CARE ENGLAND
Representing independent care providers

Care England: The need for decision-making principles

Care homes have worked to meet the needs and expectations of residents, families and friends within strict government guidance, local visiting policies set by Local Authorities and Health Protection Teams and their own individual and home-level risk assessments. This has been a balance between safety and meeting people's rights for meaningful contact with loved ones.

It is important to recognise that all involved have fears and concerns as well as a vision for a return to normal visiting practices. This includes visits and trips out of a care home in line with those available to all citizens as lockdown restrictions are slowly lifted.

It is essential for providers to have a framework within which to make difficult decisions. The principles that follow are agreed by Care England as a starting point in finding ways to support and promote, among care home residents, the basic human rights that protect all citizens.

A: It is essential to keep all infection as far as possible out of adult social care settings

This is a fair and reasonable expectation among residents of adult social care settings, those who love them, and the staff members providing care. It becomes even more crucial in the context of a pandemic known to

(i) be highly infectious, and be transmissible without the carrier having any symptoms, and
(ii) kill or severely harm older people and those with complex disorders (such as co-exist with many learning disabilities) far more than others.

Care homes accept their responsibilities to encourage vaccination among residents, and staff; to minimise infection risk through consistent application of measures including hand hygiene, use of PPE and screening of all visitors for symptoms. Infection control within an individual home includes the additional requirements of reliable testing as well as fast, accurate information about infection rates and modes of transmission being made at:

(i) national and regional level
(ii) the upper and lower tier council level
(iii) within the adult social care service itself

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so that decisions can then focus, within this data and within current government guidance, on each individual resident and each individual relative or friend, who wish to meet up.

B: As much contact as can be arranged between people who love each other is essential for their health and happiness

The most important relationships in most people's lives are with their families or other people, where love and trust is shared. People cannot flourish without these interactions. Care providers must be encouraged and supported to promote, whenever and however possible, these important relationships that bring meaning and continuity of personality and values to people.

This contact includes the use of virtual technology as well as adopting a proactive and collaborative approach to using PPE to enable physical closeness. It also requires dynamic, individual, person-specific assessment of risk, for this individual, living in this service, at this time.

The starting point for decision-making must be that, if restrictions are loosened for the majority of the population, an individual receiving care must only continue to live with significantly more burdensome restrictions if this can be properly justified for this individual in the situation.

C: Risk must be assessed flexibly for each individual supported, in light of changing data, rather than on a blanket basis

Government guidance, rightly, changes in light of events, such as the vaccination roll-out balanced against possible new strains of COVID-19 or disease outbreaks. The balance between freedom and safety must be explored and decisions made at the most granular level possible, in line with risks that can change bewilderingly fast, whether for the better or for the worse.

Many spouses or close relatives of people living in care homes are now vaccinated and also have been living in voluntary 'shielding' arrangements, avoiding all indoor contacts, simply in order to meet the criteria of 'designated visitor' or 'essential family carer.' Staff know relatives well and are used to accepting them as colleagues with the joint aim of improving the individual's happiness. This will be part of a risk assessment that also should ensure visitors recognise their responsibilities to meet the infection prevention and control measures in place for the safety of all living in, working in and visiting a home.

D: Actions that restrict the freedom of others must be person-centred, necessary, proportionate, and the least restrictive option to meet identified risks of harm to that person and their community

The language here reflects the Mental Capacity Act, since undoubtedly many people who live in care settings may lack mental capacity to consent to restraints imposed on their freedom and interactions with other people, to keep them and others safe from infection or other harm. Care providers, government and local public health systems must collaborate to ensure that people's rights are only breached or curtailed when it is necessary and proportionate in light of national, local or personal risks. Providers

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will do all they can to avoid discrimination against those who might lack capacity to understand the requirements about PPE and social distancing, for example by helping relatives and friends to find tactful, person-specific ways to make visits (potentially in both directions) work constructively despite any ongoing necessary restrictions.

The focus of decision-making is always to find a way to keep a specific individual safe, while lessening restrictions on their rights to liberty, privacy and a family life, and avoiding harm to others. Any interference with the human rights of the individual must be necessary to prevent harm (whether to them or in a wider public health context) and a proportionate response to the likelihood and seriousness of these harms. These decisions can only be made flexibly, as often as circumstances change, and by placing the individual at the heart of the process.

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Appendix 1

The legal framework to these principles is founded in, among others,
Human Rights Act 1998 here
Mental Capacity Act 2005 here
Equality Act 2010 here

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