



# Our human rights approach for how we regulate health and social care services: February 2019

Summary

# Why do we need a human rights approach?

We need a human rights approach because respecting diversity, promoting equality and ensuring human rights helps to make sure that everyone using health and social care services receives good quality care. This is our core purpose. We also have legal duties to consider equality and human rights in our work.

Our human rights approach was first published in 2014, alongside our strategy *Raising standards, putting people first*.

There have been significant changes in CQC since then. There have also been significant changes in the way that health and adult social care services are delivered. To develop this new version of the Human Rights Approach we have considered:

- the successes and challenges of the Human Rights Approach
- how the approach needs to change to respond to changes both in CQC and outside CQC.

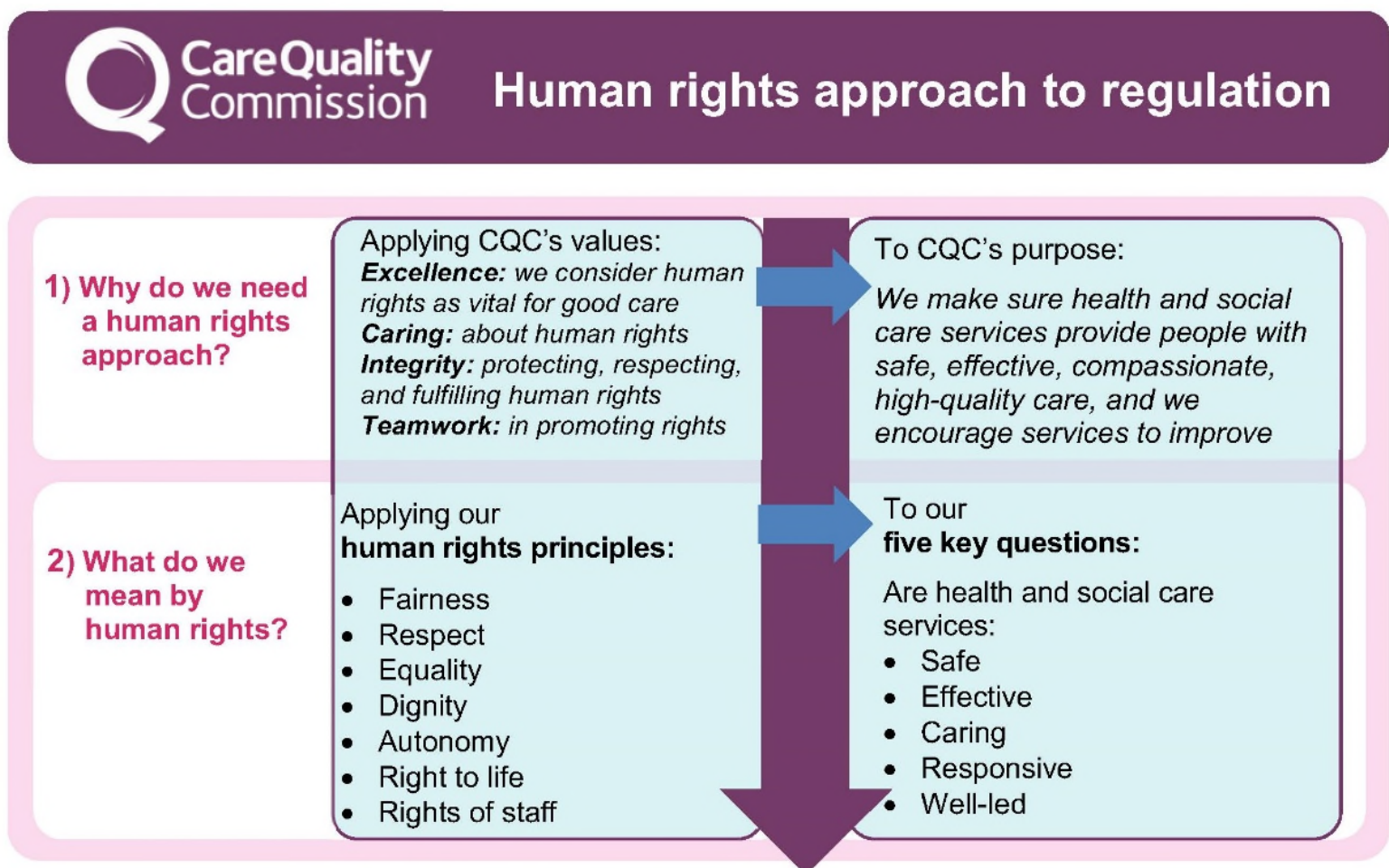
We have talked to people who use services, people providing health and social care services, CQC staff and other people with an interest in equality and human rights. From this, we have concluded that our approach to equality and human rights **is still relevant and has worked well as a tool for change**. However, we need to make a few minor amendments to reflect changes in CQC and the health and social care system since 2014 (see figure 1).

We have also agreed 6 priority areas to develop:

1. Considering how we can embed equality and human rights in new types of work as these develop in CQC, such as looking at **health and social care in local areas or looking at particular topics** (thematic work).
2. Continuing to **support CQC staff to understand and act on equality and human rights** in their job roles.

3. **Strengthening information about equality and human rights** that we hold in CQC, especially for services where people are at a higher risk of having their rights breached.
4. Work to develop how we consider human rights issues in **enforcement** decisions and where possible improve human rights in our regulations.
5. Build on **how we work with others** to improve equality and human rights across health and social care.
6. Look at how we can ensure equality and human rights is consistently considered in **new ways of working in CQC** such as Quality Improvement and digital development.

Figure 1



## Leads to our **human rights topics**

### 3) Building human rights topics into assessment frameworks

- Regulations (led by the Department of Health and Social Care)
- Guidance on how we regulate services
- Key issues to look for



### 4) Developing our human rights approach for each type of regulatory activity

- Risk to human rights: measures and monitoring data
- Inspecting for human rights: methods, tools, information
- Building confidence in human rights: learning and development for CQC staff and empowering staff to act to improve human rights
- Embedding human rights in registration and enforcement

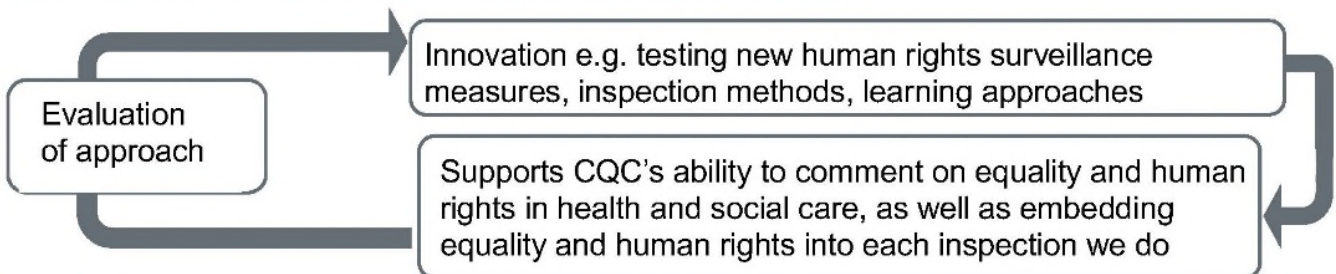


### 5) Supports principles for applying human rights approach

- Putting people who use services at the heart of our work
- Embedding human rights into our regulatory approach
- Delivering in a culture of fairness, equality and inclusion for staff
- Everyone involved in regulation can use it with tailored advice and support from human rights specialists in CQC
- Promoting human rights in a single shared view of quality



### 6) Continuous improvement as inspection model develops



## What do we mean by human rights?

To develop a human rights approach for our five key questions, we use commonly agreed 'human rights principles'. These are sometimes called the FREDA

principles – this stands for **Fairness, Respect, Equality, Dignity, and Autonomy** (choice and control). These principles are considered to underpin all international

human rights treaties, incorporating articles used in the 1998 Human Rights Act and aligned with the Equality Act 2010.

We have added two further principles to our human rights approach: the human rights article of right to life, because it is so fundamental, and a principle of staff rights and empowerment, based on research that links staff empowerment to the quality of care they deliver.

Where required, we will also consider the specific Articles in the Human Rights Act.

## **Building human rights into assessment frameworks**

### **We have:**

- Used our human rights principles to develop a list of human rights topics for each of our five key questions.
- Used this topic list to ensure we have coverage of human rights in our key lines of enquiry. These define the scope of what we look at when we regulate health and social care services. Embedding equality and human rights into our key lines of enquiry has been very important in the success of our Human Rights Approach so far.
- Used our human rights topics when working with the Department of Health and Social Care on the fundamental standards of care. These are the Health and Social Care regulations which give us the legal powers to take action on poor care.

# Applying our human rights approach to our regulation

## So far, we have:

- Developed the way we monitor risks to human rights and information we hold about equality for people using services and for staff working in NHS trusts.
- Developed a range of methods, tools and guidance to help inspectors look at human rights. These vary according to the type of service.
- Used our equality objectives to improve how we look at equality in our regulatory work, for example looking at LGBT equality in adult social care, equality for people with a learning disability using acute hospitals and workforce race equality in NHS trusts.
- Delivered a major learning programme about human rights for our staff and, following this, we have an ongoing Equality and Human Rights learning needs analysis for CQC, so we can develop learning.
- Developed our Equality and Human Rights Network to support staff to learn from each other and to develop human rights in their work. The network has over 400 members.
- Worked to highlight equality and human rights to providers through social media, the CQC website, speaking engagements and events. We have worked with other bodies to ensure consistent messages on specific topics, for example the Accessible Information Standard.

## We need to:

- Develop our approach to looking at equality and human rights in registration.
- Prioritise improving information that indicates risks to equality and human rights, including developing how we gather the experiences of people who are more at risk of having their rights breached.
- Consider how we gather examples of good practice in equality and human rights that might lead us to rating services as outstanding.

- Continue to develop our inspection methodology to meet our ambitions around being an excellent regulator for equality and human rights, including through our work on our equality objectives.
- Develop how we look at human rights consistently in enforcement decision making.
- Consider how we look at equality and human rights as new areas of our regulation develop, such as regulating at a provider-level and looking at integrated care systems and local areas.
- Continue developing our staff learning including support for the Equality and Human Rights network.
- Do more to communicate our human rights approach and our work on equality to people who use services and listen to and act on their views. This includes providing support to inspectors to build equality and human rights into their local engagement work.
- Think more about how we consider international human rights treaties and standards in our work.

## **Principles for applying our human rights approach**

These principles are:

1. putting people who use services at the heart of our work
2. embedding human rights into our regulatory approach
3. ensuring that staff who are not human rights specialists can use the human rights approach, providing tailored advice and support, if required from human rights specialists in CQC.

We have identified two new principles that need to be formally included in our approach:

4. delivering the human rights approach with a culture of fairness, equality and inclusion for CQC staff
5. work across the health and social care system to promote equality and human rights with a single shared view of quality.

## **We will:**

- Use the Experts by Experience programme to increase diversity of people who use services involved in our work and support them to understand our approach and to hear their views on our work.
- Continue to develop regional support for CQC colleagues around equality and human rights issues and to use the expertise of the central Equality Diversity and Human Rights team and other organisations.
- Work to deliver fairness, equality and inclusion for people working at CQC through our equality, diversity and inclusion objective for CQC staff.
- Work with others to develop and communicate a shared view of equality and human rights priorities across health and social care.



# Continuous improvement

## So far, we have:

- Carried out “pilots” when introducing new ways of regulating equality and human rights.
- Carried out an evaluation of the impact of the Human Rights Approach in 2016 and a quality review of equality content in adult social care inspection reports in 2018.
- Added questions to provider and inspector surveys to get feedback on how well our inspections promote equality and ensure that human rights are upheld.
- Used equality objectives for quality improvement on specific topics.

## We will:

- Look at how we can ensure that equality and human rights are always considered when we use new ways to develop our regulation. For example, service design and quality improvement projects.
- Extend our quality reviews of inspection reports across directorates, share findings and support staff to innovate and learn how to improve content and coverage.
- Continue to use our equality objectives to focus on regulatory equality issues that need improvement.
- Continue to gather evidence of the impact of our human rights approach, for example, in provider and inspection surveys and to use this to evaluate and develop the approach.

# Independent voice

Our human rights approach enables us to comment on equality and human rights in the health and social sectors. We call this our “independent voice”.

## So far, we have:

- Reported on equality issues in health and social care every year – for the last 3 years through our State of Care report.

- Our annual reporting on Deprivation of Liberty Safeguards in State of Care is also important for promoting human rights. Our annual Mental Health Act report also promotes human rights.
- Contributed to joint reports on human rights through our role as a National Preventative Mechanism under the United Nations Optional Protocol to the Convention against Torture (OPCAT).
- Published our good practice resource *Equally Outstanding*<sup>1</sup>. This shows how a focus on equality and human rights in health and social care can lead to outstanding care – even in times of financial constraint.
- Carried out thematic work resulting in national reports with strong equality and human rights content, such as: *A different ending – end of life care review*<sup>2</sup> and *Are we listening? A review of children and young people’s mental health services*.<sup>3</sup>

**We will:**

- Continue to develop our independent voice work to encourage improvement in equality and human rights in health and social care. We will do this through specific equality and human rights publications and by looking at the equality and human rights aspects of wider independent voice topics.

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## References

<sup>1</sup> CQC, *Equally outstanding: Equality and human rights – good practice resource*, November 2018

<sup>2</sup> CQC, *A different ending*, May 2016

<sup>3</sup> CQC, *Are we listening? Review of children and young people’s mental health services*, March 2018