this in our assessments. Training programmes must go beyond simply stating rights or obligations, and effectively demonstrate the relevance and use of human rights. We will explore the possibility of how we can share our learning more widely for those who work in health and social care, to help them understand rights-respecting care more clearly.

**OUR COMMITMENT:**

**We will create a sustainable learning and culture change in CQC so that everyone, at every level of the organisation, has a shared understanding of and commitment to human rights with the knowledge, confidence and courage to take action in their work. We will also encourage those we regulate to provide more learning and development opportunities for staff, linked to their job roles, to support them to protect and promote human rights.**

## Making an impact and understanding it

We are developing ways to evaluate and understand whether our regulatory and improvement work has an impact on the human rights of people using health and care services, on providers, and on the health and social care system as a whole. We need to know if and where we are making a difference, where we need to improve and what barriers and gaps we need to address.

We have a programme of research projects. Some already aim to understand how we regulate more effectively, especially for people who are more likely to have a poorer experience of care.

**OUR COMMITMENT:**

**We will review our research priorities so that we use opportunities to build human rights into research projects and commission research where it is a priority. In this way, we will develop our own evidence base as the regulator on which to strengthen understanding and support more effective working in this critical field.**

**We will collaborate with all key partners to deliver on these commitments because it's necessary and fundamental to protect people from harm and improve good care outcomes.**

**Our overall commitment: bringing humanity into action through rights-respecting care.**