

COVID-19 FAQ Older Peoples Care Home (Nursing) Visiting.

Question

A Registered Nurse Manager working in care home for older people phoned to say she wishes to let a family member of a resident who is at end of life stay overnight but is concerned about bending the rules as the policy is for relatives to stay a max of 1 hour for end of life.

Response

Older people who live in care homes led by nurses are entitled to the same human rights as any citizen. If a care home is their permanent place of residence, it is their home. Article 8 of European Convention on Human Rights (ECHR) states *You have the right to live your life privately without government interference. The concept of private life also covers your right to develop your personal identity and to forge friendships and other relationships.*ⁱ Article 5 (ECHR) provides that *everyone has the right to liberty and security of person.*ⁱⁱ

As nurses we are also bound by The Nursing and Midwifery Council (NMC) Code which states nurses must,

(1.3) *avoid making assumptions and recognise diversity and individual choice*

residents who do not have capacity or have fluctuating capacity to decide to receive visitors.

Where a resident has capacity, the nurse must provide them with the appropriate information and guidance in order that they can make a decision about visiting arrangements.

When making judgements about visiting the nurse is required to take into consideration the wishes, risks and benefits to the individual and to the wider care home community. The nurse will be balancing national and local guidance and the individual context of the care provision, as well as in compliance with obligations under the Equality Actⁱⁱⁱ, Human Rights Act^{iv} and Equality and Human Rights Commissions^v

We recommend a dynamic risk assessment approach.

Dynamic Risk Assessment

The RCN position is that

Employers should have in place an individual dynamic risk assessment which enables and supports nurses to exercise their professional and legal obligations.

UK Governments should ensure professional nursing input into the production of national guidance that impacts on nursing obligations.

Employers must have policies in place to support dynamic risk assessment for individual residents.

Employers must ensure the resources are in place to deliver the necessary care and

context of the difficult circumstances presented by the pandemic into account and will not penalise practitioners trying to exercise their judgement within the Code.

In both sets of circumstance, the records you keep explaining your reasons for your actions will be vital evidence. And remember that whatever happens, the RCN is here to support you with legal advice and representation.

Question

I am really worried what will happen to me if I make the wrong decision about visiting and need help, what should I do?

Response

Nurses must be supported to work in a psychologically safe manner. No one individual should be making decisions about visiting alone. Discussions should occur with managers, residents and families, multi-disciplinary colleagues, nursing support workers and local public health staff and must take into account national and local guidance.

We need nurses need concerns, ask for help, take risks and innovate and, where necessary, admit failures.^{xvii} ^{xviii} This particularly important when making complex decisions. A key

Resources to support practice

Current Government Guidance

Amnesty International Care Homes Report <https://www.amnesty.org.uk/care-homes-report>

RCN Dementia Clinical Topic <https://www.rcn.org.uk/clinical-topics/dementia/professional-resources>

Rapid Learning Initiative into the Transmission of Covid-19 into and within Care Homes in Northern Ireland <https://www.health-ni.gov.uk/publications/rli-final-report>

The Triangle of Care Carers Included: A Guide to Best Practice for Dementia Care England/Wales <https://carers.org/downloads/resources-pdfs/triangle-of-care-england/the-triangle-of-care-dementia-england.pdf> <https://carers.org/resources/all-resources/69-the-triangle-of-care-carers> included-a-guide-to-best-practice-for-dementia-care-in-wales

ⁱ Council of Europe: European Court of Human Rights, *Guide on Article 8 of the European Convention on Human Rights - Right to respect for private and family life*, 31 December 2016, available at: <https://www.refworld.org/docid/5a016ebe4.html> [accessed 30 October 2020]

ⁱⁱ Council of Europe: European Court of Human Rights, *Guide on Article 5 of the European Convention on Human Rights - Right to respect for private and family life*, 31 December 2016, available at: <https://www.refworld.org/docid/5a016ebe4.html> [accessed 30 October 2020]

ⁱⁱⁱ <https://www.legislation.gov.uk/ukpga/2010/15/contents>

^{iv} <https://www.legislation.gov.uk/ukpga/1998/42/contents>

^v <https://www.equalityhumanrights.com/en/legal-responses/parliamentary-briefings>

^{vi} [https://esa.act.gov.au/sites/default/files/wp-content/uploads/dynamic-risk-a3\(/\)](https://esa.act.gov.au/sites/default/files/wp-content/uploads/dynamic-risk-a3/)

^{xv} Council of Europe: European Court of Human Rights, *Guide on Article 5 of the European Convention on Human Rights - Right to respect for private and family life*, 31 December 2016, available at: <https://www.refworld.org/docid/5a016ebe4.html> [accessed 30 October 2020]

^{xvi} NMC Code <https://www.nmc.org.uk/standards/code/read-the-code-online/>

^{xvii} <https://www.rcn.org.uk/magazines/bulletin/2020/march/psychological-safety>