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Covid-19: Charity to challenge rules on visits to care homes

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The UK charity John's Campaign has instructed lawyers to ask for a judicial review of government guidance that restricts family visits to loved ones in care homes.

The guidance issued by the Department of Health and Social Care on 22 July advises care homes in England on creating their own visiting policies with an aim to reduce the risk of coronavirus transmission and prevent future outbreaks.¹ It says that the health and wellbeing risks of residents needs to be considered in these policies. "This will include both whether [the resident's] needs make them particularly vulnerable to covid-19 and whether their needs make visits particularly important."

The guidance also advises care homes to limit the number of visitors they allow to one per resident, preventing other family members from visiting. It states that alternatives to in-person visiting should be "actively explored" by care homes and that, where visits are allowed, care homes should consider conducting them outside or use a plastic or glass barrier between the residents and their visitor.

The guidance also advises against hugging and other types of physical contact and says that visitors must follow social distancing advice for as much of the visit as possible.

John's Campaign, which campaigns for family members to be included in their loved ones' care,² said that its case for a judicial review against the visiting guidance was based on the belief that family members were not visitors but were integral to care home residents' wellbeing and happiness.

The charity said that that guidance had fundamental flaws that were "rooted in the government's failure to take account of human rights."

It said, "There is no emphasis on the importance of meeting the individual needs and choices of care home residents, many of whom are living with dementia—a disability as well as a terminal illness."

The co-founders of the charity, Nicci Gerrard and Julia Jones, said, "Neither of us ever dreamed we'd be involved in a legal challenge like this. We know we're speaking for thousands who are experiencing extraordinary bewilderment and anguish.

"We can only hope that the government will waste no more of these people's precious time and will give clear direction and the necessary support for their needs and wishes to be respected."

Leigh Day solicitors, the firm appointed by the charity alongside Matrix Chambers, is in the process of preparing a pre-action letter, the first stage of a legal challenge. John's Campaign intends to crowdfund to cover some of the legal costs the challenge will incur.

A Department of Health of Social Care spokesperson said, "We know that limiting visits in care homes has been difficult for many families and residents who want to see their loved ones, but our first priority is to prevent infections in care homes, and this means that visiting policy should still be restricted, with alternatives sought wherever possible.

"Visiting policies should be tailored by the individual care home and taking into account local risks in their area."

1 Department of Health and Social Care. Visiting care homes during coronavirus. 22 Jul 2020. <https://www.gov.uk/government/publications/visiting-care-homes-during-coronavirus>.

2 John's Campaign for the right to stay with people with dementia. <https://johnscampaign.org.uk>.