

# **Written submission from South Lanarkshire 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?**

South Lanarkshire Council considers that Regulation 2 appropriately places the resident at the centre of the process for identifying an Essential Care Supporter, with an expectation that care providers involve the resident and, where appropriate, friends, relatives and others important to them.

The Regulation provides a clear and flexible framework that supports involvement while respecting residents' wishes, autonomy and the ability to review or change arrangements over time. This is particularly important for residents who may require support to express their views, who experience fluctuating capacity, or where circumstances evolve.

The Council welcomes the emphasis on person-centred decision making and considers that the Regulation appropriately allows for professional judgement to be exercised where residents require support to participate meaningfully in decisions, including consideration of communication needs, cognitive impairment, sensory loss or other accessibility requirements.

The Council notes that the Regulation does not introduce new statutory duties for local authorities. Any involvement of council or Health and Social Care Partnership staff is expected to be proportionate, targeted and managed within existing safeguarding, commissioning and professional advisory arrangements.

## **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?**

South Lanarkshire Council considers that Regulation 3 clearly establishes visiting as a fundamental aspect of care, while allowing care providers appropriate discretion to facilitate visiting in a manner that is safe, proportionate and person-centred.

The Regulation strikes an appropriate balance between setting clear expectations and avoiding overly prescriptive requirements, recognising the varied physical environments, staffing models and resident needs within care homes, and the importance of professional judgement in supporting residents’ wellbeing. This flexibility is essential to ensure that visiting arrangements remain compatible with safe staffing levels and operational realities, particularly during periods of system pressure.

The Council recognises that digital approaches may, where appropriate, support the facilitation of visiting and communication. South Lanarkshire University Health and Social Care Partnership has experience of using digital solutions within care homes to enhance connection with families and loved ones, demonstrating how technology can augment visiting in a way that is accessible, dignified and responsive to individual choice.

The Council emphasises that digital methods should remain optional and inclusive and should complement rather than replace face-to-face contact. The Regulations do not require the introduction of new digital systems, and existing digital capability can support facilitation of visiting without creating additional unfunded obligations for local authorities or care providers.

## **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?**

South Lanarkshire Council considers that Regulations 4 and 5 provide an appropriate and proportionate framework for managing the suspension of visiting in exceptional circumstances, including outbreaks of infection, while reinforcing the principle that such measures should be time-limited, justified and subject to review.

The Council welcomes the explicit recognition of Essential Care Supporter and Essential Visits during periods of suspension, which provides important assurance to residents and their loved ones that care, relationships and wellbeing will continue to be prioritised, even in challenging circumstances.

The Council notes that decisions relating to the suspension of visiting sit within a wider system of infection prevention and control, public health and health protection responsibilities. In practice, this involves interaction between care providers, local public health and health protection functions, and NHS Board leadership, including the established role of NHS Board Executive Directors of Nursing in providing professional leadership and assurance on IPC arrangements in care homes, in line with current Scottish Government guidance.

The Council considers that the accompanying Code of Practice would benefit from greater clarity on the distinct but complementary responsibilities of NHS Boards, public health and health protection teams, and the Care Inspectorate during periods of visiting suspension. Clearer articulation of how professional IPC advice, health protection decision making and regulatory oversight are intended to operate alongside one another would support consistency, transparency and confidence across the system, without altering existing statutory responsibilities or introducing additional regulatory burden. This is particularly relevant in light of the notification and assurance arrangements set out in Regulation 5.

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

South Lanarkshire Council considers that the duty to review decisions to suspend visiting on receipt of a valid request is clear and appropriate.

The review mechanism provides an important safeguard for residents and their representatives, reinforcing transparency, accountability and the principle that restrictions should be lifted as soon as it is safe to do so.

The Council considers it important that review processes remain proportionate, timely and focused on residents' rights and wellbeing, while avoiding unnecessary duplication with existing professional and regulatory assurance arrangements. Any involvement of local authority or Health and Social Care Partnership staff in review processes is expected to be infrequent, proportionate and delivered within existing professional roles and responsibilities.

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

South Lanarkshire Council considers that the notification requirements set out in the Regulations are broadly appropriate and proportionate, and that the duty on providers to notify relevant bodies supports effective oversight and assurance.

However, the Council notes that the requirement for notification to take place “as soon as it is practicable to do so”, without an indicative timescale, may result in variable interpretation and practice across providers. This could lead to inconsistency in the timeliness of notifications to Chief Social Work Officers and other relevant bodies, particularly during periods of system pressure such as outbreaks of infection.

Given the close interaction between visiting suspension decisions, infection prevention and control leadership within NHS Boards, public health and health protection responsibilities, and regulatory oversight by the Care Inspectorate, the Council considers that this issue would be helpfully addressed through the accompanying Code of Practice. This could reaffirm expectations around prompt notification, clarify how notifications align with existing escalation and assurance routes, and support greater consistency and clarity across the system, while retaining necessary flexibility for exceptional circumstances and avoiding additional regulatory burden.

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

South Lanarkshire Council considers that the Regulations are consistent with the European Convention on Human Rights, particularly Article 8 (the right to respect for private and family life).

The Regulations appropriately recognise the importance of meaningful contact with those important to the individual as integral to dignity, wellbeing and quality of life, while allowing for proportionate and lawful limitations where necessary to protect health and safety.

The Council notes that the Regulations promote a human rights-based approach to care that reflects the lessons learned from the COVID-19 pandemic, while doing so in a way that is proportionate, deliverable and sustainable within existing public sector arrangements.

In this context, the Council emphasises the importance of ensuring that local authorities and Health and Social Care Partnerships are appropriately resourced to meet the expectations set out in the Regulations. The Council notes that Audit Scotland has consistently highlighted the significant and ongoing financial pressures facing social care services and local government in Scotland, including challenges in sustaining quality, meeting rising demand and maintaining safe, effective services within constrained budgets. While the Council considers the Regulations to be proportionate and appropriate in policy terms, their effective and consistent implementation in practice will depend on adequate and sustainable resourcing across the system. This is particularly relevant to the professional oversight, infection prevention and control leadership, review processes and assurance arrangements that support the protection of residents' rights and wellbeing.

The Council therefore considers it important that implementation is supported by a realistic understanding of current system pressures, with appropriate consideration given to resource implications, so that local authorities and Health and Social Care Partnerships are well placed to deliver the Regulations effectively, safely and in a manner that fully upholds residents' rights.