

# **Consultation on Strengthening the Health and Social Care Standards to Support 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. This consultation seeks your views on the Scottish Government's proposals for strengthening the Health and Social Care Standards to enable people living in adult care homes to maintain family and friendship connections to support their health and wellbeing. These proposals form part of work to take forward Anne's Law, ensuring that people who live in adult care homes have rights to see and spend time with the people who are important to them. A second consultation on proposals for delivering Anne's Law will be published shortly.
2. The development of Anne's Law follows a Care Home Relatives Scotland Petition: [PE1841](#) which 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.
3. Throughout the pandemic, our overriding priority in care homes was to safeguard and protect staff and residents from infection – but at times, that meant that residents were cut off from their loved ones, causing anguish for many. A commitment to developing Anne's Law was 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 care homes. One of the main drivers for updating the Standards is a recognition that families/ friends play an essential role in the health and wellbeing of people who live in care homes (in terms of both practical and emotional support). For many residents, family members / friends 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 consultation setting out proposals to include legislative provisions on Anne's Law in the National Care Service Bill will be launched shortly. However, introducing legislation takes time. The Scottish Government is keen to do what it can in the meantime to support this commitment. The Scottish Government is therefore proposing to strengthen the Health and Social Care Standards to have rights to see and spend time with the people who are important to them to support them in their health and wellbeing.
6. The Health and Social Care Standards can be found here: <https://www.gov.scot/publications/health-social-care-standards-support-life/>

7. The Standards set out what people should expect when experiencing health, social care or social work services in Scotland. This consultation seeks views on ways to strengthen the Standards to ensure that people are able to spend time with their loved ones especially in times of crisis or emergency.

## **Why we are consulting**

8. Under Section 50 of the Public Services Reform (Scotland) Act 2010, Scottish Ministers can put in place standards applicable to care and social work. There is a statutory duty on the Scottish Ministers to consult with any persons whom they consider appropriate before they publish new Standards.
9. It is important that we hear views and suggestions on ways to strengthen the Standards so that we do it in the best possible way.
10. A four week period has been proposed for the consultation and we are inviting responses until **Tuesday 2 November 2021**. This is because we wish to support early implementation of new Standards ahead of any proposed legislation in support of Anne's Law.

## **Strengthening the Health and Social Care Standards**

11. We are proposing to strengthen the Health and Social Care Standards to enable people who live in adult care homes to have rights to see and spend time with the people who are important to them. The Health and Social Care Standards set out what people should expect when experiencing health, social care or social work services in Scotland. The Standards are used by services and support organisations as a guideline for how to achieve high quality care. They are also taken into account by the Care Inspectorate, in relation to registration and inspection of care services. Strengthening the Standards around ensuring that people can spend time with their loved ones would allow regulators to refocus certain inspections practices in support of the wishes of care home residents and their nominated family or friends.
12. There are many Standards which already contain references to connection with loved ones (see below). However, the Scottish Government is proposing that one or more new standards will be required to strengthen the rights of residents to choose and see someone to support them in their wellbeing. Adding a new Standard would allow immediate work to support the commitment to strengthen residents' rights in adult residential settings as part of Anne's Law.

## **Existing Standards**

- 1.10 I am supported to participate fully as a citizen in my local community in the way that I want.
- 2.18 I am supported to manage my relationships with my family, friends or partner in a way that suits my wellbeing.
- 2.19 I am encouraged and supported to make and keep friendships, including with people my own age.
- 2.22 I can maintain and develop my interests, activities and what matters to me in the way that I like.
- 5.15 If I am an adult living in a care home I can choose to see visitors in private and plan for a friend, family member or my partner to sometimes stay over.

## **Potential options for new Standard(s)**

Following an initial review of the Standards, we have proposed a number of potential options:

- a) If I am an adult living in a care home, I can nominate a named visitor (and substitutes) who I am able to see and spend time with to support my health and wellbeing which meets my needs and preferences.
- b) If I am an adult living in a care home, I can nominate a named visitor (and substitutes) who I am able to see and spend time with at any time to support my health and wellbeing which meets my needs and preferences.
- c) If I am an adult living in a care home and visiting restrictions are needed to prevent infection, my named visitor (and substitutes) are supported by the service to continue to see and spend time with me, as long as it is safe .
- d) If I am an adult living in a care home and visiting restrictions are needed to prevent infection, my named visitor (and substitutes) are supported by the service to be fully involved in supporting my health and wellbeing at any time.

- 13. The Scottish Government would welcome views on these options and any alternative suggestions.

## **Considerations**

- 14. 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.
- 15. 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.

16. 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
17. 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** - Do you think that a new Health and Social Care Standard (or Standards) should be developed or should the existing Standards be strengthened?

A new Standard is required

The existing Standards could be strengthened

We need to do both

We don't need to do either

I don't know

Please say why/explain your answer

**Question 3** - If you think the existing Standards should be strengthened, please provide suggestions here.

**Question 4**- If you think a new Standard (or Standards) is required, what do you think of the following options:

a) If I am an adult living in a care home, I can nominate a named visitor (and substitutes) who I am able to see and spend time with to support my health and wellbeing which meets my needs and preferences.

b) If I am an adult living in a care home, I can nominate a named visitor (and substitutes) who I am able to see and spend time with at any time to support my health and wellbeing which meets my needs and preferences.

c) If I am an adult living in a care home and visiting restrictions are needed to prevent infection, my named visitor (and substitutes) are supported by the service to continue to see and spend time with me, as long as it is safe .

d) If I am an adult living in a care home and visiting restrictions are needed to prevent infection, my named visitor (and substitutes) are supported by the service to be fully involved in supporting my health and wellbeing at any time.

Please rank preference

- a
- b
- c
- d

I don't know

I don't like any of them

Please say why/explain your answer

**Question 5** - If you have an alternative suggestion for a new standard, please provide it here:

**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** - What do you see as the main benefits, challenges and risks of a proposal to update the Health and Social Care Standards to support people living in adult care homes have the right to see and spend time with those who are important to them?

**Question 8** - Please provide any further comments on the proposals.

## Responding to this consultation

We are inviting written responses to this consultation by **2 November 2021**.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/pandemic-response/annes-law/>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of **2 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](mailto: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 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](mailto: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](mailto: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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