



Department  
of Health &  
Social Care



Rt Hon Harriet Harman MP, Chair  
Joint Committee on Human Rights  
Committee Office, House of Commons  
London, SW1A 0AA

20 December 2021

Dear Harriet,

Thank you for your letter dated 29 October 2021 about the Joint Committee on Human Rights' (JCHR) inquiry into Protecting Human Rights in Care Settings.

Since the beginning of the COVID-19 pandemic, more than 40,000 care home residents in England have died from COVID-19. Given the vastly increased risk to care home residents compared with the wider population, it is right for the Government to put in place additional measures to keep people living in care homes safe.

We must strike the right balance between our duty to protect and promote care home residents' rights to family life (Article 8 ECHR) and their right to life (Article 2 ECHR). We have made judgements that balance these rights to enable residents to have meaningful visits with their families and loved ones while ensuring that residents are protected, as far as possible, from infection and harm from COVID-19. These judgments have been informed by clinical advice and data.

Throughout the pandemic, guidance gradually eased as the clinical advice demonstrated it was safe to do so. New clinical advice, provided in light of the spread of the Omicron variant, has led us to put in place new measures keep residents in care homes safe:

- Each care home resident can have three nominated visitors who can visit regularly
- This is in addition to all residents being able to nominate an essential care giver (loved ones who offer companionship and other support) who can visit in any circumstances, regardless of whether there is an outbreak
- Residents are asked to self-isolate following an emergency stay in hospital or following a visit out of the care home that is determined to be high-risk following an individual risk assessment.
- For other visits out of the care home we will ask residents who have had two doses of the vaccine, or who are exempt, to take LFD tests every other day when they return from spending time out of the care home. , This will ensure that care home residents

can continue to go out of the care home to visit loved ones or spend time in the local community,

- For those residents who have not had two doses of the vaccine and who are not exempt, we will ask them to isolate following a visit out in order to mitigate the risk that they endanger their fellow residents by bringing the new variant into the care home.
- Visits at the end of life should always be supported.

I am confident that these changes to the visiting guidance continue to strike the right balance between keeping care home residents safe while allowing them to have meaningful contact with loved ones and live as independent lives as possible. I am determined that guidance becomes more permissive as soon as the clinical advice shows it is safe to do so.

### Compliance

The Care Quality Commission (CQC) reinforces the message that care homes need to enable, rather than restrict, visiting and that blanket bans on visiting are unacceptable. The CQC continues to seek assurances from care home providers about how they are supporting visits to happen and verifies this information during inspections. The CQC's adult social care inspectors ask specifically about visiting arrangements on all care home inspections through the [Infection Prevention and Control in Care Homes \(IPC\) tool](#).

The CQC has provided mechanisms for people to feedback concerns about visiting. They respond to all concerns passed to them and can receive concerns anonymously via representative groups, such as Rights for Residents. Where these concerns have named the provider or service in question, the CQC has followed up the cases. The testimony in your letter is of significant concern and I am committed to ensuring all residents are able to have meaningful contact with their relatives. If you can share details of these instances, I will ask the Care Quality Commission (CQC) to follow them up.

I am satisfied that the CQC has sufficient regulatory powers to take action where providers do not appropriately or proportionately support people to have access to visits and their rights are compromised.

### Legislation

The Government has considered the merits of legislation on several occasions, and we have concluded that the effect of legislation would be the same as current arrangements. I support the spirit of proposed legislation; We must ensure that meaningful visits are facilitated by all care providers. However, I do not think the legislation would achieve the intended aims. If care home visiting were enshrined in legislation, where there were concerns that care providers were not complying with the guidance, residents and families would need to raise concerns with the CQC; this is already the process for raising concerns that a care provider is not complying with guidance. The actions CQC would take in response to complaints would be the same as they currently are. The guidance for essential care givers has gradually become more permissive as clinical advice has changed and therefore the case for legislation has weakened. Throughout the pandemic we have been clear that end of life visits should always be supported.

I look forward to working with you to further improve care home visiting arrangements in future.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Gillian", with a large, stylized initial "G" that loops back.

**GILLIAN KEEGAN**