



The Rt Hon Matthew Hancock MP
Secretary of State for Health and Social Care
Department of Health and Social Care
39 Victoria Street
London, SW1H 0EU

09 October 2020

RE: Update on policies for visiting arrangements in care homes

Dear Secretary of State,

As you will be aware, Healthwatch England is the independent champion for patients, care users and the public; the Association of Directors of Adult Social Services (ADASS) includes social work and social care members from all 151 local authority areas in England, and as a charity are a leading, independent voice of adult social care; and the Care and Support Alliance combines over 75 charities, representing older people, disabled people and their carers.

We are writing to express several concerns we have with the Department of Health and Social Care's guidance for visiting care homes during coronavirus¹, and to ask for new guidance to be issued as a priority.

Wellbeing of People in Residential Homes

The absence of visits for older and disabled people in residential homes is having a profoundly detrimental effect on their health, welfare and wellbeing. Prolonged isolation is detrimental to all of us. For those who lack capacity or who are at the end of their lives, it is particularly devastating.

Despite care home visits being permitted from July, we are hearing that the reality for many residents and their families is that visits have continued to be severely restricted. In some cases, residents have had no visits since March. We are also concerned as to the default position advocated by the guidance that there should be a limit of one constant visitor, which is depriving residents of contact with their wider family and social circle. The guidance also fails to make provisions for people living in residential care settings to go out and visit their friends and family away from their homes.

This restriction in visits to and from friends and family is leading to increased isolation and loneliness, and we are now receiving reports of significant and widespread physical and mental deterioration of residential care residents and grief for families. In such cases, not only do many residents grow confused and distressed, but there is an increasing risk that

¹ Department of Health (2020). Update on policies for visiting arrangements in care homes, updated 21 September 2020. Retrieved from <https://www.gov.uk/government/publications/visiting-care-homes-during-coronavirus/update-on-policies-for-visiting-arrangements-in-care-homes>



the practical and emotional issues often picked up by relatives will be missed. Indeed, homes that become, in effect, closed institutions are very high risk for abuse and neglect. Even the best run that risk if there is a sudden drop in staffing. Family and other close visitors are among the best advocates on behalf of their loved ones.

The recently published Adult Social Care Winter Plan rightly states that people's needs should be considered regarding the allowance of visits. Ensuring that this point is at the heart of updated visiting guidance would be a vitally important step for the physical and mental wellbeing of residential care residents and would provide greater clarity to providers in developing visiting plans.

Deprivation of Liberties and Human Rights

Human rights are complex. On the one hand, there are those who want, more than anything else, to be protected from a virus that is highly dangerous to people with underlying health conditions. On the other, there are many, particularly those who may be in the last years of their lives, who do not feel their lives are worth living without contact with the people they love.

For most, there is probably a decision to be made about a balance of risks to themselves and to others. Those who are able to do so have a right to choose what risks they are willing to take for the benefit of seeing their family. Obviously, the accommodation of such choices has to have regard to the protection of others from harm. Those unable to make decisions for themselves are entitled to have choices made which are in their best interests and looked at holistically, not just with regard to protection from infection. However, a lack of clarity in the current guidance regarding involving residents and their families in decision-making around visits has led to many visiting policies which remove the rights of people to make decisions on their own lives. Taking away the rights of people to make their own choices or take part in conversations around joint decision-making runs contrary to Article 8 of the Human Rights Act 1998 and Section 4 of the Mental Capacity Act 2005. There may also be a further breach to Article 8 and an unlawful deprivation of liberties if all visits moving forward are to be supervised, as stated in the Adult Social Care Winter Plan.

Although it is permissible to restrict human rights in certain situations, actions must be proportionate and in accordance with law. Restricting the right to a family and private life in order to protect the right to life of others should only be done where providers have found no practicable alternative after considering all other options available to them, and residents and their families have been involved in the decision-making.

Provider Support

The current guidance states that all visiting decisions are ultimately operational and for the provider to make. A certain level of variance in policies is therefore to be expected. However, with recommendations made both centrally through the Department's guidance and locally through Directors of Public Health, we have had reports of a lack of consistency and clarity for both providers, residents, and their families.



Although there are examples of innovation from providers in finding ways to make safe visits possible, we are also hearing increasing reports of residential care providers introducing blanket ‘no visiting’ policies. Such policies not only run counter to anything personal in relation to care but are directly leading to and exacerbating the wellbeing issues highlighted above.

Any update to the visiting guidance should more simply set out the expectations on providers, local authorities, residents and their families in developing local visiting policies. Providers should be supported to seek the views and wishes of each resident in relation to visiting, and be supported in attempts to provide safe, zoned visiting areas. Where this is not possible, expectations should be made clear that current and prospective residents (or their representatives or advocates if they lack capacity) will be clearly informed, so that they can weigh up the risks and consider these along with visiting alternatives with the provider and with social workers.

Residential Care and Beyond

The current guidance only mentions wider residential care as a footnote. New guidance should more explicitly cover the arrangements of those across all residential care settings and should do so in the context of safely enabling care users to live the fullest lives they can. Some of the issues we have raised are rightly addressed in guidance for the supported living sector², such as shared decision-making on visits. These points should be replicated in guidance to the residential sector.

Next Steps

We hope that the Department will take on board our suggestions. As organisations representing service users, carers and local leaders, we stand ready to provide any support required as part of updating the visiting guidance. The pandemic has been affecting the visiting rights of residential care residents since March and can now be expected to continue for many months to come. Reconsideration of the guidance is, we suggest, now urgent.

Yours sincerely,

Sir Robert Francis, QC
Chair, Healthwatch
England

James Bullion
President, ADASS

Caroline Abrahams
Co-Chair, the Care and
Support Alliance

² The Department of Health and Social Care and Public Health England (2020). Covid 19: guidance for supported living, last updated 6 August 2020. Retrieved from <https://www.gov.uk/government/publications/supported-living-services-during-coronavirus-covid-19/covid-19-guidance-for-supported-living#visitors-and-support-bubbles>