British Association of Social Workers England response to: The Joint Committee on Human Rights - Government's response to the covid-19 pandemic - call for evidence

The British Association of Social Workers (BASW) is the professional association for social work in the UK. With over 20,000 members we exist to promote the best possible social work services for all people who may need them.

Care Home and Hospital Visits:

1. Guidance contained within the adult social care covid-19 winter plan emphasise the role of social workers in assisting with the assessment of risk for visits. Advice for providers has been to consider the legal decision-making framework offered by the Mental Capacity Act for individuals.
2. The MCA and Deprivation of Liberty Safeguards is concerned with the freedoms, choices, and best interests of individuals. Upholding the human rights of individuals in a situation where the risk to the health and life of multiple individuals including those in need of care, their families and staff supporting them has presented enormous ethical and practical dilemmas and challenges for social workers and care providers. Decisions made to restrict, reduce and prevent visits in some cases for prolonged periods of time. This brings into question the legality of such measures from an article 5 and 8 human rights perspective when applying the necessary and proportionate test, leading to the prioritisation of some human rights over others; namely article 2 the right to life. [1]
3. There is an understanding of why restrictive measures were introduced however, the application of such measures has resulted in variations locally, regionally and nationally, leading to disputes and emotional distress, within some cases, families unable to see their loved one before they passed away. As these measures are so severe and unthinkable before the pandemic, there is a need for them to be continuously reviewed and revaluated. This has not been happening consistently or fairly across the country in care and health settings leading to inconsistent practice.[2]
4. Identification of when a visit by family or professionals can take place has been left to care providers to determine when and whether this is feasible and when it is necessary and proportionate to restrict access. Differences in environment, space, building layout, staffing, numbers of people living in care settings and number of visitors have led to local, regional and national

[1] https://www.equalityhumanrights.com/sites/default/files/parliamentary_briefing_equality_and_human_rights_in_residential_care_coronavirus.docx

[2] https://www.healthwatch.co.uk/response/2020-12-21/call-better-guidance-care-home-visits-read-our-letter-government