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Dear Mr Coutts-Wood,

Thank you for your report into the death of Walter Gordon Powley. The circumstances in which this gentleman died were indeed sad.

As you will be aware our inspectors regulate against the legislation laid down for us by the Government which is the Health and Social Care Act 2008 and subsequent regulations. In assisting providers to understand the legal requirements we produce guidance about compliance, which sets out what we would expect providers to take into consideration. In this instance this issue would fall under Regulation 15 or Outcome 10 which says:

**Safety and suitability of premises**

**15.—(1)** The registered person must ensure that service users and others having access to premises where a regulated activity is carried on are protected against the risks associated with unsafe or unsuitable premises, by means of—

- (a) suitable design and layout;
- (b) appropriate measures in relation to the security of the premises; and
- (c) adequate maintenance and, where applicable, the proper—
  - (i) operation of the premises, and
  - (ii) use of any surrounding grounds, which are owned or occupied by the service provider in connection with the carrying on of the regulated activity.

(2) In paragraph (1), the term "premises where a regulated activity is carried on" does not include a service user's own home.

Our guidance states that the provider should also meet the requirements of the Health and Safety at Work Act 1974 and other relevant legislation. We work closely with the Health and Safety Executive (HSE) in Leicestershire with inspectors reporting any issues that they note on their inspections in nursing homes. Whilst the Commission's (CQC) compliance inspectors do look at the premises they would not necessarily have a comprehensive knowledge of the Health and Safety Act. There are a number of outcomes and regulations which can be assessed and it is rare that compliance inspectors look at them all. The inspector chooses the outcomes to assess based on the service type, the needs and vulnerability of the people using the service and any prior knowledge we hold about the service. Therefore we may not look at the pipe work unless there had been a complaint or unless it stood out to them that the area was dangerous. Our inspectors do check that radiators are covered but will often only sample a selection of people's rooms.

Our local compliance inspector did inspect the location in May 2012 and reviewed seven outcomes or regulations. Unfortunately they did not inspect against Regulation 15, Outcome 10. We are currently reviewing the way in which we inspect in adult social care and are piloting a new methodology very soon. Instead of the current outcomes we will assess against five domains and ask five questions:

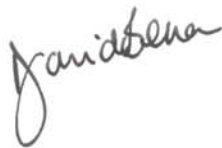
- Is this service safe? *Certainly in this circumstance the service was not safe.*
- Is this service effective?
- Is this service caring?
- Is this service responsive to people's needs?
- Is this service well-led?

The provider has the ultimate responsibility for ensuring that they know and monitor any unsafe conditions in the service and take the correct action.

I welcome the timeliness of your report and will share its findings within my organisation; there are definitely lessons to be learnt from this very sad situation, which includes exploring the ways in which we can work more closely with the HSE and how we can ensure, within our new methodology, that our inspectors are checking high-risk areas such as this.

If you would like to know more about the imminent changes in CQC, please do not hesitate to contact [REDACTED] Head of Regional Compliance in Central West, [REDACTED] or visit our website [www.cqc.org.uk](http://www.cqc.org.uk).

Yours sincerely,



**David Behan**  
Chief Executive

