POLICY NOTE

THE CARE HOME SERVICES (VISITS TO AND BY CARE HOME RESIDENTS) (SCOTLAND) REGULATIONS 2026

SSI 2026/XXX

The above instrument was made in exercise of the powers conferred by section 78(2) of the Public Services Reform (Scotland) Act 2010 and all other powers enabling them to do so. The instrument is subject to *affirmative procedure*.

Summary Box

Purpose of the instrument.

The instrument imposes new duties and responsibilities relating to visiting arrangements on providers of care home services for adults in the form of regulations under section 78(2) of the Public Services Reform (Scotland) Act 2010 as required following modifications made by section 14 of the Care Reform (Scotland) Act 2025.

In accordance with section 104(2) of Public Services Reform (Scotland) Act 2010, a draft of this instrument is being laid before the Scottish Parliament.

Policy Objectives

This instrument imposes new duties on adult care home providers in the form of regulations.

The purpose of the regulations is to ensure that people living in adult care homes can connect with the people who are important to them. This includes the importance of staying connected with loved ones when visiting restrictions are both being considered, and are in place, in the care home.

The regulations impose a duty on providers to identify at least one Essential Care Supporter (ECS) for every person living in an adult care home, if that is their wish and there is a person(s) identified who is willing and able to be an ECS.

Providers will have a duty to facilitate visits to and by their residents. Suspension of such visits is only permitted where providers have reasonable cause to believe that doing so is essential to prevent a serious risk to life, health or wellbeing.

Even in such circumstances where suspension of visits is permitted, providers must continue to facilitate certain visits if the provider has cause to believe that, before the suspension of visits is lifted, as resident will have died or undergone significant deterioration in physical or mental condition. Providers must also continue to facilitate certain visits if they have reasonable cause to believe that the suspension is likely to cause serious harm to the resident's health or wellbeing and that harm would outweigh the serious risks that justifies the suspension.

There is also a presumption that restricting access to an ECS is likely to cause serious harm to the resident's health and wellbeing. This is intended to balance the safety of residents with their rights, ensuring that suspensions are proportionate and justified.

Where a decision has been taken to suspend visits, the provider will have a duty to review that decision upon receipt of a valid request to do so. Furthermore, where a decision has been taken to suspend visits, the provider will have a duty to notify (a) the resident, or where appropriate their representative, and their ECS(s), (b) Social Care and Social Work Improvement Scotland ('Care Inspectorate') and (c) the chief social work officer of the local authority in whose area the care home is located, as soon as it is practicable to do so.

The regulations set out that care home providers are required to take into account the supporting code of practice that will be published under section 78E of the Public Services Reform (Scotland) Act 2010 when carrying out the duties set out in these regulations.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the (The Care Home Services (Visits to and by Care Home Residents) (Scotland) Regulations 2026) is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

To ensure the regulations are clear and workable, the Scottish Government carried out a public consultation from September to October 2025. This included an online survey, visits to care homes to hear directly from residents, families and staff, and discussions with national organisations and professional bodies.

The online survey was shared widely, including through the Care Inspectorate, care home provider representatives - Scottish Care and the Coalition of Care and Support Providers in Scotland (CCPS), the Anne's Law National Oversight Group and Scottish Government communication channels. The legislation on care home residents' right to visits is commonly known as Anne's Law.

To ensure that people most affected by care home visiting policies had an opportunity to share their experiences and perspectives, the Scottish Government carried out in-person visits to five care homes across Scotland. This method was designed to capture views from those often under-represented in written consultations, such as care home residents who may face communication barriers or have limited digital access and may not have been able to

complete an online survey. Visiting homes in-person ensured that residents with cognitive or neurological conditions or communication needs were included.

During these visits, care home residents, their family and friends, and care home staff members took part in one-to-one interviews or small group discussions using a flexible and inclusive approach.

Ongoing feedback from the Anne's Law National Oversight Group also informed the consultation, drawing on experience from relatives of people in care homes, care home providers, and public health and regulatory bodies.

The consultation demonstrated broad confidence in the clarity and intent of the regulations, with most suggested improvements focusing on how the duties should be applied in practice rather than the regulations themselves.

Changes to the SSI as a result of the consultation

As a result of the feedback from the consultation some minor changes were made to the regulations to clarify them. One addition was also included. Regulation 7 is concerned with who the care home provider has to notify if a decision to suspend visiting is taken. A duty to notify an affected resident, or where appropriate their representative, and their ECS(s), was included. This is in addition to the duties to notify the Care Inspectorate and the chief social work officer of the local authority in whose area the care home is located of a decision to suspend visiting, as soon as it is practicable to do so.

Practical Application

The feedback from the consultation focusing on how the duties should be applied day-to-day is supporting the Scottish Government to develop an associated code of practice which will support the delivery of the regulations.

Consultation Report

The full consultation report is published on the Scottish Government website.

Impact Assessments

The following impacts assessments have been completed on The Care Home Services (Visits to and by Care Home Residents) (Scotland) Regulations 2026 and are attached:

- Equality Impact Assessment
- Business and Regulatory Impact Assessment
- Child Rights and Wellbeing Impact Assessment
- Data Protection Impact Assessment (following consultation with the ICO)
- Island Communities Impact Assessment

No significant impact issues were identified. Mitigations were identified for any potential concerns.

The following assessments were not completed:

- Strategic Environmental Assessment. It was deemed that this policy does not have significant positive or negative environmental effects.
- Fairer Scotland Duty Assessment. As this policy is not of a strategic nature, this assessment does not apply.
- Consumer Duty Assessment: As this policy is not of a strategic nature, this assessment does not apply.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. In terms of impacts, it is expected that there will be some costs for care home providers and those supporting care homes.

However, it is not expected that costs will impose a significant financial burden on care home providers as much of this is already in place. Since 2021, guidance used by the sector broadly reflects the principles of 'Anne's Law' and care homes have adopted the updated visiting Health and Social Care standards, which require them to facilitate meaningful contact between residents and families and enable residents to name persons who may provide support, alongside staff, to promote their health and wellbeing. These measures have prepared providers for the implementation of the regulations and no specific costs have been highlighted by care home providers.

Scottish Government
Social Care and National Care Service Development Directorate

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