REGULATION 29 RESPONSE TO A REPORT ON ACTION TO PREVENT FUTURE DEATHS

Please do not include any living person names in this document, in accordance with the Chief Coroner's publication policy PDF.

THIS RESPONSE IS BEING SENT TO:

The Senior Coroner for the Coroner Area Essex in response to a '**REPORT TO PREVENT FUTURE DEATH REGULATION 28**' following an investigation into the death of **Philip Andrew QUELCH**, and an inquest that concluded on **08 May 2026**.

1.	**RESPONDENT** In line with our duty under Regulation 29 of the Coroners (Investigations) Regulations 2013, **Essex County Council** provides this response within 56 days of the date of the Report to Prevent Future Deaths or any extension granted.
2.	**DATE OF RESPONSE** **26.08.2026**
3.	**CONFIRMATION OF CORONER'S MATTERS OF CONCERN** The **MATTERS OF CONCERN** were identified in the report are as follows: 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. The MATTERS OF CONCERN are as follows. – (1) Mr Quelch was not consistently supervised whilst he was eating his meals. (2) Mr Quelch was subject to a DOLS. It was not clear at inquest what involvement there had been with the Best Interests Assessor. (3) If a Best Interests Assessor notes an adult is at risk of choking, then they should check a choking risk assessment has been carried out and there should be an assessment of capacity under the Mental Health Capacity Act. (4) If these have not been done, then The Best Interests Assessor should consider a recommendation under the DOLS that the adult should receive appropriate guidance and support when accessing nutrition. It was not clear whether these steps had been taken in Mr Quelch's case and what the communication was between the Best Interests Assessor and the residential home. (5) The SALT referral was closed despite Mr Quelch having a co morbidities

	which were degenerative in nature and likely to lead to SALT issues in the future.
4.	**DETAILS OF ACTION TAKEN,** how has the concern been addressed. No action is proposed. Essex County Council (ECC) is concerned that the Prevent of Future Deaths (PFD) report was issued in circumstances which were procedurally unfair and where the evidential basis for the concerns expressed were incomplete. ECC was not designated as an Interested Person pursuant to section 47 of the Coroners and Justice Act 2009 and therefore not afforded any meaningful opportunity to participate in the investigation or inquest process. Whilst it is recognised that there is no absolute statutory requirement for a coroner to invite representations from a potential PFD recipient before issuing a report, the coroners discretion to make a report under paragraph 7 Schedule 5 of the Coroners and Justice Act 2009 must nevertheless be founded upon the relevant and sufficiently informed evidence and information available to the coroner. Fundamental principles of fairness require that where concerns are to be expressed regarding practice, procedures and decision making which might have been capable of being explained, or materially qualified, the coroner should wherever possible have access to evidence capable of explaining those matters before reaching conclusions that may form the basis of a PFD. The Chief Coroners guidance emphasises that PFD reports should be based on clear evidence and that the coroner must consider all relevant documents, evidence and information before making the report. That concern is compounded by the absence of live evidence from the Best Interests Assessor (BIA). Had the BIA been called to give evidence the coroner would have been able to consider first had evidence regarding the statutory assessment process undertaken, information available to the BIA at the time, professional judgement, the scope and limitations of the role. This evidence would have materially assisted the coroners understanding of the process of DoLS authorisation and may have materially altered the factual evidential picture upon which the PFD concerns were based. The Role of the Best Interests Assessor The Deprivation of Liberty Safeguards (DoLS) process was implemented in 2009 as an amendment to the Mental Capacity Act 2005. The DoLS are statutory protections within the Mental Capacity Act 2005 that authorise and review situations where a person who lacks capacity is deprived of their liberty in a hospital or care home, ensuring the arrangements are lawful, necessary, proportionate and in the person's best interests. A DoLS assessment has to be carried out by a Best Interest Assessor (BIA) and a Section 12 Doctor (for the mental health assessment element). A Best Interests Assessor is a registered professional, who has undertaken specific BIA training. They are employed by the Supervisory Body (Local Authority) and are responsible for assessing whether a person who lacks capacity is being deprived of their liberty and whether

	the arrangements are necessary, proportionate, and in the person's best interests under the Mental Capacity Act and DoLS framework. The whole process follows six assessments which are as follows: 1. Age Assessment – determines the age of the person as DoLS applies to people aged 18yrs and over only. 2. Mental Health Assessment which establishes whether the person has a mental disorder as defined by the Mental Health Act 1983 (this is completed by the section 12 doctor). 3. Mental Capacity Assessment which is completed by the Best Interest Assessor. This assessment focuses on establishing whether the person lacks capacity to consent to the care and treatment arrangements that may amount to a deprivation of liberty. 4. No Refusals Assessment which is a check to understand whether the proposed arrangements conflict with a valid Advance Decision, or the decision of an attorney or deputy with relevant authority 5. Eligibility Assessment, which determines whether the person is eligible for DoLS. This should consider whether the Mental Health Act should be considered for any deprivation instead of the DoLS process. 6. Best Interests Assessment, which considers whether the person is being deprived of their liberty, and if so, whether this is this is necessary to prevent hard, proportionate and least restrictive in nature. Only once these assessments have taken place can a decision be made to either authorise or not grant a DoLS. The role of the BIA is therefore to review existing arrangements, consider whether the restrictions are lawful and proportionate, and make recommendations or suggest conditions to reduce the impact of the deprivation of liberty. They would only make recommendations or suggest conditions where there is a need to strengthen what is already in place. a BIA is not responsible for: • Developing or implementing care plans within the care setting • Undertaking routine care management. • Managing identified risks on a day-to-day basis. • Completing or owning service risk assessments. • Deciding the person's package of care or funding arrangements. • Directly supervising staff or overseeing the quality of care delivery. • Making operational decisions on behalf of the care provider. The responsibility for care planning and risk management remains with the Managing Authority (the hospital or care home). In the situation of Mr Quelch, the BIA reviewed all care plans and risk assessments, and there were no concerns raised in relation to how nutrition and hydration were being managed, therefore they did not make any recommendations or conditions to amend/strengthen what was already in place.

5.	**DETAILS OF FURTHER ACTION PROPOSED** *Any links to webpages included in the response will not be checked for sensitive information prior to publication, as the information is already online.*
6.	[redacted] [redacted] **Head of Safeguarding MCA & DoLS**