

4<sup>th</sup> September 2024

Ms C Haughey  
Convenor  
Health and Social Care Committee

Dear Ms Haughey

**Call for evidence - Amendments to NCS Bill and Anne's Law**

Before the NCS Bill moves to its next stage, we feel it is important to contact you and express our deep concern regarding Section 40, popularly referred to as the "Anne's Law clause". Although this section remains within the Bill, it has not been included within the list of amendments put to the committee in the letter from Maree Todd, Minister for Social Care, Mental Wellbeing and Sport.

It is therefore likely that whenever the Bill moves to its next stage it will be presented to the Parliament without any changes to Section 40. If this is indeed the case, it is essential that MSPs are made fully aware that this Clause is not Anne's Law as any of us understand it - or as stated in the SNP Manifesto, or as announced by Nicola Sturgeon to the Parliament. As it stands, Section 40 gives Ministers rights - it does not give any rights at all to care home residents or their closest relatives/care partners.

Care Home Relatives Scotland are extremely disappointed with this current Section 40. During Covid, relatives were barred from seeing those closest to them for up to a year, thousands of residents died alone having never contracted Covid, while many others deteriorated to the stage they were no longer able to communicate. Many relatives remain traumatised. Many residents, particularly those of a younger age and living with disabilities, were massively impacted by being imprisoned indoors for more than a year against their will. We note that it has now been acknowledged by senior Government officials that the risk posed by relatives had been overstated and that the situation we faced during the pandemic should never be allowed to happen again.

We have continued to meet with Ms Todd's office and understand that Section 40 will either be amended or removed from the NCS Bill altogether and included with alternative legislation as requested by Jackie Baillie last year (though this was rejected at the time.)

Efforts are currently underway to develop wording that will ensure that if a similar emergency occurs in the future, residents will not be completely cut off from those most important to their wellbeing. The current discussions centre on giving residents rights to meaningful contact that can only be severed in exceptional circumstances. These will be defined with a very strict test that would ensure that in a similar Covid situation we would be able to maintain contact by following Infection Prevention and Control measures in line with those being used by staff.

We would like it acknowledged that many care home residents have a husband, wife, mother, daughter, son, or partner who plays an essential role within the care team i.e. We are not simply visitors – We are essential contacts and as important to our loved ones wellbeing as any member of staff.

Until this key role is formally recognised, we fear we remain the first people to be banned from meaningful contact if "exceptional circumstances" are declared. This judges our unique position within the team to be of less importance than the cleaners, carers, and maintenance staff who remain accepted as vital contacts at all times.

We accept that restrictions may be required in general “outbreak situations” and agree with the concept of “three named visitors” to maintain contact as stated in the current care standards.

**What should Anne’s Law / Section 40 include?**

That every care home resident has the right to nominate an “essential contact person” who is recognised as part of their care team at all times. In the event of exceptional circumstances, they will follow the same restrictions and infection control measures as other team members.

(This reflects the SNP 2021 manifesto promise, and was specifically stated by the then First Minister within her programme for Government speech in Parliament, September 2021).

- We believe that the above wording would allow for Public Health measures to be followed but prevent the automatic and immediate exclusion of the essential contact person.
- We recognise that not every resident will have a friend or relative to fulfil this role.
- We acknowledge that an essential contact person may choose to pause their contact in exceptional circumstances or swap with another close relative who is better placed for the role at that time.
- We would argue that it is surely the human right of a husband, wife, mother, daughter, or son to maintain that visceral contact with their loved one.

**We sincerely hope that any response by the Health and Social Care Committee to the currently proposed NCS Bill will strongly support our concerns that Section 40 cannot stand as it is and requires amendment.**

Yours sincerely,

Alison Leitch, Cathie Russell, Natasha Hamilton, Sheila Hall, and Verona Gibson

Core group of Care Home Relatives Scotland