

Health, Social Care and Sport Committee
Tuesday, 17 February 2026
8th Meeting, 2026 (Session 6)

Note by the Clerk on The Care Home Services (Visits to and by Care Home Residents) (Scotland) Regulations 2026 [draft]

Overview

1. At this meeting, the Committee will take evidence from the Minister for Social Care and Mental Wellbeing and supporting officials on The Care Home Services (Visits to and by Care Home Residents) (Scotland) Regulations 2026 [draft] before debating a motion in the name of the Minister inviting the Committee to recommend approval of the instrument.
2. This is a draft Scottish Statutory Instrument (SSI), which requires approval by resolution of the Parliament before it can become law. More information about the instrument is summarised below:

Title of instrument: [The Care Home Services \(Visits to and by Care Home Residents\) \(Scotland\) Regulations 2026 \[draft\]](#)

Laid under: [Public Services Reform \(Scotland\) Act 2010](#)

Laid on: 21 January 2026

Procedure: Affirmative

Lead committee to report by: 1 March 2026

Commencement: If approved, the instrument comes into force on 31 March 2026.

Procedure

3. Under the affirmative procedure, an instrument must be laid in draft and cannot be made (or come into force) unless it is approved by resolution of the Parliament.
4. Once laid, the instrument is referred to:
 - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
 - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.
5. The lead committee, taking account of any recommendations made by the DPLR Committee (or any other committee), must report within 40 days of the instrument being laid.

6. The normal practice is to have two agenda items when an affirmative instrument is considered by the lead committee:
 - an evidence session with the Minister and officials, followed by
 - a formal debate on a motion, lodged by the Minister, inviting the lead committee to recommend approval of the instrument.
7. Only MSPs may participate in the debate, which may not last for more than 90 minutes. If there is a division on the motion, only committee members may vote. If the motion is agreed to, it is for the Chamber to decide, at a later date, whether to approve the instrument

Delegated Powers and Law Reform Committee consideration

8. The DPLR Committee considered the instrument on 10 February 2026 and reported on it in its [17th Report, 2026](#). The DPLR Committee made no recommendations in relation to the instrument but, in relation to regulation 8, welcomed that the Scottish Government now intends to publish the Code of Practice in advance of the requirement coming into force and highlighted to the lead committee its [correspondence with the Scottish Government](#) on this point.

Purpose of the instrument

9. 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.
10. The Policy Note accompanying the instrument is included in the annex. It includes a summary of consultation undertaken on the instrument and the anticipated financial effects. The following impact assessments have been carried out:
 - [Data Protection Impact Assessment \(DPIA\)](#)
 - [Business and Regulatory Impact Assessment \(BRIA\)](#)
 - [Child Rights and Wellbeing Impact Assessment \(CRWIA\)](#)
 - [Equalities Impact Assessment \(EQIA\)](#)
 - [Island Communities Impact Assessment \(ICIA\)](#)

Evidence received

11. The Committee issued a call for written views in January 2026 and received 16 responses:

- [Aberdeen City HSCP](#)
- [Glasgow City Council](#)
- [North Ayrshire HSCP](#)
- [Ella Macbain - Older People's Residential Services Manager](#)
- [Care Inspectorate](#)
- [Inverclyde HSCP](#)
- [West Lothian IJB](#)
- [Argyll and Bute HSCP](#)
- [South Lanarkshire Council](#)
- [Law Society of Scotland](#)
- [Scottish Care](#)
- [NHS Lanarkshire](#)
- [Age Scotland](#)
- [Scottish Action for Mental Health](#)
- [Dumfries and Galloway HSCP](#)
- [East Dunbartonshire HSCP](#)

12. The Scottish Government also conducted a consultation on the draft regulations and [published a summary of the findings](#) on 21 January 2026.

Report

13. A draft report has been pre-prepared and is circulated separately, as a private paper, for consideration later in the meeting.

Clerks to the Committee
February 2026

Annexe: Scottish Government Policy Note

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

January 2026