



Visiting for care home residents

This is a summary of the key law and guidance relevant to visiting in care homes in England. It covers:

1. Government guidance on visiting in care homes
2. Government guidance on visits out of care homes
3. Other laws relevant to visiting, setting out legal rights and standards

The government guidance should be read in the context of these legal standards and duties.

This document is not legal advice

1. Government guidance on visiting people in care homes

The Government guidance on visiting in care homes is available [here](#) (updated on 16 August).

Overall approach

The “default position” is that all care homes should enable the different types of visiting outlined in the guidance. It recognises that “visiting is a central part of care home life” which is “crucially important for maintaining health and wellbeing and quality of life of residents”. It recognises how vital it is for family and friends to maintain relationships and contribute to residents’ care and support. Whilst recognising that visiting brings risk of transmission, “these risks can be managed and mitigated” and should be balanced against the importance of visiting and its benefits.

All care homes should enable:

- **Nominated visitors:** regular visits from named people, indoors
- **Essential caregivers:** every resident can choose an essential caregiver for additional, more regular support and companionship
- **Additional visits:** with other relatives/friends outdoors, behind screens/windows or in pods
- **Exceptional circumstances:** for residents nearing the end of life (defined as last year of life) or where there are other 'exceptional circumstances'

In the event of an outbreak, visits should continue from essential caregivers (except where they or the resident have tested positive) and in exceptional circumstances. Window/pod visits can also continue in an outbreak. Residents who have been identified as a close contact of someone who has tested positive do not need to isolate if they are fully vaccinated and can continue to have visitors.

The onus is on care home managers to decide how visits should happen to meet the needs of their residents by developing a visiting policy in consultation with residents and their relatives. When developing their visiting policies, providers should undertake individual risk assessments, taking into account the rights and wellbeing of the individual residents. It stresses “the individual resident, their views, their mental capacity, their needs and wellbeing should be taken into account” in visiting decisions. The guidance says decisions should be taken in light of providers’ legal duties under the Equality Act and the Human Rights Act, and the Care Quality Commission has regulatory powers that can be used if they have concerns about visiting.

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Care homes should involve the resident and their family/friends in decisions and share the risk assessments and visiting policies with them.

Named visitors

All care homes should allow regular, indoor visits for each resident.

Key points:

- There is now no limit on the number of named visitors per resident.
- Named visitors will have to test negative on the day of each visit (using rapid tests which the home provide, or obtained elsewhere – see guidance for details) and wear appropriate PPE.
- Residents and nominated visitors can hold hands, other close physical contact like hugging is advised to be kept to a minimum. It says such contact will be safer where both are fully vaccinated.
- The resident will choose who their named visitors will be. For residents assessed as lacking capacity to decide, the home should discuss this with their family, friends or others who may have usually visited and use the Mental Capacity Act to make a decision in the resident's best interests.
- The named visitors should remain the same, "within reason".
- The guidance says the length and frequency of the visit will depend on the layout of the home and how many other families wish to visit.
- The guidance is not prescriptive about where the visits take place, advising it is in a well-ventilated room.
- Where a visitor has been identified as a close contact of someone who has tested positive, the guidance advises against visiting unless absolutely necessary (and they should have a negative PCR test, and rapid test on the day).

Essential caregivers

All residents can now choose to nominate an essential caregiver.

Key points:

- Intended for "companionship" or to allow additional care and support from someone close to the resident.
- Can have close physical contact, spend longer in the home and access areas other visitors cannot.
- Exact arrangements will be agreed with the care home, following an individual assessment of the resident.
- Essential caregivers to have same testing, PPE and infection control arrangements as staff.
- They should agree with staff what tasks they will and will not be performing (clinical care and medical tasks remain the responsibility of the care home staff).
- It is not necessary for essential caregivers to commit to visiting a specific number of times per week.
- Essential caregivers can continue to visit during periods of isolation and during outbreaks except where they or the resident have covid, or they are not fully vaccinated and have been notified they are a close contact of someone who is covid-positive.
- Where an essential caregiver is identified as a close contact of someone who has tested positive:
 - if they are fully vaccinated the guidance recommends they can visit when they have received a negative PCR test, and a negative rapid test on the day
 - if they are not fully vaccinated, the guidance says they shouldn't visit for 10 days.

Outdoor or screened visits

In addition to above visits. The guidance states providers are best placed to decide how these visits happen in practice, but sets out:

- Visits should be in the open air where possible.

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- Visits can take place in pods/a dedicated room with a ‘substantial screen’, which must only be used by one resident and ‘visiting party’ at a time and cleaned after.
- An essential caregiver can also be present to support the resident.
- Appropriate PPE should be used throughout the visit.
- Visitors should limit contact with residents and maintain “as much distance as possible”.

Exceptional circumstances such as end of life

Visits in exceptional circumstances such as end of life “should continue in all circumstances” and “always be supported and enabled”.

Key points:

- The guidance defines end of life care as the last year of life, supporting people to live as well as possible and to die with dignity.
- Care homes should ensure the right visiting arrangements are in place for each resident, facilitating visiting as much as possible, appropriate for the individual’s situation.
- As a resident approaches the final months, care homes should communicate well to enable good and timely decisions around care and allow visits.
- Visits should be enabled in the final months and weeks, not just the final days or hours.
- If a visitor has a negative test and is wearing PPE, they can have physical contact, including providing personal care or holding hands (essential caregivers can have more contact, as outlined above).

Children and young people

Children and young people can visit. A young person can also be an essential caregiver (it recommends this is for older teenagers).

Decisions for different residents / groups of residents

The guidance states it may be necessary or appropriate for care homes to have different visiting rules for different residents, based on an assessment of the risk of virus and the potential benefits of visits. It says providers should work with the resident and family/friends to develop a “tailored visiting policy” for residents whose needs make it challenging to follow the advice in the guidance (such as those unable to leave their rooms, people living with dementia or who may lack capacity on relevant decisions).

Precautions / stopping visits

The guidance calls for ‘robust practices for infection prevention and control’, including:

- Appropriate PPE is worn and appropriate prevention and control measures followed, such as washing hands. PPE should be provided for free.
- All visitors should be screened for symptoms of acute respiratory infection (this is not the same as testing).

The guidance says that if an outbreak occurs (defined as two or more confirmed or clinically suspected cases of people associated with the home within 14 days) care homes should stop visiting until the outbreak is confirmed as over. This will be 14 days after the last confirmed/suspected case, but 28 days for an outbreak of a variant of concern (other than the Alpha or Delta variants). The exceptions are for exceptional circumstances like end of life, essential caregivers, and window or pod visits. It also states local authorities may have powers to direct homes to close to visiting, but that these directions should be proportionate. In such instances, homes should set out alternative options for helping families keep in touch and keep relatives updated on the person’s mental and physical health.

The guidance also sets out the roles of the local Director of Public Health and local Director of Adult Social Services, in supporting care homes to ensure visiting happens. Their advice to care

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homes on infection rates should recognise local differences and allow care homes to use their discretion, stressing that blanket approaches are not appropriate. The Director of Public Health may also advise care homes on allowing more visiting opportunities than the generic advice set out the guidance.

Other relevant info

The guidance states that care homes should support visitors, and give tips, on how to prepare for the visit.

Vaccination is not required before a visit can go ahead, but the guidance strongly recommends residents and visitors be vaccinated with two doses.

There is no time limit set on visits in the guidance, nor a requirement for visits to be supervised.

The guidance is only about visiting in care homes. Separate guidance on visits out of care homes is summarised below. Guidance for supported living settings is available [here](#).

2. Government guidance on visits out of care homes

Government guidance on visits out of care homes is available [here](#) (updated on 23 August).

The guidance recognises that spending time out of the care home is an important part of life and for a resident's health, wellbeing and their ability to remain at the heart of family and social networks.

The guidance says residents should isolate for 14 days on their return from a visit out which involves:

- an unplanned overnight stay in hospital e.g. an emergency admission
- are assessed as high-risk, following an individual assessment
- travel to an amber list country

For planned overnight hospital stays, residents do not need to isolate on return if they are fully vaccinated, have a negative PCR test, rapid tests for 10 days and avoid contact with highly vulnerable residents. If there was an outbreak in the hospital, the 14 day isolation would apply. The need to self-isolate remains under review and will be amended "as soon as the data and evidence show it is safe".

All other visits out not assessed as high risk should be supported without the need to self-isolate on return to the care home.

The guidance is clear that care homes should always support visits out in exceptional circumstances, such as to visit someone at the end of their life.

The onus is placed on care providers to create a policy on visiting out. Decisions should be taken on an individual basis, following individual assessments taking into account the person's needs and circumstances. The home should balance the benefits of the visit out against consideration of the risk to others in the home where necessary. Individual risk assessments should take into account:

- Where a resident is going and what activities they will take part in
- The transport they will use
- Infection levels and variants of concern in the local community
- Any testing of the people the resident will be visiting

- Vaccination status of the resident, those they are visiting and staff – the guidance ‘strongly recommends’ residents and those they are visiting have the vaccine

The guidance states the importance of involving residents and their family in discussions throughout. Providers should agree arrangements with residents and those they are visiting in advance.

Decisions should be taken in line with legal obligations under the Equality Act, Human Rights Act and the Mental Capacity Act where a person lacks capacity to make a decision on visits out.

Mitigating risk

The guidance advises the following should be considered for visits out:

- Social distancing from anyone who is not the resident’s named visitor or essential caregiver and avoiding close physical contact with those supporting the visit.
- “If appropriate” residents being accompanied by a named visitor, an essential caregiver or a member of staff. If so, the named visitor/essential caregiver should follow the relevant testing regime (as outlined in the guidance on visiting inside care homes, above) and receive a negative result.
- Where possible, other people the resident meets should have a lateral flow test on the day and take steps to minimise risk, including hand hygiene and wearing face coverings.
- Avoiding crowded places, and public transport where possible. The guidance suggests travelling by family car or taxi.

Outbreaks

In the event of an outbreak in the home, the guidance says movements out of the home should be minimised as far as possible, until the outbreak is over. This is 14 days after the last confirmed or clinically suspected case in a resident or member of staff. As stated above, visits out in exceptional circumstances should always be supported.

Where the home is in an area with high or rapidly rising cases or evidence of variants of concern, the guidance states care home managers should seek advice from their local director of public health. The local directors of public health and the directors of adult social services should not recommend an approach across the whole area that does not take into account the different circumstances of individual homes.

3. Relevant law and regulations

Decisions about visiting engage residents’ **right to family life**, which covers maintaining relationships, and their **right to private life**, which covers physical and mental well-being and their autonomy to make their own choices (all protected in UK law by **Article 8 of the Human Rights Act**). Whilst these rights can be restricted, including for the protection of health or the rights of others, a restriction must be proportionate. The onus is on the service provider to justify their interference with these rights, by demonstrating that the decision they have taken is the least restrictive option for that person, having considered the alternatives. For example, if the provider is only offering strict 30 minute visits to all residents due to lack of time available in a dedicated meeting room, is that proportionate for a resident who is distressed or confused and may take 30mins to ‘settle into’ the visit? Has the provider carried out an individual assessment and considered other options, such as allowing longer visits in the resident’s own room?

The right to private life is also relevant to ensuring residents can have private, unsupervised contact with their relatives/friends/advocate/other professionals. Where a person is prevented from leaving a care home, the right to liberty (protected by **Article 5 of the Human Rights Act**) requires that

this is set out in law, with a process for challenging the restriction of movement (such as a Deprivation of Liberty authorisation).

The duty under the Human Rights Act to respect and protect rights lies not only on public authorities like the government and local authorities, but also on care homes where the care is arranged or paid for (in any part) by the local authority (see section 73 of the [Care Act](#)). If your care was arranged and is paid for entirely by you, let a public authority know about your concerns about your rights – like your local authority or the Care Quality Commission. They have a duty to act where they know rights are at risk.

Care homes must carry out **individual risk assessments** about visiting. This is required by the Human Rights Act (above) and the **Equality Act**. The latter prohibits indirect discrimination and applies to all care home residents regardless of how their care was arranged or is funded. Blanket decisions will not be appropriate as homes are required to consider individual needs and apply different rules for different residents depending on their individual circumstances.

Where a resident is assessed as lacking capacity to decide about a visit, providers will need to ensure they are adhering to the **Mental Capacity Act** and acting in the resident's best interests and imposing the least restrictive option. The principle of well-being underpinning the **Care Act** also continues to apply.

The regulator, the **Care Quality Commission (CQC)**, have issued a statement stressing blanket approaches are unacceptable and the rights of individuals must be paramount when care homes are deciding visiting plans. The government guidance on visiting in care homes makes clear that the CQC has regulatory powers that can be used where they have concerns about visiting. Concerns such as blanket bans, residents being discouraged from regular contact with relatives/friends or not being allowed to see other professionals may trigger an inspection by CQC which could lead to enforcement action.

CQC's Regulation 12 (in the Health and Social Care Act 2008 (Regulated Activities) Regulations) requires providers, when considering risk, to act reasonably and adhere to recognised guidance and the principles of the Mental Capacity Act where relevant. Regulation 10 requires them to provide care and treatment in a way that ensures people's dignity and treats them with respect at all times. Regulation 9 requires the provision of care to be person-centred and include individuals in the planning process where they are able to do so, with support if necessary, linking to the Mental Capacity Act to ensure family/friends/advocates are included in the process where relevant.

For more information about the legal duties on care providers see 'Visiting and the Law: A guide for care homes during COVID-19' available [here](#).

More support

If you would like further information or any advice or support on how this applies to you or your relative/friend, please get in touch with us. The Relatives & Residents Association [Helpline](#) can help you to explore what this guidance means for your family, and support you to use these legal standards to negotiate with a care home for better contact with your relative.

Tel: 020 7359 8136 (9.30am-1pm Monday to Friday, and 6pm-8pm on Thursday)

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