

22 March 2024

[REDACTED]
HM Assistant Coroner for Cumbria
Fairfield
Station Road
Cockermouth
Cumbria
CA13 9PT

Dear Mr Cohen

RE: Regulation 28 report to prevent future deaths ([REDACTED])

Further to your Regulation 28 Report of 8th February 2024, I am writing to you to confirm the actions either taken or planned by Cumberland Council, Adult Social Care.

There were two interrelated actions concerning mental capacity, one focusing on how Adult Social Care responds to escalations from care providers, and the second focusing on Adult Social Care's response where an adult with care and support needs might experience fluctuating capacity.

I have set out the two matters of concern below and have followed this with the actions Adult Social Care are taking, or will take, to address these concerns:

- 1. During the inquest I heard from the carers who worked with Mr Godderidge. They reported to me that when concerns are raised about a service user's capacity there is not reliable and routine liaison between Adult Social Care and the care providers. I am concerned that this gives rise to a risk of future deaths. Care workers are very likely to see a service user more often than others. They have a particularly valuable perspective as to a person's capacity. If their observations are not being considered, then opportunities to provide care to vulnerable people may well be missed.*
- 2. Mr Godderidge's carers also reported to me that in their experience consideration of capacity by Adult Social Care does not always reflect the possibility that a person's capacity may be variable and fluctuating. I am concerned that this gives rise to a risk of future deaths if a person is considered on a 'good day' without understanding that their presentation fluctuates substantially over time.*

The Council has reflected on the Coroner's concerns and has considered how we can improve practice in the context of direct responses to an adult who may be experiencing fluctuating capacity, as well as ensuring all information sources shared with Adult Social Care are given due regard in order to respond appropriately, and reduce risk in regards their care and support needs.

Actions taken or planned by Adult Social Care:

1. A guidance and briefing note is being developed for care providers on how to raise concerns around potential changes in a person's mental capacity, or any other issues where Adult Social Care are the responding agency. This will be shared with all providers via the councils Adult Social Care Commissioning team. The note will also be circulated across all Adult Social Care teams for practitioner and manager awareness. The target date for completion and circulation is 29th March 2024.
2. The council have a Mental Capacity Act forum in place which is open to social care and health practitioners across Adults and Childrens services. The last two forums have explored the topic of fluctuating capacity. On the 13th December 2023 the forum focused on Executive Dysfunction and was delivered by Dr Paul Russell (Consultant Clinical Psychologist), who spoke on practice experience of working with fluctuating capacity. A further forum took place on the 25th January 2024 and was a Community of Practice reflective practitioner session, with a focus on fluctuating capacity. The forum is a recurring event, providing a reflective workspace where key learning is shared, and practice is continually developed and improved. The sessions to date have focused on the area of fluctuating capacity specifically to raise and maintain awareness, and to reduce the risk to our customers where this is a factor in regards their care and support needs.
3. The Adult Social Care Advanced Practice Lead team are producing a 7-minute briefing on fluctuating capacity for managers to deliver in team meetings and individual staff supervisions. This will remain available for continuous professional development for existing and any newly appointed staff in Adult Social Care. The target date for completion and circulation is 29th March 2024. The aim of this briefing is to raise and maintain awareness across all Adult Social Care teams, to improve practice and reduce the risk to our customer's where fluctuating capacity is a factor in regards their care and support needs.
4. A rolling programme of mandatory training regards the Mental Capacity Act is on the Training Plan and marked as 'High Priority'. This will incorporate a specific focus around carers noting changes in presentation and how these are to be responded to. The program will also cover the main nuances such as executive capacity, fluctuating capacity and interpersonal influence on capacity. The Advanced Practice Lead team will utilise this training as the grounding from which Mental Capacity Act forums, Community of Practice forums, practice workshops

and briefings will build upon. Having the Mental Capacity Act on a rolling training program ensures the matter of mental capacity is maintained at the forefront of practice and all staff – new and experienced – are continuously developing through a refresher and reflective approach.

5. Adult Social Care have planned legal briefings every 6 weeks, with the last briefing on the 20th March covering the matter of fluctuating capacity.

I trust the information provided and actions the Council has taken, or will be taking, give you assurance that suitable action has taken place to address your concerns and that any risk of a future death occurring is minimised.

Yours sincerely



Assistant Director – Adult Social Care Operations

