Written submission from Glasgow City Council on the Care Home Services (Visits to and by Care Home Residents) (Scotland) Regulations 2026, 9 February 2026

Health Social Care and Sport Committee Call for Evidence

Question 1 – Regulation 2 states that the care provider must identify at least one individual as an Essential Care Supporter. Does this regulation provide/guarantee friends and relatives appropriate involvement in the process of identifying an Essential Care Supporter?

No. Regulation 2 contains limitations that may restrict meaningful participation by the full network of people important to those in care.

Section 2(3) restricts consultation to relatives and friends 'set out in the resident's personal plan.' This creates dependency on documentation that may not capture the full network of important relationships. Our experience operating five care homes with 550 beds demonstrates that people in care often have extensive family networks and important relationships formed within the care home community or maintained from earlier life. Where such relationships develop or change after initial documentation, or where family circumstances are complex, the legislative restriction to those 'set out' in documentation risks excluding people who should participate in this decision.

The regulation requires consultation but provides no definition of what this entails. There is no specification of timeframes, no requirement to provide information about the Essential Care Supporter role, no obligation to allow time for consideration, and no mandate to document consultation or views expressed. This lack of definition creates risk of inconsistent practice across the sector.

The hierarchy in section 2(2)(a) where identification must be 'in accordance with the resident's wishes or, where appropriate, those of their representative' creates ambiguity. If someone or their representative has already decided, what meaningful role does consultation with other relatives and friends serve, acknowledging that the resident has expressed their wishes, this would be considered best practice.

A significant proportion of people within the sector will have a legal guardian or power of attorney. Legal authority does not negate the importance of other family relationships. One family member holding power of attorney may live at distance whilst another family member who lives locally visits daily and provides hands-on support. The regulation may not require consulting if only the attorney is documented in the personal plan at the relevant time.

Recommendation: The regulation should require consulting all close family members and regular visitors, not only those documented in personal plans. Consultation standards should be defined, including timeframes, information provision, and documentation requirements. For those with dementia, specific guidance is needed on ascertaining and respecting their views.

Question 2 – Regulation 3 covers the right to visits in general. Does this regulation adequately describe what ‘facilitation’ of visiting does or does not entail?

No. The regulation creates a duty to facilitate visits but leaves the content of that duty almost entirely undefined.

The term 'facilitate' is not defined. For external visits, section 3(2) only specifies what facilitation does not require (transporting residents) but provides no positive definition.

Practical questions arise in day-to-day operations: What timeframes must be accommodated for visiting? When people require staff assistance to participate in visits due to mobility limitations or communication needs, what level of support must be provided? How should providers manage situations where multiple families wish to visit simultaneously when space is limited?

In our services, many people are over 80 years old and have mobility impairments and cognitive difficulties. For this population, facilitating external visits involves more than simply allowing them to leave, requiring greater understanding what active support enables their exercise of this right.

Recommendation: The regulation should include a positive definition establishing baseline expectations. For internal visits, specify that facilitation includes making

suitable space available, accommodating visits at reasonable times including evenings and weekends, providing basic amenities, and supporting those who need assistance. For external visits, clarify what support is expected and tolerable risk. Reference the code of practice and change 'have regard to' to 'must comply with' the code for facilitation requirements.

Question 3 – Do you think that the regulations around suspension of visiting (Regulations 4 and 5) provide adequate assurance to residents and their loved ones that they will have the right to continue to care for and visit residents in the event of a suspension of visiting? For example, during an outbreak of infection?

No. The regulations permit suspension based on subjective criteria, establish narrow exceptions, and do not fully reflect lessons learned from COVID-19 about the impact of isolation on vulnerable older people.

Regulation 4 permits suspension when providers have 'reasonable cause to believe that it is essential to do so to prevent a serious risk.' These terms - 'reasonable cause,' 'essential,' 'serious risk' - are undefined and subjective. Different providers facing identical circumstances might reasonably reach different conclusions about whether the threshold is met.

Section 4(1) permits blanket suspension across all residents without individual assessment. During outbreaks, risks may vary significantly between individuals based on location within the facility, health status, and vaccination status. Our experience of multiple COVID-19 outbreaks in 2023 showed outbreaks typically confined to specific units, yet infection control protocols sometimes necessitated facility-wide measures.

Regulation 5 exceptions set a high threshold. Section 5(1)(a)(i) requires belief someone will die or undergo significant deterioration before suspension lifts. This may not capture all situations where suspension causes serious harm. Those with dementia experiencing profound distress but not 'significant deterioration' may not be protected. Evidence demonstrates that people with dementia can be particularly affected by separation from family, with some experiencing lasting changes to their emotional wellbeing following isolation periods.

Section 4(2) requires providers to 'take all reasonable steps' to mitigate risk and lift suspension 'as soon as practicable,' but these terms are subjective. During outbreaks in our services, the removal of Scottish Government COVID-19 funding in 2022 created resource challenges, which required careful consideration of how mitigation measures could be implemented.

Recommendation: Define the suspension threshold with objective criteria. Require individual assessment before implementing suspension. Specify maximum duration (such as seven days) with automatic expiry unless renewed following documented review. Strengthen the duty in Regulation 4(2) to require active identification of mitigation measures, documentation of steps taken, and presumption that outdoor or virtual contact should continue during outbreaks. Lower the threshold for essential visits to recognise serious psychological harm. Extend the presumption in section 5(2) regarding Essential Care Supporters to other close family relationships.

Question 4 – Do you think the duty to review decisions to suspend on receipt of a valid request is clear and appropriate?

No. The regulation creates a reactive mechanism that places the burden on families to initiate review and lacks clarity about process, timeframes, and outcomes. Regulation 6(1) requires review 'upon receipt of a valid request' but does not define what 'review' means. The regulation provides no specification of what review must entail, what evidence must be considered, or what standard of scrutiny applies.

There are no timeframes. Without deadlines for acknowledging requests, completing review, or communicating outcomes, the duration of review processes may vary. There is no requirement to communicate outcomes or provide reasons for maintaining suspension.

The three grounds in Regulation 6(2) create potential confusion. Ground (a) appears to request application of the exception already existing under Regulation 5. Ground (c) is circular, stating review can be requested where circumstances 'require review' without defining what changes are relevant.

The entirely reactive mechanism means suspensions may continue until someone requests review. This particularly affects vulnerable people who may not have family members readily able to navigate formal written request processes. During multiple

outbreaks in 2023, varying family capacity to engage with formal processes was observed, with some families needing support to understand their options.

Review is entirely internal to the provider, with no independent oversight. This creates a situation where families must request review from the organisation implementing the suspension whilst their loved one depends on that organisation for care.

Recommendation: Define what review entails, including requirements to reconsider risk assessment, examine new evidence, assess whether mitigation measures could enable lifting suspension, and document the process. Establish clear timeframes (acknowledge within 24 hours, complete within 48-72 hours). Require written communication of outcomes with reasons. Most critically, require automatic periodic review of all suspensions every seven days at minimum. Establish independent review by the Care Inspectorate for disputes or prolonged suspensions, with an appeal mechanism.

Question 5 – Do you think that the notification processes are appropriate and proportionate?

Partially. The regulation contains some gaps in terms of who must be notified and what information must be provided, whilst also creating blanket notification requirements that may not be proportionate in all circumstances.

The timeframe 'as soon as practicable' lacks precision. Section 7(1)(a) limits notification to Essential Care Supporters rather than extending to other family members and regular visitors. Someone may have multiple family members, only one designated Essential Care Supporter. Others have no right to notification and must rely on the Essential Care Supporter to share information.

The regulation provides no specification of what information must be included. There is no requirement to explain the reason for suspension, the scope, expected duration, steps being taken to mitigate risk, how essential visits can be requested, or what the review process entails.

Notification is required only when suspension decisions are made, with no duty to provide updates as situations evolve. During COVID-19 outbreaks, which sometimes lasted several weeks, families valued regular communication about how situations were progressing and when restrictions might be reviewed.

Requiring notification to both the Care Inspectorate and chief social work officer for every suspension raises questions about proportionality. A brief precautionary suspension affecting a single individual triggers the same notification as a prolonged facility-wide suspension. As a chief social work officer recipient, we anticipate receiving notifications about suspensions across Glasgow's care sector without clarity about what action is expected or how oversight roles should be coordinated between the two bodies.

Recommendation: Specify timeframes (such as within 24 hours). Broaden notification to all family members and regular visitors identified in personal plans or in recent contact. Establish minimum content requirements for notifications to families (reason, scope, duration, how to request essential visits, review process, alternative contact methods) and oversight bodies (risk assessment details, number affected, measures implemented). Require ongoing updates during prolonged suspensions and notification when suspension lifts. Create a tiered approach: serious suspensions trigger immediate notification to oversight bodies; less serious suspensions subject to periodic summary reporting.

Question 6 – Do you have any comment on the regulations from an international human rights perspective?

No. The regulations raise human rights concerns due to subjective criteria, limited procedural safeguards, and absence of independent oversight.

The regulations directly engage Article 8 ECHR (right to respect for private and family life). Visiting restrictions constitute interference permissible only where 'in accordance with law,' pursuing a legitimate aim, and 'necessary in a democratic society' (proportionate).

'In accordance with law' requires the law to be accessible, precise, and foreseeable. These regulations contain multiple undefined terms: 'reasonable cause to believe,' 'essential,' 'serious risk,' 'facilitate.' This imprecision means providers facing similar situations might reasonably reach different conclusions, raising questions about legal certainty.

Proportionality demands restrictions go no further than necessary with adequate procedural safeguards. Blanket suspension across entire care homes without individual assessment may not satisfy proportionality requirements. The regulations do not require

consideration of least restrictive alternatives, automatic time limits, or periodic reviews. Review is entirely internal without independent oversight.

The regulations engage Article 3 ECHR (prohibition of inhuman or degrading treatment). Prolonged isolation of vulnerable older people can cause severe psychological suffering. Where many people have dementia and are over 80 years old, particular vulnerability exists. For those with dementia who may not understand why family have stopped visiting, isolation can cause acute distress. Without maximum duration, automatic review, or adequate recognition of serious psychological suffering, there is risk of reaching the Article 3 threshold.

The UN Convention on the Rights of Persons with Disabilities is particularly relevant. Article 5 requires equal protection without disability-based discrimination. Blanket restrictions applied across care home settings where people with disabilities are concentrated, without individualised assessment, raise equality concerns. Article 12 requires supported decision-making; the review mechanism requiring written requests may not be accessible to many with dementia without provision of accessible alternatives. Article 19 protects the right to live independently and be included in the community; visiting restrictions that isolate people undermine this right. Article 22 protects against arbitrary interference with privacy and family; subjective criteria and limited safeguards create risk of arbitrary interference.

During COVID-19, evidence showed that some people with dementia experienced distress from separation from family, with lasting changes to their emotional wellbeing in some cases. Infection control considerations necessarily took precedence, but this experience illustrates the importance of having a framework that systematically considers psychological and emotional wellbeing alongside physical health risks.

Recommendation: Strengthen legal certainty through precise definition of key terms and objective criteria. Mandate individual assessment, prohibiting blanket restrictions. Establish maximum time limits with automatic expiry. Create independent review mechanisms accessible to people with disabilities. Give psychological harm equal weight to physical health risks. Require reasonable adjustments to enable continued contact. Mandate consideration of least restrictive alternatives. Establish monitoring and accountability frameworks. Reference human rights obligations explicitly in the regulations and require training for decision-makers.

Concluding, Glasgow City Council, operating five care homes supporting 550 people, considers these regulations require substantial revision to adequately protect visiting rights and comply with international human rights obligations. Our experience managing multiple COVID-19 outbreaks in 2023 demonstrates the serious impact of visiting

restrictions on vulnerable older people and the importance of clear, proportionate regulations with robust safeguards.

Glasgow City Council has established robust governance structures to address the challenges set out in this response. Led by the Chief Social Work Officer and supported by a range of stakeholders who meet regularly, these structures enable effective oversight and risk management across our care home services. This collaborative governance approach allows us to identify and mitigate risks, share good practice, and maintain consistent standards whilst responding to the complex and changing needs of people in our care. These established governance arrangements would support the effective implementation of revised regulations that provide the clarity and safeguards we have recommended.