

## **Anne's Law - supporting people who live in adult care homes to maintain family and friendship connections: consultation**

### **SUBMISSION FROM SOCIAL WORK SCOTLAND, TO SCOTTISH GOVERNMENT CONSULTATION**

**2 NOVEMBER 2021**

Social Work Scotland is the professional body for social work leaders, working closely with our partners to shape policy and practice, and improve the quality and experience of social services. We welcome this opportunity to comment on Anne's Law: proposals for adults living in care homes to maintain family and friendship connections as we recognise its importance in the delivery of services that are Human Rights based, and person centred. The reflections within this consultation response are drawn from the experience of our membership of social workers, the lead professionals taking forward duties under the Social Work (Scotland) Act 1968.

Social workers are uniquely placed as a profession to offer insight and contribution to this guidance and to support the effective implementation of Anne's Law, and the Health & Social Care Standards within residential settings. Working within this multi-agency context social work can offer perspective to ensure that services are delivered in line with a Human Rights and person-centred approach.

Highlighted below are key points for consideration

- Social Work Scotland overwhelmingly supports the implementation of Anne's Law, and the associated strengthening of the Health & Social Care Standards.
- Social connection is vital to the wellbeing of individuals. Positive and supportive family and friend networks are assets in a person's life and can only enhance any service that is also being provided to them to support their health and wellbeing.
- It is essential that Anne's Law applies to all adult residential settings, and that there is an explicit link to residential services for children.

**Anne's Law - supporting people who live in adult care homes to maintain family and friendship connections: Consultation 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

**Please say why/explain your answer**

Social connection is vital to the well-being of individuals. Social Work Scotland believe that positive, supportive family and friend networks are assets in a person's life, and can only enhance any service that is also being provided to them to support their health and wellbeing.

Article 8 of the Human Rights Act protects the right to a family life, which includes the right to enjoy family relationships without interference from Government, specifically the right to live with your family and, where this is not possible, the right to regular contact, "Anne's Law" provides further protection, and promotion, of this Human Right.

**Question 2 - What do you think should be the main aims of Anne's Law?**

The protection and promotion of Human Rights, alongside a commitment to an enabling approach that takes account of the specific circumstances and life stages of individuals and families, is central to the work of Social Workers. Therefore, it is Social Work Scotland's position that a central principle of Anne's Law is the explicit protection of Article 8, Human Rights Act (the right to family life) within the context of infection outbreaks and other large-scale emergency situations, and explicit protection of person-centred approaches to the delivery of care and support, which reaffirms the value and contribution of family members and friends to a person's wellbeing.

**Question 3 – Do you think this should be a right for residents or for the visitor (s)?**

For resident

**Please say why/explain your answer**

Primarily, Anne's Law should protect the rights and interests of residents. It is essential that the rights of residents in Care Homes are paramount in any decision regarding visitors and/or individuals that are involved in their care, and that an Adult Support & Protection lens is used to inform any assessment.

Social Workers are well placed to provide this lens and a comprehensive person-centred assessment.

**Question 4 – How can the rights of residents be balanced against the rights of other people in the setting for example other residents, staff, visiting professionals?**

Social Work values of strengths-based, human rights-focused practice supports a balanced approach to meeting the needs of individuals who live within the same building and therefore whose decisions, or circumstances impact upon each other.

The rights of residents can be balanced against the rights of other people in the setting, for example, other residents, staff, visiting professionals by taking a person-centred, individual approach, that is cognisant of the needs, and wishes of individual residents within the context of where they live. This must be informed by residents, or by their advocates, ideally within the context of a group discussion so that a collective position might be reached. There must be flexibility within the system to ensure the delivery of person-centred, rights-based, care and support. The size and layout of the Care Home, the number of people who are resident, and staff numbers should all be considered in any assessment of how Anne's Law should be implemented in a particular setting.

It is recognised that a significant shift in policy and practice is required to achieve this ambition and careful planning to ensure awareness of the roles and responsibilities of individuals and staff members. Taking this approach would support the meaningful involvement of friends and family members in supporting individuals who are in receipt of care from outside agencies.

**Question 5 -What do you see as the main benefits, challenges and risks of the proposal to develop legislation to support people living in adult care homes to have the right to see and spend time with those who are important to them?**

### **Benefits**

The implementation of "Anne's Law" provides a legislative foundation for the strengthening of the Health & Social Care Standards, and unequivocally protects the Human Rights of people who live in care Homes to maintain relationships with their network of support.

The Health and Social Care Standards are in line with Article 8 of the Human Rights Act 1998. Upholding the tenets of the Act and supporting people to give meaning and effect to the statements within, are a basic human right and assuring the Standards in place support this is of benefit.

Care homes are places where individuals live, and receive care and support in a homely (rather than clinical) environment, upholding this understanding of the purpose of care homes is integral to ensuring this living option retains a social model approach, enabling people who need this level of care and support to receive it in a homely environment. Care homes are not and should not be seen as, treated as, or regulated as community hospitals.

Social Work Scotland recognises that the Covid 19 pandemic raised challenges around supporting residents' engagement with family and other people important to them, whilst adhering to public health advice. Some of this was reflected in the limitations on family and social contact within the wider community during the most significantly restricted period. However, the context for care home residents, the duration for which enhanced restrictions were experienced by them and the complex interplay between their right to self-determination and "protection" were largely unique.

Listening to, and respecting, the wishes of individuals who require to live in residential or group accommodation will reflect a person-centred approach, something that social workers uphold in our approach to engagement. Respecting private life and encouraging engagement between a supported person and those who are important in their life will positively impact mental well-being for the individual, their family, and wider networks, reflecting the person-centred and human rights-based Scotland that underpins legislative, policy, and strategic drivers.

## **Challenges**

There may still be a challenge to deliver on the Standard around engagement for residents with key individuals as we emerge from the pandemic, with infection prevention and resource of staffing impacting on the support required to achieve these.

Social Work support to Providers of Care Homes and Care at Home Services is essential in ensuring a balance of Human Rights, against Infection Control. Social Work Scotland recognises that liabilities for infection sit with Care Home and Care at Home Providers in a way it does not within other settings.

We believe, therefore, that a partnership approach between Health Protection and Multi-Disciplinary Oversight (which includes the Social Work perspective) is essential in ensuring a supportive approach to Providers that retains the rights of individuals at the centre of decision-making.

**Question 6 - Should the proposals apply only to people who live in an adult care home (residential and nursing) registered with the Care Inspectorate?**

No

**Please say why/explain your answer**

The proposals should apply equally to adults who receive Care at Home, as well as those who live in a Care Home. The Care Inspectorate notes, in its report “Delivering care at home and housing support services during the COVID-19 pandemic: Care Inspectorate inquiry into decision making and partnership working ” that, “Individuals in receipt of Care at Home services experienced social isolation, disruption to daily activities, limitations on physical activity and the suspension of re-ablement due to COVID 19 related restrictions, and this adversely impacted on their health and wellbeing and that of relatives, and significant others”. It is this disruption and distress that necessitates legislative changes that ensure that all adults who receive care have their personal relationships and rights to a family life protected.

For further information, please do not hesitate to contact:

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