

Consultation on Proposals for Delivering Anne's Law: Supporting People Who Live in Adult Care Homes to Maintain Family and Friendship Connections

September 2021



Scottish Government
Riaghaltas na h-Alba
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Introduction

Background

1. The development of Anne's Law follows a Care Home Relatives Scotland Petition: [PE1841](#). This petition was lodged by Natasha Hamilton, who was unable to see her mother, Anne Duke, for prolonged periods during the height of the pandemic. The petition called on the Scottish Parliament to urge the Scottish Government to allow a designated visitor into care homes to support loved ones.
2. This consultation seeks views on the Scottish Government's proposals for delivering Anne's Law in primary legislation, to ensure that people who live in adult care homes have rights to see and spend time with the people who are important to them. These proposals will form a second phase of work to take forward Anne's Law, which also includes work in the shorter term to strengthen the Health and Social Care Standards (the Standards). A consultation on the Standards was published on 16 September and can be found here: [Adult care homes: strengthening Health and Social Care Standards - Scottish Government - Citizen Space \(consult.gov.scot\)](#)
3. Throughout the pandemic, our overriding priority in care homes has been to safeguard and protect staff and residents from infection – but at times, that has meant that residents have been unable to see their loved ones as they would have liked, causing anguish for many. A commitment to developing Anne's Law was therefore outlined within the Fairer, Greener Scotland: Programme for Government 2021-22 published on 7 September:

We will strengthen residents' rights in adult residential settings and bring in 'Anne's Law' – giving nominated relatives or friends the same access rights to care homes as staff while following stringent infection control procedures, as called for by Care Home Relatives Scotland

4. Social connections and meaningful activity are important for the wellbeing and quality of life of people living in adult care homes. One of the main drivers for introducing Anne's Law is a recognition that families and friends play an essential role in the health and wellbeing of people who live in these homes (in terms of both practical and emotional support). For many residents, family members or friends also play a vital role in their care, complementing the support provided by care home staff. Prolonged isolation from family and friends is likely to be detrimental to the welfare of the resident.
5. A key expectation of stakeholders is that Anne's Law will ensure that people who live in adult care homes will be able to have direct contact with people who are important to them in order to support their health and wellbeing, regardless of circumstances, whether there is a national or local lockdown due to a pandemic or other reasons.

6. The Scottish Government considers that legislative provisions on Anne's Law could be included in the National Care Service Bill for which a consultation is currently underway, see:

<https://consult.gov.scot/health-and-social-care/a-national-care-service-for-scotland/>

7. The Scottish Government invites views on the potential aims of and proposals for legislative provisions to support Anne's Law.

Why we are consulting

8. The Scottish Government is committed through Anne's Law to developing a person-centred mechanism for ensuring that people who live in adult care homes have rights to see and spend time with those who are important to them.
9. It is important that we hear views and suggestions on the proposals to achieve this so that we do it in the best possible way. We want to hear from as many people as possible to shape the proposals – including people who live in adult care homes, their families and friends and care home providers and staff.
10. A five week period has been proposed for the consultation and we are inviting responses before close on **5 November 2021**. This is to align with work on developing the National Care Service Bill (NCS), a possible mechanism for Anne's Law, for which the consultation closes on 5 November.

Proposals

Introduce legislation through the National Care Service Bill

11. Based on initial feedback from stakeholders and families, the Scottish Government considers that Anne's Law should provide people who live in adult care homes with the right to see and spend time with a named visitor or visitors who will have the same access rights to care homes as staff to enable this, while following stringent infection control procedures. The Scottish Government therefore proposes that the overall aim of Anne's Law is to ensure residents in care homes can spend time with those who are important to them in order to support their health and wellbeing.
12. As noted above, the Scottish Government considers that legislative provisions on Anne's Law could be included in the National Care Service (NCS) Bill for which a consultation is currently underway. The creation of an NCS was recommended by the Independent Review of Adult Social Care. The NCS will have a responsibility for planning services and setting standards, with Scottish Ministers being responsible for social care and support. Ahead of the development of the draft NCS bill, the Scottish Government wishes to seek views on the aims of, and proposed approach for, delivering Anne's Law. This will help

to confirm whether the National Care Service Bill is the best vehicle for achieving the aims and aspirations of Anne's Law.

13. Introducing legislation takes time. The Scottish Government is keen to do what it can in the meantime to support this commitment. As noted above, the Scottish Government is therefore also consulting on proposals to strengthen the Health and Social Care Standards to enable people in adult care homes to see and spend time with their loved ones. The consultation can be found here: <https://consult.gov.scot/pandemic-response/annes-law>
14. The Standards set out what people should expect when experiencing health, social care or social work services in Scotland. Expanding the concept of Anne's Law into the Standards would allow immediate work to commence in supporting this commitment.

Considerations

15. There is a range of legal and practical considerations in developing Anne's Law. For example we must carefully consider how any new legislation will interact with the need to protect residents, staff and the wider public from the risk of serious infection, whilst at the same time considering human rights and equality implications.
16. Proposals to implement Anne's Law will also aim to allow for an individualised approach where possible, ensuring that the competing needs and rights of individuals are assessed on a case by case basis and the particular circumstances of the care home setting are taken into account.
17. Another consideration is the scope of Anne's Law. The proposals outlined above are intended for adult care homes registered with the Care Inspectorate. However, there are other similar settings, such as supported accommodation and wider care homes which may merit a similar approach
18. The Scottish Government would welcome views on these and any other considerations.

The Consultation Questions

We would be grateful for views in response to the following questions.

Question 1 – Do you agree with the overall aim that people living in adult care homes have the right to see and spend time with those who are important to them in order to support their health and wellbeing?

Yes

No

I don't know

Please say why/explain your answer

Question 2 - What do you think should be the main aims of Anne's Law?

Question 3 – Do you think this should be a right for residents or for the visitor (s)?

For resident

For visitor(s)

For both

I do not think there should be rights for either resident or visitor?

Please say why/explain your answer

Question 4 – How can the rights of residents be balanced against the rights of other people in the setting for example other residents, staff, visiting professionals?

Question 5 - What do you see as the main benefits, challenges and risks of the proposal to develop legislation to support people living in adult care homes to have the right to see and spend time with those who are important to them?

Benefits

Challenges

Risks

Question 6 - Should the proposals apply only to people who live in an adult care home (residential and nursing) registered with the Care Inspectorate?

Yes

No

I don't know

Please say why/explain your answer

Question 7 - Please provide any further comments on the proposals

Responding to this consultation

Submitting your response

We are inviting written responses to this consultation by close on **5 November 2021**.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before close on **5 November 2021**.

If you are unable to respond using our consultation hub, you can alternatively send your response by email or post. If so, please complete the Respondent Information Form (download it from the Supporting Files section) and add your responses.

Email responses should be sent to ALconsultation@gov.scot. Please include the Respondent Information Form as an attachment.

While normally we would happily accept postal responses, given the Covid-19 pandemic, it would be helpful if responses were provided online wherever possible to ensure that views are received, collected and attributed correctly. However, if you need to send your response by post, please send it to:

Anne's Law Consultation
Scottish Government
Room 3 East Rear
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

Alternative formats of this consultation will be made available very shortly. This will include Easy Read and British Sign Language. Other accessible formats are available upon request. To request those, please email: ALconsultation@gov.scot

If you require a paper copy to be sent to you, please email us or call our automated phone service on 0300 244 6600 and leave a message.

Handling your response

If you respond using the consultation hub, you will be directed to the 'About You' page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

To find out how we handle your personal data, please see our privacy policy: <https://www.gov.scot/privacy/>.

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>.

If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered, along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or ALconsultation@gov.scot

Scottish Government consultation process

Consultation is an essential part of the policy making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision-making process, along with a range of other available information and evidence. We will publish a report on this analysis for every consultation.

Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Respondent Information Form

If you are unable to respond via Citizen Space on the website please complete the Respondent Information Form. The Respondent Information Form and accompanying Consultation Questionnaire are available in the supporting files for this publication.

Please do not send a response without a Respondent Information Form.



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