COPNI Commissioner for Older People for Northern Ireland

COVID-19 and Care Homes

Written Submission to the NI Assembly's Health Committee Inquiry

INTRODUCTION

1. The Commissioner for Older People for Northern Ireland (COPNI) is an independent voice and champion for older people whose legal powers and duties are defined by the Commissioner for Older People (Northern Ireland) Act 2011. This is a statutory role, at arms-length of government, with a statutory duty to safeguard and promote the interests of older people in Northern Ireland.

2. Whilst the Commissioner welcomes the invitation to provide both oral and written evidence to this Inquiry, this submission will also raise a number of questions, from the COPNI perspective, in terms of its status and scope.

3. The unfortunate reality at this stage is that many care home residents have died of Covid-19 and they continue to be affected by it and the measures taken to control its transmission. As a consequence, the management of the pandemic in care homes earlier in the year and now, arguably engages residents and care workers' rights under the European Convention on Human Rights (ECHR).

4. The Inquiry established by the Health Committee does not purport to be a 'public Inquiry' established under the Inquiries Act, albeit that it is public in the sense that some of the evidence called for is received in public and can be freely viewed on the Assembly website. Furthermore, it does not purport to satisfy the requirements of the Human Rights Act 1998, section 6, which provides that it is *"unlawful for a public authority to act in a way which is incompatible with a Convention right"*. The concluding comments in this submission reiterate the significance of this point.

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WRITTEN RESPONSE TO TORs

5. Whilst the headings outlined in the Inquiry's TORs cover many of the issues experienced and concerns raised with COPNI over the last 6 months, they are absent of a number of critically important points which should be at the heart of the Committee's inquiry.

- When considering care homes we are talking about the homes of around 14,000 older people in Northern Ireland. These settings are their homes.
- These older people are not a homogenous group and they have a wide range of different needs, hopes and wishes.
- Most significantly, they have a right to have their human rights protected and COPNI has a statutory duty to ensure that this happens. This includes their rights to see family members and to be cared for and treated with respect and dignity.
- Northern Ireland needs to stop talking about Care Homes as buildings and care home residents as numbers. These are our parents and grandparents who remain part of our society.

6. Each of the issues outlined in the Committee's TORs are addressed in the pages which follow, chronologically, in the order in which they were listed. The COPNI written submission concludes with some additional comments about the status of this inquiry and likely compliance with the ECHR.

Discharge from hospitals to care homes

- Testing prior to and post discharge
- Isolation within care homes
- Use of Step-down facilities

7. COPNI was contacted by families emphasising that new residents had been moved into their relatives care home at the start of the pandemic with no assurance of their Covid status. Outbreaks of Covid occurred in such settings. The Commissioner called for appropriate testing prior to any patient discharge from hospital to a care home. The Commissioner required that testing must also be undertaken within an adequate timeframe for the test results to be returned. No-one should be discharged and placed in a home before being tested and confirmed as being Covid negative.

8. COPNI understands that a number of care homes were designated as step-down facilities in Wave 1 of the pandemic, by agreement with the relevant HSC Trust. It is imperative that any lessons which can be learned from this practice are applied. It is apparent that certain homes have experienced higher numbers of outbreaks, or repeated outbreaks. The Commissioner will be interested in the findings of the Inquiry regarding the use of step-down facilities.

Access to PPE

- Costs
- Security of supply
- Procurement - Central v Individual

9. Adequate levels of appropriate types of PPE were not available to independent care homes at the start of the Covid pandemic. For many weeks care home providers could not access sufficient PPE and this continued to be an issue into late April and May (long after public statements were being made about it being available and distributed where it was needed). DoH officials directed the sharing of PPE from Trusts. This was seen as “free of charge” provision, rather than viewing the protection of older residents in care homes as imperative to the whole system.

10. Care home providers should continue to be provided with appropriate and adequate stock of PPE free of charge on an ongoing basis until a full and independent economic review of the regional tariff (and the **real** cost of care) is undertaken.

11. COPNI was advised by officials in the DoH that throughout the first wave they did identify settings where staff needed to be properly trained on the ‘donning and doffing’ of PPE. This is likely to continue to be needed given the known levels of change or turnover of staff in care homes. This requirement for required basic and ongoing training of care home staff links directly to the issue of staffing (addressed later) and the continuity of appropriate skills and levels of staff in care settings.

12. It must be acknowledged that some of the most complex healthcare needs and co-morbidities are being managed in care homes. COPNI is not sufficiently assured that if and when additional clinical and care support is needed for older residents, that there will be adequate availability of both nurses and senior carers across Northern Ireland.

Testing in care homes

- Effective frequency and management
- Symptom monitoring
- Personnel
- Consent Issues

13. There was no testing at all in early months of the pandemic for care home residents and staff. In fact a complete round of testing of all care home residents and staff was not completed until July 2020.

14. The current testing regime of testing, every 14 days for staff and 28 days for residents, has been picking up positive cases according to the authorities. However, in discussions with the Commissioner, the Health Minister committed (in July 2020) that if community transmission and the rate of positive cases increased, the regularity of testing of care home staff would also be increased. Given the increased levels of community transmission and the risk this poses in relation to staff working in care homes, COPNI believes that testing needs to be increased in care homes to at least once a week for staff and has made this request to the Minister in writing.

15. COPNI has also been made aware of some delays (4-8 days) in getting test results back for staff – this must be urgently addressed. Testing for visitors to care home residents (and care partners) should also be considered based on risk and local transmission rates.

16. In those care settings where it is not possible to get the consent of all residents, appropriate sampling should still be undertaken where residents (or their representatives) have provided consent. It is particularly important that symptom monitoring is prioritised in settings caring for residents who cannot undergo the test or communicate how they are feeling. This underlines the significance of having a permanent and experienced staff cohort who know their residents well and can notice new or uncharacteristic symptoms or behaviours in the most vulnerable residents.

Funding and increased costs for care homes

- Cleaning
- Infection Control
- Technology

17. It is clear that the pandemic is increasing costs for care home providers. COPNI acknowledges that there has been a £11.7 million support package to help with certain areas but was also advised that this has not been straight-forward to access (by care providers) and offered no retrospectivity with regard to the payment of sick payments for staff who became unwell or had to quarantine.

18. Additional funding is needed to facilitate safe visiting during the next six months and beyond. This is a sector which for many years has advised that it was not sustainable at the level at which the current care tariff was set by the DoH. A review of the cost of care was long overdue, prior to Covid, and is even more urgent now. The commissioning model for the independent provision of care beds requires significant, meaningful reform.

19. Any further queries with regard to infection control measures are really for providers, the HSC Trusts, and the RQIA to advise and comment on.

Staffing issues & levels

- Additional staffing requirements
- Recruitment, Regulation
- Staff movement, shifts, roles
- Training and guidance

20. It is inevitable that care homes will need additional resources (human and financial) to be able to organise and manage visiting in care homes in a safe manner. The most recent guidance (23.09.20) has presented many challenges.

21. COPNI understands that restrictions are necessary to prevent staff working across multiple homes which will undoubtedly cause further pressures on staff numbers. Whilst it is vital that staff receive training on the operations in a home and any additional Covid measures, time is of the essence. Care homes didn't have a "lull" or a downturn in terms of the pressure over the last few months – some have continued to experience Covid and pressures on staff, on a continued basis. The pressures also arise from staff shortages because they have contracted the virus, been contact-traced or have tested positive without symptoms.

22. Whilst (at the outset of the pandemic) COPNI understood why the regulator was largely "re-purposed" to focus on the provision of advice more remotely, it is clear now that this is not sustainable. Regulatory inspections need to recommence at normal levels of frequency, with appropriate PPE

and particularly focussed on those settings where concerns have been raised.

Staff pay and conditions

23. COPNI's 'Home Truths' report recommendations made clear the COPNI perspective on care home staff, from adequate staffing levels to employment terms and conditions. There was pressure on the availability of nurses in care homes even prior to Covid. Residential homes are not required to have nurses in their staff cohort and staffing levels and consistency of care staff remains a grave concern.

24. Caring for older people in care homes is a difficult job which is still not well-paid. As a society, we need to ask ourselves, is this how we value the roles and jobs who care for our older relatives? Is it really OK? The reality of the pandemic here is that wave 1 saw our 17, 18 and 19 year old relatives going into homes to look after the most vulnerable, and often not properly protected themselves.

25. COPNI strongly commends the recommendations that made to government in the Home Truths report, published in June 2018, be addressed as a matter of urgency. Proper planning for all levels of care and nursing staff across both HSC and independent settings but be in place for the short, medium and longer term.

Visitors

26. Maintaining contact with relatives in care settings is essential for many families in Northern Ireland.

27. At the start of the pandemic, whilst appropriate at that point in time, the guidance issued completely ignored the human element to visiting. At that time, the emphasis was very much on eliminating all potential sources / risks of infection within the home regardless of the impact or otherwise on families and more importantly on the emotional and mental impact on residents within the care home.

28. As lockdown of care homes has continued, despite the draconian measures in place there are still incidents of the virus occurring or reoccurring within care homes. The DoH officials have been clear with COPNI that "it will not be possible" to keep Covid out of care homes.

29. The most recent guidance is to be welcomed in that it in part recognises that it is essential for residents to have some form of contact with loved ones and the introduction of the role of a Care Partner goes some way to address this.

30. Since the relaxation of restrictions this has caused huge issues and, following the release of the most recent guidance, it is clear that the finer detail of how this guidance can feasibly be implemented needs much focus and close co-operation between providers, families and authorities. These concerns in writing with the Minister about this.

31. Visiting or access relatives is the biggest concern being brought to the COPNI office at present – some relatives are even more concerned about not seeing their family member for the remaining moths of their lives, than they are about Covid.

32. Many families are distraught about being denied family contact with residents and my team received many reports of serious detrimental damage to resident's mental and emotional wellbeing as well as physical deterioration during the first phase of lockdown.

33. Care homes need extra resources to facilitate a safe, humane visiting policy for residents, many of whom will not understand why families aren't visiting or will be in the final stages of their lives.

Regulation: RQIA role, inspections & risk factors including public versus private ownership

34. COPNI concerns about the system of regulation and inspection were a matter of public record long before Covid hit care homes here. Senior management were moved to other parts of the HSC system and a new Chair and Board are being appointed.

35. It is very concerning that the regulatory body for care homes appears to be in a state of flux at such an important time for Older People. The majority of care workers and families that contact our Office have lost confidence in RQIA and query there independence in relation to care homes. As outlined in my Home Truths report I have proposed recommendations that need to be implemented as soon as ever possible within our care homes to ensure and promote the well-being of our older people.

36. Inspections: When lockdown commenced we received queries from concerned family members regarding the fact that RQIA were not completing care home inspections. There was a real sense of fear their loved ones had no safeguards to ensure their welfare and security.

37. Residents' families have expressed to the Commissioner that in a lockdown situation, no external verification of standards of care of their relatives is possible.

Medical care within care homes and advance care planning

- In-reach teams – support from Trusts and GPs
- Advance Care Planning

38. COPNI understands from officials that the HSC Trusts are continuing to provide assistance to care homes (e.g. "virtual" ward rounds etc). COPNI has limited information on whether this is sustainable in the longer term, but understands that it helped in the 1st wave.

39. The COPNI position on Advance care planning is that these conversations must be handled sensitively between the clinician and the family / next of kin. It is not appropriate that a family member is asked this question for the first time when they have become unwell and need hospital treatment as a result of Covid.

40. Although Covid clearly has had a devastating impact on our care home population, there is evidence that, as in the total population, not all older people become seriously unwell and significant numbers have recovered from this virus. This is not a message that is heard enough.

Preparedness within the HSC and in care homes

41. The Commissioner and COPNI officers have been included in multiple meetings and have seen plans for dealing with a future surge in Covid at a regional level.

42. It is clear much planning and preparation has gone on within the HSC organisations. The only point I would make at this point is that it is not always clear to me HOW plans will be implemented and whether or not there will be sufficient human and financial resources to ensure robust implementation.

43. At the time of finalising drafting (19.10.2020) it is clear that Northern Ireland's care homes are already experiencing a second wave of Covid-19 infection outbreaks. There is a small window of time to take urgent action on the necessary points of action stemming from this review of wave 1.

Status of the Committee for Health's Inquiry into the experience of Covid in Care Homes

IN CONCLUSION

44. As outlined in paragraph 2 at the beginning of this written submission, the recent and sustained rise in Covid cases in Northern Ireland has been met by the Health Committee's commendable speed to try and ensure that improvements in the management of Covid-19 that can be instituted to beneficial effect now.

45. That speed means there is necessarily insufficient time to analyse all the relevant data and research or to accommodate all those who may wish to participate. Furthermore, it is necessarily limited in its scope, so that it does not deal with other matters of concern such as an examination of the use of 'Do Not Resuscitate' and amendments in the Death Certification and their potential impact on the accuracy of death figures attributable to Covid-19.

46. It is COPNI's firm advice to government that this Inquiry is of very considerable public interest in terms of learning from what happened and is happening in care homes and from the large numbers who have been and are being affected by it.

47. Accordingly and in recognition of those factors, the Commissioner would finish by making the point that this Inquiry should not be considered as a substitute for any Inquiry that may be warranted under the ECHR and Human Rights Act 1998.