

REGULATION 28: REPORT TO PREVENT FUTURE DEATHS (1)

*NOTE: This form is to be used **after** an inquest.*

	<p>REGULATION 28 REPORT TO PREVENT FUTURE DEATHS</p> <p>THIS REPORT IS BEING SENT TO:</p> <ol style="list-style-type: none">1. The Care Quality Commission2. The Secretary of State for Justice3. The Secretary of State for Health
1	<p>CORONER</p> <p>I am Miss Stephanie Haskey, Assistant Coroner, for the Coroner area of Nottinghamshire</p>
2	<p>CORONER'S LEGAL POWERS</p> <p>I make this report under paragraph 7, Schedule 5, of the Coroners and Justice Act 2009 and Regulations 28 and 29 of the Coroners (Investigations) Regulations 2013.</p>
3	<p>INVESTIGATION and INQUEST</p> <p>Between 10 and 13 October 2016 a resumed Inquest into the death of Ivy Atkin was heard, following the resolution of prior criminal proceedings arising from her death on 22 November 2012. A Conclusion of Unlawful Killing was recorded.</p>
4	<p>CIRCUMSTANCES OF THE DEATH</p> <p>Ivy Atkin was a resident at Autumn Grange Residential Care Home, owned by Sherwood Rise Limited ("the Provider") [REDACTED] was appointed by the Provider and recognised by the Care Quality Commission ("CQC") as the Provider's Nominated Individual. Ivy Atkin died as a result of gross neglect. The Provider and [REDACTED] were convicted of corporate manslaughter/gross negligence manslaughter offences arising directly from Mrs Atkin's death.</p>
5	<p>CORONER'S CONCERNS</p> <p>During the course of the inquest the evidence revealed matters giving rise to concern. In my opinion there is a risk that future deaths will occur unless action is taken. In the circumstances it is my statutory duty to report to you.</p> <p>The MATTERS OF CONCERN are as follows:</p> <ol style="list-style-type: none">1. [REDACTED] had criminal convictions including for an offence involving violence against another person. He had not provided a Disclosure and Barring Service ("DBS") certificate to the CQC nor been asked to do so, before becoming Nominated Individual.2. The CQC were therefore unable to assess whether or not [REDACTED] was of good character and was suitable for the position of Nominated Individual, that person being responsible for the supervising the management of a Residential Care Home, a role which [REDACTED] undertook.3. This is because the CQC expected and still expects a Provider to consider DBS certificates and make decisions as to the suitability of a proposed Nominated Individual, where the Provider is (as was here) a limited company.4. In the case of a small family owned limited company, where the controlling

	<p>director and Nominated Individual are one and the same person, as in this case, there is therefore no reliable nor independent nor objective means of assessing the good character, safety and suitability of a Nominated Individual.</p> <p>5. This is because the wording of the present Regulation 6 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 allows for such a "loophole", and/or in the alternative the manner in which the CQC interprets its powers and duties in the light of this Regulation allows for such a loophole.</p>
6	<p>ACTION SHOULD BE TAKEN</p> <p>In my opinion action should be taken to prevent future deaths and I believe your organisation has the power to take such action.</p>
7	<p>YOUR RESPONSE</p> <p>You are under a duty to respond to this report within 56 days of the date of this report, namely by 20 December 2016 I, the Coroner, may extend the period.</p> <p>Your response must contain details of action taken or proposed to be taken, setting out the timetable for action. Otherwise you must explain why no action is proposed.</p>
8	<p>COPIES and PUBLICATION</p> <p>I have sent a copy of my report to the Chief Coroner and to the following Interested Persons: Nottinghamshire City Council Nottinghamshire Police The Clinical Commissioning Group</p> <p>I have also sent a copy to Nottinghamshire County Council (Safeguarding) who may find it useful or of interest.</p> <p>I am also under a duty to send the Chief Coroner a copy of your response.</p> <p>The Chief Coroner may publish either or both in a complete or redacted or summary form. He may send a copy of this report to any person who he believes may find it useful or of interest. You may make representations to me, the Coroner, at the time of your response, about the release or the publication of your response by the Chief Coroner.</p>
9	<p>25 October 2016 [SIGNED BY CORONER] Stephanie Haskey</p>