

A statement of the RCN position on enabling visiting in care homes (nursing) for older people using an individual dynamic risk assessment

Background

The restriction of visitors to care homes has been a key strategic component of managing the pandemic. The aim is to reduce the spread of infection into care homes. Many people believe that reducing the numbers of people entering care homes, including visitors, was one of the most effective measures in minimising transmission of infectionⁱ. In consequence there was and continues to be variation in visiting arrangements in care homes across the UK.^{ii iii}

Amnesty International and Rights for Residents have set out some of the consequences of visitors not being able to enter care homes and have highlighted the effects of virtual visiting^{iv v} John's Campaign has started a judicial review action against the UK Government as they seek to challenge coronavirus restrictions, which prevent visits from the relatives of care home residents.^{vi}

The benefits of a partnership of care with friends and relatives are well established. The distress experienced by residents, who are frequently at the end of their lives, when face to face visiting is absent is clearly documented.^{vii viii ix}

Rights based approach

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 the 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.*^x Article 5 (ECHR) *provides that everyone has the right to liberty and security of person.*^{xi}

Additionally, Registered Nurses (RN) are governed by the Nursing and Midwifery Council (NMC) Code which states nurses must,

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

(1.5) respect and uphold people's human rights.

(4.3) keep to all relevant laws about mental capacity that apply in the country in which you are practising, and make sure that the rights and best interests of those who lack capacity are still at the centre of the decision-making process

Nurses must also practice within the law of countries in which they are working

The RCN understands that where a Care Home has a significant rise in cases of Covid it will be essential to manage the human rights alongside public health concerns. In consequence nurses are making or having input into a set of complex professional, ethical and clinical decisions related to visiting arrangements.

The RCN recognises nurses need to be fully supported in undertaking their professional activities. They need to operate in a structure that supports them to do the right thing. In order to be most effective, nurses need to feel 'psychologically safe' they need to be able to

raise concerns, ask for help, take risks and innovate and, where necessary, admit failures.^{xii}
^{xiii} This is particularly important when making complex decisions. The RCN champions the development of psychologically safe workplaces, promoting safe and effective staffing, clinical guidance and good employment practice.^{xiv} If nursing staff are not in a supportive environment and are experiencing concerns they can access our document Raising and escalating concerns^{xv} and a wide range of support through RCN Direct .

Assessment of risks of visiting using dynamic risk assessment

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 RN is accountable to the resident, the wider public, their profession and the law. They also have contractual obligations to their employer. It requires highly complex clinical, ethical and professional judgement.

The RCN recommends visiting decisions are made on the basis of an individual dynamic risk assessment which considers the significant needs of residents, visitors and staff. A dynamic risk assessment is “The continuous process of identifying hazards, assessing risk, taking action to eliminate or reduce risk, monitoring and reviewing, in the rapidly changing circumstances”^{xvi}

The nurse will be balancing national and local guidance, the law and professional requirements in the individual context of the care provision, including compliance with obligations under the Equality Act^{xvii} and the Human Rights Act^{xviii}.

UK Governments must be cognisant of the professional implications of any guidance they produce and should ensure nursing advice and agreement is sought prior to the publication of guidance that directly impacts the profession.

The RCN expects all care home employers to have local policies in place to assist nursing staff to undertake complex risks assessments. This must be informed by governmental and public health expertise^{xixxxxixxii}. Nurses must have had access to appropriate education and afford the time to balance risks in relation to infection prevention and control and human rights. They must have available the necessary resources, both human and material to enable safe visiting. Each clinical decision made as part of an individual dynamic risk assessment must be clearly documented in line with the NMC Code^{xxiii} Nurses should have the opportunity to discuss their assessment of risk with residents, families, peers, nursing support staff and the wider multidisciplinary team.

There must be policies in place to escalate concerns if the RN is not able to implement the outcomes of an individual risk assessment or if they are in danger of breaching either their legal or professional responsibilities.

RCN Position

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 support identified in the individual dynamic risk assessment. This would include the necessary staffing and infection control and prevention resources.

References

ⁱ 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>

ⁱⁱ <https://www.ageuk.org.uk/discover/2020/09/visiting-in-care-homes-where-now/>

ⁱⁱⁱ <https://www.theguardian.com/world/2020/sep/23/covid-ban-on-care-home-visitors-risks-premature-deaths-experts-warn>

^{iv} <https://www.amnesty.org.uk/care-homes-report>

^v <https://www.rightsforresidents.co.uk/>

^{vi} <https://www.nelsonslaw.co.uk/judicial-review-johns-campaign/>

^{vii} <https://carers.org/downloads/resources-pdfs/triangle-of-care-england/the-triangle-of-care-dementia-england.pdf>

^{viii} <https://carers.org/resources/all-resources/69-the-triangle-of-care-carers-included-a-guide-to-best-practice-for-dementia-care-in-wales>

^{ix} COVID-19: Regional Principles for Visiting in Care Settings in Northern Ireland <https://www.health-ni.gov.uk/Covid-19-visiting-guidance>

^x 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]

^{xi} 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]

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

^{xiii} <https://www.rcn.org.uk/news-and-events/blogs/eileen-mckenna-psychological-safety-7-jan-2020>

^{xiv} <https://www.rcn.org.uk/professional-development/publications/rcn-raising-and-escalating-concerns-uk-pub-009425>

^{xv} <https://www.rcn.org.uk/professional-development/publications/rcn-raising-and-escalating-concerns-uk-pub-009425>

^{xvi} <https://esa.act.gov.au/sites/default/files/wp-content/uploads/dynamic-risk-assessment-overview.pdf>

^{xvii} <https://www.legislation.gov.uk/ukpga/2010/15/contents>

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

^{xix} <https://www.gov.scot/publications/coronavirus-covid-19-adult-care-homes-visiting-guidance/>

^{xx} <https://www.gov.uk/government/publications/visiting-care-homes-during-coronavirus/update-on-policies-for-visiting-arrangements-in-care-homes>

^{xxi} <https://gov.wales/visits-care-homes-guidance-providers>

^{xxii} <https://www.health-ni.gov.uk/news/visiting-guidance-issued-hospitals-and-care-homes>
^{xxiii} <https://www.nmc.org.uk/standards/code/read-the-code-online/#fourth>