



# Further Criminal Prosecution by CQC: Care Home Prosecuted for Catheter Care Failings

AUTHOR / KEY CONTACT



Laura Guntrip  
Partner

✉ Laura.Guntrip@LA-Law.com  
☎ 01202 786187

In the latest of an increasing number of care home prosecutions by CQC, a care home provider has been fined £80,000 after pleading guilty to shortfalls in catheter care and record keeping.

Lanemile Limited, part of the Care UK Group, was prosecuted by CQC following the death of a resident, Mrs Mackney in September 2016. Mrs Mackney had been admitted to Haven Lodge in August 2016 from the hospital, where a catheter had been fitted. On 3 September 2016, Mrs Mackney's daughter visited her mother and found her mother semi-conscious in considerable distress. She alerted staff and Mrs Mackney's catheter was found to be blocked. She was admitted to the hospital but died the same day. The cause of death was urinary sepsis associated with her catheter.

CQC subsequently investigated and identified a number of failings and breaches of the Regulations, including a lack of appropriate pre-admission assessment, poor communication and gaps in staff training. Carers had not received training in catheter care and Mrs Mackney's fluid intake and output had not been monitored. In addition, the care plan lacked detail and contained inaccuracies. The care home operator said that, sadly, company processes had not been followed by the care home on this occasion. A spokesperson for the operator, commenting on the prosecution, stated that immediately after the incident they conducted a full review so that they could learn from the case. All care and nursing colleagues in the home took part in additional training on catheter care and maintenance and the importance of accurately recording fluid intake.

This is one of the latest care home prosecutions by CQC and is part of the growing trend of more numbers of criminal investigations and prosecutions being undertaken by the regulator in England.

As in this example, prosecutions can happen some considerable time after an incident has taken place. Often, if a death has occurred, CQC will usually await the outcome of any police investigation or Coroner's inquest before proceeding with any criminal investigation or prosecution of its own. This can place the care homeowner at a real disadvantage in responding to alleged offences, particularly if staff with the most knowledge of the incident have since left employment or records have been archived or mislaid over time.

If a serious incident or death has occurred which may result in criminal investigation by CQC it is important for care homes to seek legal advice at the earliest opportunity, to consider preserving any evidence it may need in due course and to protect itself, as far as possible, from any adverse finding at a Coroner's inquest.

Care homes should also ensure that lessons are learned from any incident where there has been a lapse in compliance or policies and procedures have not been followed and company expectations have perhaps not always been met by staff. This is particularly important in circumstances where an inquest will take place, for avoiding a Regulation 28 report by a Coroner, more commonly known as a "Prevention of Future Death Report". In addition to the Coroner's duty to investigate the circumstances of a death, a Coroner will also need to satisfy themselves that a Regulation 28 report is not required and that there are no concerns that circumstances creating a risk of other potential future deaths – i.e. that lessons have been learnt and any concerns have been addressed by care home management. Therefore, being adequately prepared for the inquest and having sought legal advice in relation to this point is important.

Our [care home solicitors](#) are able to provide advice and assistance with dealing with the aftermath of incidents, Coroner's inquests and CQC enforcement action and criminal prosecution. Contact [our team](#) of care home lawyers to discuss your situation and how we can help you.