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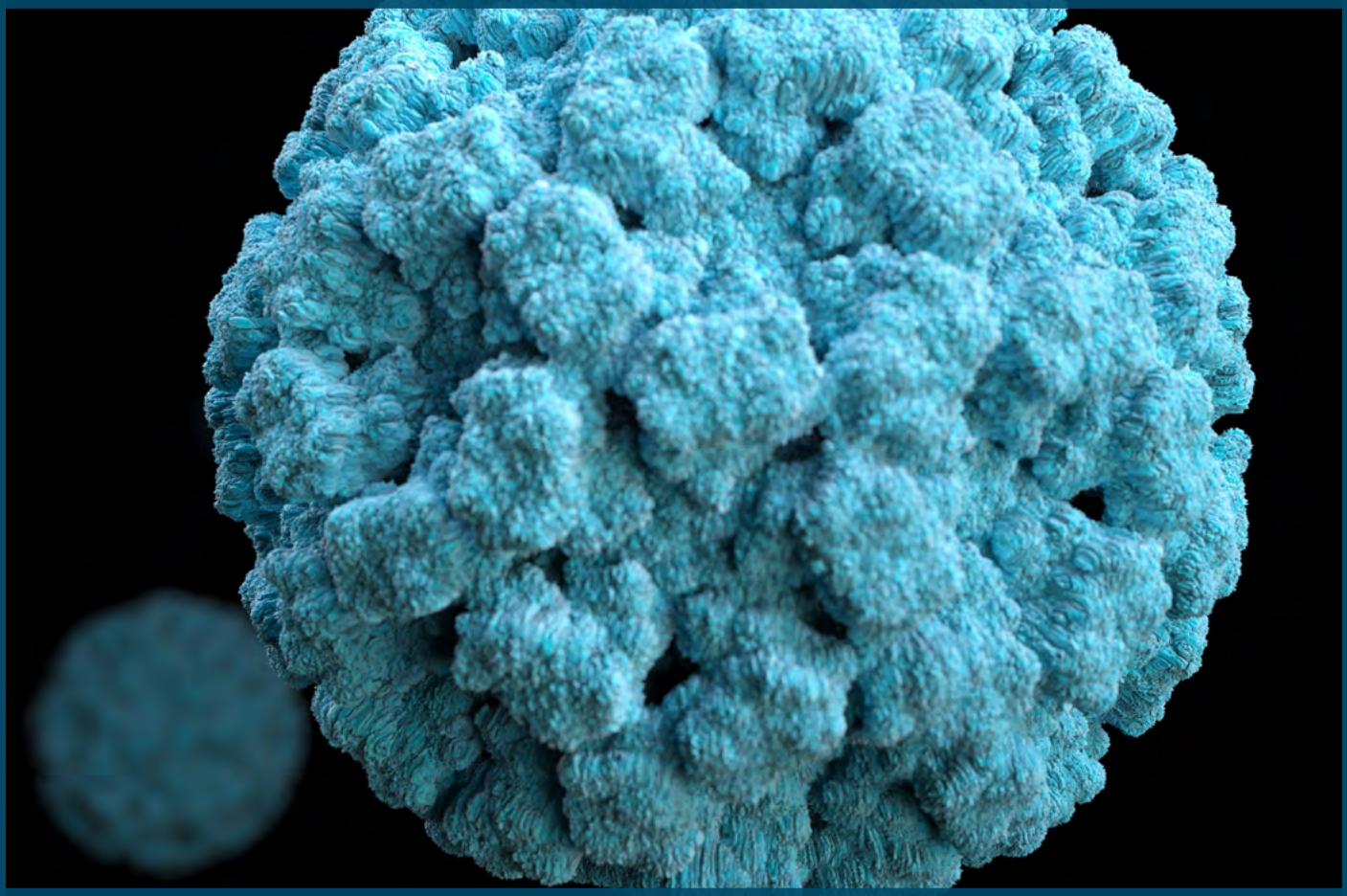
# The Management of COVID-19 in Nursing Homes in Ireland and England: Ethical and Legal Issues in a Time of Pandemic

**Mary-Elizabeth Tumelty, Clayton Ó Néill, Mary Donnelly, Anne-Maree Farrell, Rhiannon Frowde and Linda Pentony**

**Edinburgh School of Law Research Paper 2022/11, 2 June 2022**



UKRI Economic and Social Research Council

IRISH RESEARCH COUNCIL
An Chomhairle um Thaighde in Éirinn

FACULTY OF PUBLIC HEALTH

University of Edinburgh
School of Law

Research Paper Series

No 2022/11

# THE MANAGEMENT OF COVID-19 IN CARE HOMES IN IRELAND AND ENGLAND: ETHICAL AND LEGAL ISSUES IN A TIME OF PANDEMIC

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**Citation**: ME Tumelty, C Ó Néill, M Donnelly, AM Farrell, R Frowde and L Pentony, The Management of COVID-19 in Care Homes in Ireland And England: Ethical and Legal Issues in a Time of Pandemic (June 2, 2022). Edinburgh School of Law Research Paper No. 2022/11, Available at SSRN: https://ssrn.com/abstract=4126248

## Abstract

This paper provides an overview of the key issues that arose in relation to the management of COVID-19 in care homes in Ireland and England between February 2020 and December 2021, with reference to relevant policies, processes, and practices. There is a particular focus on the first wave of the pandemic between February and June 2020, where the risk of contracting and dying from COVID-19 was highest for residents in care homes. The paper examines a number of key issues impacting management of the risk posed by COVID-19 in care homes including the availability of testing; the use of personal protective equipment; staffing; safe discharge from hospitals; the use of Do Not Attempt Cardiopulmonary Resuscitation Orders (DNACPR); visiting and access restrictions; and the recording of care home deaths. A critical analysis is also provided of broader themes impacting the management of COVID-19 in care homes during 2020-21, including ethical issues, human rights, regulatory governance and accountability.

## Keywords

COVID-19, Care Homes, Ethics, Human Rights, Law, Regulation, Governance, Accountability

# THE MANAGEMENT OF COVID-19 IN CARE HOMES IN IRELAND AND ENGLAND: ETHICAL AND LEGAL ISSUES IN A TIME OF PANDEMIC

**Mary-Elizabeth Tumelty, Clayton Ó Néill, Mary Donnelly, Anne-Maree Farrell, Rhiannon Frowde and Linda Pentony[1]**

**Research for the workshop paper was undertaken as part of the Public Heath Ethics and Law Research Network project, which is jointly funded by the Economic and Social Research Council (ES/V009222/1) and the Irish Research Council (IRC/V009222/1). The support of the ESRC and the IRC is gratefully acknowledged.**

[1] Lead authors: Dr Mary-Elizabeth Tumelty (University College Cork) and Dr Clayton Ó Néill (Queen's University Belfast) and were involved in the conception and design of the workshop paper; drafting the paper and revising it; providing intellectual content of critical importance and final approval of the version to be published. Other authors: Professor Mary Donnelly (University College Cork) and Professor Anne-Maree Farrell (University of Edinburgh) were involved in providing important intellectual content to the workshop paper and final approval of the version to be published. Ms Rhiannon Frowde (University of Edinburgh) and Ms Linda Pentony (University College Cork) provided intellectual content through research undertaken in the preparation of appendices to the workshop paper.

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**Abbreviations**

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|---|---|
| **AMRIC** | Antimicrobial Resistance and Infection Control (Ireland) |
| **BMA** | British Medical Association |
| **CCG** | Clinical Commissioning Croups (England) |
| **CEO** | Chief Executive Officer |
| **CMO** | Chief Medical Officer |
| **COVID-19** | Coronavirus disease 2019 |
| **CPA** | Care Provider Alliance |
| **CQC** | Care Quality Commission |
| **DHSC** | Department of Health and Social Care (UK) |
| **DNACPR** | Do Not Attempt Cardiopulmonary Resuscitation |
| **DoH** | Department of Health (Ireland) |
| **DoLS** | Deprivation of Liberty Scheme (England) |
| **ECHR** | European Convention on Human Rights |
| **HIQA** | Health Information and Quality Authority (Ireland) |
| **HSCP** | Health and Social Care Professions (Ireland) |
| **HSE** | Health and Service Executive (Ireland) |
| **ICCL** | Irish Council for Civil Liberties |
| **JCHR** | Joint Committee on Human Rights (UK Parliament) |
| **NHI** | Care Homes Ireland |
| **NHS** | National Health Service (UK) |
| **NPHET** | National Public Health Emergency Team (Ireland) |
| **PCR** | Polymerase Chain Reaction |
| **PPE** | Personal Protective Equipment |
| **TAPS** | Temporary Assistance Payment Scheme (Ireland) |
| **UK** | United Kingdom |
| **WHO** | World Health Organization |
| **WP** | Working Paper |

**Executive Summary**

The COVID-19 pandemic has disproportionately affected older people, given the increased risk of mortality among this cohort, and the impact of COVID-19 on aged care home providers has been described as 'shattering and frightening.'[2]

Following the onset of the pandemic, outbreaks of infection developed rapidly in many care homes. In Europe, by May 2020, between an estimated 37-66% of COVID-19 deaths occurred in care homes.[3] In Ireland, 7,016 people have unfortunately died from COVID-19, over 2,000 of these were residents in care homes (there were 2,349 deaths in care homes during the period March 2020 – May 2021). In the UK, 175,000 people have died from COVID-19, and 66,274 of these deaths were in care homes.[4]

This Working Paper (WP) provides an overview of the key issues that arose in relation to the management of COVID-19 in care homes in Ireland and England with reference to relevant policies, processes, and practices from February 2020 to December 2021.

To facilitate discussion, the WP first sets out some key issues, and poses questions for consideration by workshop participants under the following themes: human rights, ethical issues, and regulation and accountability.

The WP then outlines a number of core issues which arose in relation to the management of COVID-19 in care homes in Ireland and England, namely: the availability of testing, personal protective equipment (PPE), and staffing; safe discharge from hospital; do not attempt cardiopulmonary resuscitation (DNACPR); visiting and access restrictions; and the recording of deaths.

By way of background, we also provide annotated chronologies setting out key developments in relation to the management of COVID-19 in care homes in Ireland and England in **Appendices A** and **B** to this WP. As far as possible, we have endeavoured to ensure that the research and data presented in the WP is current as at 28 April 2022.

[2] COVID-19 Care Homes Expert Panel, Examination of Measures to 2021 (Report to the Minister for Health) p.83.
[3] https://www.ecdc.europa.eu/en/publications-data/surveillance-COVID-19-long-term-care-facilities-EU-EEA
[4] Nuffield Trust, 'Covid-19 and deaths of care home residents' https://www.thelancet.com/journals/lanepe/article/PIIS2666-7762(21)00281-7/fulltext (accessed 28 February 2022).

A variety of terminology is used to describe residential care facilities e.g. care homes; long-term residential homes. In particular, we note that there are two types of homes referred to in England: *residential* homes and *care* homes. Residential homes provide accommodation and personal care and assistance with, for example, medication, dressing and washing. Care homes also include personal care, but there is always at least one nurse on duty to provide nursing care. In Ireland, the term 'care home' is predominately used and there is no overt differentiation between what could be classified as 'residential homes' and 'care homes'. For the purposes of this Working Paper (WP), the terminology of 'care home' will be used (although there are some references made to 'nursing homes' when quoting from particular sources).

**Key Findings: Similarities and Differences**

1. **Structure of care homes**

The Irish system involves both public care homes managed by the HSE, and private care homes. Over 80% of care homes are run privately. The 'Fair Deal Scheme' provides financial support for both residents of public and private care homes. Individuals contribute a percentage of household income and assets towards the cost of care home care, the balance is then paid by the Irish health system. 82% of residents rely on the scheme. All care homes are regulated by the Health Information and Quality Authority (HIQA).

In England, most care homes are run privately. A means test is applied to determine if a resident is entitled to support from the local authority. Assistance is available of the resident's total assets are less than £23,250. Approximately a quarter of the market is dominated by ten large for-profit providers, while roughly 38 % is provided by smaller for-profit organisations. Care homes in England are inspected and regulated by the Care Quality Commission (CQC). The CQC was granted Health and Safety Executive powers in 2015 and it has fined provides who have not met required standards.

2. **COVID-19 testing**

In Ireland, initial COVID-19 testing was quite limited. Subsequently, individual outbreak control teams were put in place in care homes. National Public Health Emergency Team (NPHET) recommended that staff and residents should be regularly tested. Care homes were a priority for the

use of rapid lateral flow tests but some of this testing has been phased out due to the extremely high vaccination rates.

In England, there was also a scarcity of testing in the initial stages of the pandemic. Care home residents were prioritised for testing. However, hospital patients were discharged to care homes without the need for COVID-19 testing. As testing became more frequently available, strict procedures were adopted to ensure that staff, residents and visitors were tested. The most recent guidance indicates that asymptomatic staff are tested every day before work using a lateral flow test. Residents are tested monthly with PCR COVID-19 tests.

### 3. Personal Protective Equipment (PPE)

In Ireland, during the initial stages of the pandemic, there was limited access to Personal Protective Equipment (PPE) and concerns were raised about supply issues. NPHET agreed upon the establishment of an 'Enhanced Public Health Measures for COVID-19 Disease Management in Long-term residential Care Facilities and Home Support' which included the provision of PPE. Care homes received payments towards the purchasing of PPE under the Temporary Assistance Payment System. By July 2020, notwithstanding some delays, all care homes were stocked with relevant PPE.

Similarly, in England, there were also problems with the initial procurement of PPE. There was also confusion in relation to the guidance. In the early stages, there was no need for care home staff or residents to wear PPE and that it was only required for those infected by COVID-19. The guidance later changed, and care homes staff/residents were advised to wear PPE. The supply of PPE was criticised for being slow and much of the PPE was not fit for purpose.

### 4. Staffing

In Ireland, there were concerns about staffing retention and staffing levels in care homes. Emergency funding was sought by Care Homes Ireland (NHI) and the Department of Health to assist with staffing issues. Care homes were reported to be under severe strain, due to inadequate staffing levels. On 31 July 2020, a Special Committee on COVID-19 produced an interim report with 19 recommendations, one of which focused on the development of a plan for ensuring adequate staffing levels. However, this is an ongoing problem that was exacerbated by the COVID-19 crisis.

In England, there were also concerns in relation to staffing levels. Between March 2020 and August 2020, 7.5 workdays were lost to sickness in comparison with an average of 2.7 days pre-COVID-19. The Queen's Care Institute indicated that working in care homes during COVID-19 was an extremely negative experience. It is worth bearing in mind that, the Health and Social Care Act 2008 (Regulated Activities) (Amendment) (Coronavirus) Regulations 2021 were introduced which meant that staff had to be vaccinated in order to be allowed to work in a care home. However, this requirement is now removed due to the lower levels of mortality and hospitalisation from COVID-19.

## 5. Do Not Attempt Cardiopulmonary Resuscitation (DNACPR) Orders

In Ireland, there is some evidence that that 'Do Not Attempt Cardiopulmonary Resuscitation'(DNACPR) orders were made without consultation with care home residents/family members.[5] On 5 May 2020, guidance was published in relation to 'Cardiopulmonary Resuscitation and DNAR Decision-Making during the COVID-19 Pandemic'.[6] The guidance emphasised that the 'fundamental principles of good clinical practice remain the same during COVID-19', and decisions about DNACPR should be made 'on the basis of an individual assessment of each individual case' and the 'goals and preferences' of the individual themselves. The guidance also emphasised the importance of individualised care and that there 'should be no discrimination for or against persons who have or are suspected to have COVID-19.'[7]

During the initial stages, in England, blanket DNACPR orders were also made without consulting with families. This approach was criticised by Amnesty International. NHS England and NHS Improvement later indicated that the focus should be on individual needs and that blanket DNACPR orders were inappropriate. They also stressed that there is a need to consult family members.

## 6. Hospital discharge

In Ireland, there was an urgent need for beds in hospitals and, as a consequence, many patients were discharged to care homes. Concerns were raised about the fact these patients were discharged without

[5] Maeve Sheehan, 'Care homes could be sued over 'do not resuscitate' calls' *Irish Independent* (16th May 2021).
[6] This guidance noted that it should be read in conjunction with other guidance e.g. the Health Service Executive (HSE) National Consent Policy 2019; the Department of Health (DoH) Ethical Framework for Decision-Making in a Pandemic; the DoH Ethical Considerations Relating to Critical Care in the context of COVID-19 and the DoH Ethical Considerations for Personal Protective Equipment (PPE) Use by Health Care Workers in a Pandemic. https://www.hse.ie/eng/about/who/qid/other-quality-improvement-programmes/assisteddecisionmaking/hse-guidance-regarding-cpr-and-dnar-decision-making-during-covid-19-v-1-11.pdf
[7] https://www.hse.ie/eng/about/who/qid/other-quality-improvement-programmes/assisteddecisionmaking/hse-guidance-regarding-cpr-and-dnar-decision-making-during-covid-19-v-1-11.pdf

being tested for COVID-19. There is evidence to suggest that this lack of testing when patients were discharged from hospitals to care homes placed a significant role in the high number of cases (and related deaths) in care homes.

In England, there were similar problems in relation to patients who were discharged from hospitals to care homes with appropriate testing. The House of Commons Health and Social Care, Science and Technology Committees has heavily criticised this approach. Between 17 March and 15 April 2020, 25,000 people were discharged from hospitals and moved to care homes without being tested. The guidance later changed – patients needed to have a negative test and they also had to isolate for 14 days. The most recent advice indicates that the patient needs a negative PCR test within 48 hours before they are released from hospital unless they tested positive for COVID-19 in the last 90 days.

## 7. Visiting and access

In Ireland, on the basis of NPHET recommendations, all visits to residential healthcare centres were ceased, with specific exceptions on compassionate grounds. Residents were also restricted from leaving their care home. There was, essentially, a blanket ban on visitation. On 4 June 2020, NPHET indicated that planning should commence for a phased resumption of indoor visiting. Guidance was later provided by the HPSC which advised that visitations would be permitted from 15 June 2020 where there was no evidence of a COVID-19 outbreak. Visitation and access were later expanded on 11 March 2021. Visitors had to show evidence of vaccination from November 2021, although some exceptions applied, namely visitation on compassionate grounds.

In England, following the national lockdown on 22 March 2020, DHSC guidance on visitation in care homes stated that 'family and friends should be advised not to visit care homes, except next of kin in exceptional situations such as end of life.' Focus was placed on alternatives to in-person visitation (e.g., video calls). On 22 June 2020, visitors were permitted to visit relatives in England, but this could only include one visitor per resident. On 1 December 2020, in England, family members were allowed to visit residents if they had a negative COVID-19 test. In December 2020, the government stated that 'visiting should be supported and enabled wherever it is possible to do so safely—in line with this guidance and within a care home environment that takes proportionate steps to manage risks.' A new lockdown was announced in January 2021 during the absolute peak of the pandemic: residents could not receive visits from family members. The rules were relaxed in March 2021 – residents were allowed one regular visitor (which was increased to two regular visitors on 12 March.

The most recent advice permits visitation. Visitors are advised to take a lateral flow test on the day of the visit.

## 8. Recording of deaths

In Ireland, COVID-19 deaths were and are recorded in line with the World Health Organization (WHO) methodology i.e. a death due to COVID-19 is defined as a death resulting from a clinically compatible illness, in a probable or confirmed COVID-19 cases, unless there is a clear alternative cause of death that cannot be related to COVID disease.' Between 1 January and 19 April 2020, 18% of all deaths from COVID-19 were reported in care homes.

In England, there was an anomaly in the way in which deaths were recorded. Up until April 2020, deaths from COVID-19 in care homes were not classified in official statistics. This was later changed following media and public outcry. According to the NAO on 21 April 2020 there, was a 'twenty year high' in the number of deaths from all causes in the week up to 10 April and that there was a significant jump in deaths in care homes. On 19 April 2020, the Chair of Care England, Professor Martin Green criticised the government and said that a priority should have been given to care homes from the start of the pandemic. Between 10 April 2020 and 31 March 2021, it was reported by the CQC that 39,000 care home residents died from COVID-19 in England.

## Part I: Management of COVID-19 in Care Homes: Ethical and Legal Issues

### 1. Introduction

Historically, care homes were run by state bodies and charities, but they are now mostly supplied by for-profit businesses. Regulation has increased because of the privatisation of care homes. This increase of regulation is due to the reality that neglect and abuse are more widespread in private settings rather than charitable and/or public settings.[8]

According to Braithwaite et al, the care home is a 'phenomenon of late modernity'.[9] In the United Kingdom (UK), the then Conservative government under Prime Minister Margaret Thatcher focused on contracting out care homes and social care. By the beginning of the new millennium, most care homes in the UK moved from NGO-status to for-profit status.[10] During this period, other government services also saw this type of change. This transitional approach has been applied in many jurisdictions, including the United States and Australia. The approach taken by successive UK Conservative governments in the closing decades of the twentieth century was to emphasise value-for-money auditing instead of national standards.[11] In Ireland, a large proportion of care homes are also currently operated by the private sector.

Braithwaite et al contend that the care homes that have the biggest quality of care problems are often struggling economically. For them, the banks were the most powerful actors in their immediate environment, relying on them to lend them additional monies to keep their businesses afloat.[12] They criticise the English system of regulation and argue that insufficient attention is given to the empowerment of residents in comparison with other countries.

During this period and beyond, care home operators were very rarely prosecuted for failing to meet legal standards of care with Braithwaite et al describing the system of regulation as a 'non-punitive form of regional club governance'.[13] Concerns similar to those highlighted in the UK context, exist

[8] John Braithwaite, Toni Makkai and Valerie Braithwaite, *Regulating Aged Care Ritualism and the New Pyramid* (Edward Elgar 2007).
[9] *Ibid*.
[10] *Ibid* at 14.
[11] *Ibid*.
[12] *Ibid*.
[13] *Ibid*.

in Ireland. This has most recently been highlighted by a Special Oireachtas Committee on COVID-19 which recommended that a review be undertaken into the impact of such privatisation.[14]

The fragmented approach to care home care and the existing problems with this sector were brought into sharp focus during the COVID-19 pandemic. We discuss and explore some of these issues in Parts II and III of this WP. In this section of the WP, however, we focus on ethical and legal issues for consideration in the context of the management of COVID-19 in care homes: (i) human rights considerations; (ii) ethical issues; and (iii) regulation and accountability. We also pose questions at the end of each sub-section, for reflection and discussion by workshop participants.

## 2. Human rights considerations

### a. Potential breaches

On 21 September 2020, the UK Parliament's Joint Committee on Human Rights (JCHR) published a report into human rights implications arising from the first wave of the pandemic. It noted the very high number of deaths from COVD-19 in care homes as being 'a matter of deepest concern to us and engages the operational duty to secure life (Art 2 ECHR). The causes behind it are complex … imperative that they be interrogated thoroughly in order to meet the state's procedural obligations under Article 2 ECHR.'[15]

Another report entitled, Care homes: Visiting restrictions during the covid-19 pandemic, was published by the JCHR on 05 May 2021.[16] It criticised the approach taken to the UK government in relation to care home residents during the pandemic. It focuses on potential breaches of the European Convention on Human Rights (ECHR), including Article 2 (right to life), Article 5 (right to liberty and security) Article 8 (respect for private and family life).

The report makes several recommendations and conclusions. For example, it states that that the government's guidance has placed insignificant focus on role of family members. The report says

[14] https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/special_committee_on_covid_19_response/reports/2020/2020-10-09_final-report-of-the-special-committee-on-covid-19-response-sccr004_en.pdf.
[15] UK Parliament, Joint Committee on Human Rights, 'The Government's Response to COVID-19: Human Rights Implications, Seventh Report of Session 2019–21' (HC 265 HL Paper 125, 21 September 2020) https://committees.parliament.uk/publications/2649/documents/26914/default/, para 97.
[16] House of Commons, House of Lords Joint Committee on Human Rights, Care homes: Visiting restrictions during the covid-19 pandemic, Seventh Report of Session 2019-20 (14 September 2020). https://committees.parliament.uk/publications/2649/documents/26914/default/ (last accessed 28 February 2022).

that '[i]t was wrong to deny essential care givers the right to see their relatives, especially when they could have played a crucial role in supporting the over-stretched care home staff during the crisis.'[17] It is argued by the JCHR that the DHSC did not consult widely enough when creating new guidance and that residents' groups should have been involved to a great extent.[18] The report is highly critical of the 14-day isolation rule.[19] Interestingly, the report argues that:

> The Government and care home providers have had a difficult job balancing the right of residents to a family life with the need to protect the right to life of all residents and staff. However, many providers have erred too far on the side of caution, to the significant detriment of residents and their families. Both the Government and providers should have done more to recognise the importance of quality of life for care home residents.[20]

The JCHR concluded that the UK Government should now review the provision of infection prevention and control measures, including infection prevention and control nurses, to social care and ensure that social care providers, particularly care homes, are able to conduct regular pandemic preparedness drills. The Government should also ensure that care homes have isolation facilities and social care providers are able to provide safe visiting for family and friends of care home residents.[21]

In Ireland, concern for the rights of individuals living in care homes were expressed a number of times throughout the pandemic.[22] In May 2020, the Minister for Health established an Expert Panel on Care Homes to assess measures adopted to safeguard residents in care homes in light of COVID-19.[23] In its final report, the group noted 'systematic reform is needed in the way care home care and older persons care is delivered.'[24]

In May 2021, the Irish Council for Civil Liberties (ICCL) published a report which provided a 'human rights analysis of the Irish government's response to COVID-19.'[25] The report noted the severely negative impact the imposition of restrictions has had on care home residents and considered that

[17] *Ibid* para 28.
[18] *Ibid* para 30.
[19] *Ibid* para 37
[20] *Ibid* para 42.
[21] *Ibid* para 296.
[22] See for example, https://www.iccl.ie/wp-content/uploads/2020/06/Update-5-Your-rights-in-the-pandemic.pdf
[23] https://www.gov.ie/en/collection/8d7df-department-of-health-care-homes-papers-special-covid-19-committee-june-2020/.
[24] https://www.gov.ie/en/publication/3af5a-covid-19-care-homes-expert-panel-final-report/.
[25] https://www.iccl.ie/wp-content/uploads/2021/06/Human-Rights-in-a-Pandemic.pdf.

'more should have been done to protect people in care homes from COVID-19 at an earlier stage.'[26] Furthermore, ICCL reiterated their call for the ratification and implementation of the Optional Protocol to the UN Convention against Torture (OPCAT).[27]

### b. Do Not Attempt Cardiopulmonary Resuscitation (DNACPR) Orders

The application of DNACPRs in a blanket manner to care home residents raised significant human rights' concerns, particularly during the first two waves of the COVID-19 pandemic. The JCHR Committee report refers to the fact that this policy engages with ECHR Articles, particularly, Articles 2, 8 and 14. The JCHR argues that the policy interfered with residents' individual autonomy and the right to be involved in medical decision-making. They argue that the policy was discriminatory and that it breached the Equality Act 2010. The report welcomed the DHSC's condemnation of blanket DNACPRs, but they said that the DHSC did not 'go far enough to ensure that blanket DNACPR notices are not used'.[28]

On 2 April 2020, the British Institute of Human Rights (BIHR) Director published a blog, which detailed her concerns about the way in which DNACPR decision-making was taking place during the first wave of the COVID-19 pandemic, observing that what was being reported to the Institute 'revealed some shocking attitudes about whose life counts and whose does not.'[29]

As part of its ongoing work in this area, the BIHR has produced a series of reports examining DNACPR decision-making during the COVID-19 pandemic, drawing on information provided by over 400 people who accessed public services including their families and those who care for them and over 950 people working in health and care services across the UK (including Scotland).[30]

In relation to the reported experiences of health and social care staff in relation to DNACPR decision-making, over a third had experienced pressure to put DNACPR orders in place without involving the person in the decision; and over three-quarters considered they had not provided with legal training or clear information about upholding human rights law.[31] The reports of experiences of patients and their families with DNACPR decision-making also paints 'a worrying picture around the rights of

[26] *Ibid* at 71.
[27] *Ibid*. OPCAT places an obligation on signatories to establish an independent, human rights focused inspection and monitoring system of care homes.
[28] Note 12, para 75.
[29] S Hosali, 'The Fight Against COVID-19: Whose Life Counts?' (BIHR Director's Blog, 2 April 2020).
[30] BIHR, (n 32).
[31] *Ibid*.

involvement in care and treatment decisions including DNARs… it depicts serious issues of discrimination related to disability and age, and the intersection between the two, as well as other factors.'

Key findings included the fact that there was a real need for people to have more easily accessible information about human rights; a considerable majority had not received any information about their Article 2 ECHR rights during coronavirus outbreaks in care homes, which also included having a DNACPR decision being placed on their files without their knowledge. Just under half said that such decisions were not related to end-of-life care.

Key recommendations included the need for it to be made clear that DNACPR decisions about people's legally protected human rights, and that medical (and other) staff have legal duties to uphold these rights in their decision-making as otherwise they contravene the HRA and the EA. Any review of documentation must include testing the veracity and completeness of the information provided. There should be a clear national statement on DNAR decision-making to be human rights based.[32]

Similar concerns have been expressed in Ireland.[33] Although the Health Service Executive (HSE) published updated guidance regarding DNACPR decision-making during the COVID-19 pandemic,[34] emerging research from Ireland has suggested concerns over the appropriate use of DNACPR decision-making in Ireland during the COVID-19 pandemic. For example, Connellan et al.'s cross-sectional study of 300 patients found that the existence of DNACPR documentation was 2.4 times higher in older patients with COVID-19 than in those without.[35] Whilst this increase is not in itself inappropriate, Connellan et al. report 'there is no electronic documentation of advanced care planning discussions where the outcome is that it is agreed that a DNACPR order should not be put in place. Therefore, we cannot infer from our data whether there was a change in the frequency with which advance care planning discussions were held.'[36] Despite the strong guidance provided in relation to DNACPR, questions remain as to the how DNACPR decisions were made in the early stages of the pandemic.

[32] British Institute of Human Rights, 'The Joint Committee on Human Rights Inquiry into the human rights implications of the UK government's response to Covid-19: Evidence from people with care and support needs, families, friends and carers' (July 2020).
[33] Maeve Sheehan, 'Care homes could be sued over 'do not resuscitate' calls' *Irish Independent* (16th May 2021).
[34] https://www.hse.ie/eng/about/who/qid/other-quality-improvement-programmes/assisteddecisionmaking/hse-guidance-regarding-cpr-and-dnar-decision-making-during-covid-19-v-1-11.pdf.
[35] David Connellan et al., 'Documentation of do-not-attempt-cardiopulmonary-resuscitation orders amid the COVID-19 pandemic' (2021) 50(4) Age and Ageing 1048.
[36] *Ibid.*

### c. Governmental responses to concerns relating to human rights

The UK government responded to the JCHR's report on 15 July 2021 in the context of visiting restrictions.[37] In its response, the government points out that '[b]alancing the right to family life with the need to protect the lives of all those who live and work in care homes, is challenging. However, the government has always sought to deliver a proportionate response.'[38]

According to the UK government, the main goal has been to 'protect lives' and that 'visiting arrangements have been available throughout the pandemic' (e.g., window visits and visits in exceptional cases, such as in end of life).[39] They argue that restrictions imposed on residents were 'proportionate and appropriate'. The government refers to DHSC guidelines that were published on 22 July 2020 which allowed providers to 'take a dynamic risk-based approach to allow visiting, where safe.' This guidance was subsequently updated on 15 October 2020, to control the spread of the disease. They state that '[a]s the Government has eased restrictions for the rest of society, care home visiting rights have been reviewed and relaxed in a manner proportionate to the risks that care home residents face.'[40]

In response to the allegation that the restrictions severely interfered with Article 8 ECHR rights, the UK government states that '[w]e have made judgements that balance these rights to enable residents to have meaningful visits with their families and loved ones while ensuring that residents are protected, as far as possible, from infection and harm from COVID-19.'[41] They refer to the fact that there have been significant relaxations of rules and that the new rules allow for visitation without self-isolation, 'subject to an individual risk assessment.' They argue that the individual risk assessment allows the care home providers to consider vaccination status, variants of concern, the rate of infection and other issues to make a proportionate decision.

Reference was also made to the fact that the UK government had subsequently issued further guidance in mid-2020 which allowed for a significant relaxation of restrictions. This allowed care home providers to undertake individual risk assessments taking account of vaccination status, variants of

[37] House of Lords House of Commons Joint Committee on Human Rights, Care homes: Visiting restrictions during the covid-19 pandemic: Government's Response to the Committee's Fifteenth Report of Session 2019-21, (15 July 2021) https://committees.parliament.uk/publications/6756/documents/72015/default/ (accessed 17 November 2021).
[38] *Ibid* para 4.
[39] *Ibid* para 5
[40] Ibid para 7.
[41] 'Appendix: Government Response' https://publications.parliament.uk/pa/jt5802/jtselect/jtrights/553/55302.htm (last accessed 19 April 2022).

concern, the rate of infection and other issues in order to make a proportionate decision on visits to individual residents. However, it is worth noting that the guidance referred to the UK government was subsequently tightened again to restrict visits to care homes in order to control the spread of COVID-19 as the UK entered the second wave of the pandemic in the latter half of 2020 and into early 2021.

The UK government places a significant focus on its positive obligations under Article 2 of the ECHR and, as such, it states that: '[a]s care home residents are particularly vulnerable in the event of infection with COVID-19 – the interference by way of continuing restrictions in this specific cohort is necessary and proportionate to the risks they face.' In September 2021, a new investigation was launched by the JCHR to examine whether the human rights of care residents were respected.[42]

Another recent report has been published by the JCHR that focuses on lessons to be learned from the COVID-19 pandemic.[43] This report focused on pertinent issues, such as pandemic preparedness, lockdowns and social distancing, testing and contract tracing, social care and vaccines. It found that planning for the pandemic was too narrow and that there had been a failure to learn from other pandemics, such as EBOLA and SARS.[44] It went on to state that the emphasis placed on herd immunity was a 'fatalist approach' and that a greater effort should have been made to rigorously stopping the spread of the virus. The report also found that national public bodies failed to share data and that there were major problems with structures for offering scientific advice. It stated that:

> Although it was a rapidly changing situation, given the large number of deaths predicted it was surprising that the initially fatalistic assumptions about the impossibility of suppressing the virus were not challenged until it became clear the NHS could be overwhelmed. Even when the UK strategy did change dramatically in March 2020, it was because of domestic concern about the NHS being overwhelmed rather than a serious decision to follow emerging international best practice.[45]

[42] 'New inquiry: Protecting human rights in care settings' (21 September 2021) https://committees.parliament.uk/committee/93/human-rights-joint-committee/news/157644/new-inquiry-protecting-human-rights-in-care-settings/ (accessed 17 February 2022).
[43] House of Commons Health and Social Care, Science and Technology Committees, Coronavirus: lessons learned to date, Sixth Report of the Health and Social Care Committee and Third of the Science and Technology Committee2021-22, https://committees.parliament.uk/publications/7496/documents/78687/default/ (accessed 17 February 2022).
[44] *Ibid* 6.
[45] *Ibid*.

The report was very critical of the UK government's approach to social care. It argues that care providers were unable to provide appropriate care and that this had 'devastating and preventable repercussions for people receiving care and their families and put staff providing social care at risk'.[46] It noted that '[t]he 'lack of priority attached to social care during the initial phase of the pandemic was illustrative of a longstanding failure to afford social care the same attention as the NHS'.[47] The report went on to find that there were many thousands of avoidable deaths in care homes resulting from concerns about NHS hospitals being overwhelmed and the reality that untested staff infected vulnerable residents in care homes.[48]

In response to the concerns raised in relation to the management of COVID-19 in Care Homes in Ireland, the Irish Government established a number of Oireachtas Committee's and advisory groups, many of which provided recommendations.

The Special Committee on COVID-19 Response also examined the response to COVID-19 in care homes. The Committee noted that ultimately they were 'unable to get satisfactory answers as to why 985 residents of care homes died after they contracted COVID-19' which then amounted to 56% of all deaths in the State from COVID-19. The Committee also observed 'a silo type approach on behalf of the State that certainly did nothing to prevent the spread of the disease.' In particular, the failure to recognise the level of risk to care home residents, the delays in responding to the deteriorating situation through, for example, the provision of PPE, and a failure to provide answers to the families of those who lost a relative during this time.[49]

Additionally, on 22 June 2021, the Joint Committee on Justice engaged with stakeholders on the topic of 'Civil Liberties during the Covid-19 Pandemic'. The Committee published its report in September 2021 and made a number of recommendations including that 'a regular human rights impact assessment on the impact of the emergency situation and restrictions on at-risk groups be carried out in order to ensure Government takes appropriate and sufficient measures to mitigate negative impacts' and that 'the views of experts in the fields of human rights, equality and inclusion ought to be sought

[46] *Ibid* 8.
[47] *Ibid*.
[48] *Ibid*.
[49] 2020-10-09_final-report-of-the-special-committee-on-covid-19-response-sccr004_en.pdf (oireachtas.ie)

as part of the democratic oversight of decisions made by the Government, to ensure that the impact of these decisions on individuals' human rights and civil liberties is taken into account.'[50]

In January 2022, the Minister for Health established the Public Health Reform Expert Advisory Group to 'identify learnings from the public health components of the response to the COVID-19 pandemic… with a view towards strengthening health protection generally and future public health pandemic preparedness specifically.'[51] Notably, there is no legal representative on the group.

While we can identify what residents of care homes were allowed or not allowed to do, significant ethical concerns have been raised about this approach. Many of these residents were capacitous at the time, but there is no evidence of active and consistent engagement with care home residents themselves. It is arguable that insufficient attention was given to the human rights of these residents and, indeed, it is possible that such rights, as underpinned in the ECHR, were compromised.

Much of the interventions, as well as deprivations and restrictions, during the initial waves of the COVID-19 pandemic, appeared to have been carried out in an ad hoc way. Insufficient thought was given as to how restrictions imposed on care home residents would impact their liberty, autonomy and fellowship needs.

## 3. Ethical Issues

### a. Autonomy and dignity

The approaches taken to protect care home residents during the pandemic raises many pertinent ethical issues, including whether or not it was ethically appropriate to separate care home residents from family and friends. This obviously had an extreme impact on the residents' autonomy and right to self-determination. Showing due respect for autonomy involves a recognition of patients as independent moral agents, with the right to choose how they wish to live their own lives. Closely linked to the notion of autonomy is showing due respect for the principle of bodily integrity which recognises the importance of individuals having self-determination over their own bodies.[52] In the

[50] Joint Committee on Justice – Report on Civil Liberties during the Covid-19 Pandemic – September 2021 (oireachtas.ie) pp 7-9.
[51] gov.ie - Ministers for Health establish the Public Health Reform Expert Advisory Group (www.gov.ie)
[52] See generally, TL Beauchamp and JF Childress, *Principles of Biomedical Ethics* (Oxford University Press, 8th edn, 2019).

healthcare context, this involves patients being provided with information and make decisions about consenting to, or conversely refusing to consent to, medical treatment. This should also include being able to make decisions about end-of-life planning and care.

Showing due respect for a patient's dignity – whether they are capacitous or not – should involve a recognition on the part of treating healthcare professionals and institutions of the importance of patients or, where appropriate, their family members/supporters being able to receive information and participate in decision-making in relation to diagnosis, treatment and prognosis.[53] Since the turn of the millennium, there has been a growing recognition of the importance of upholding patient autonomy in healthcare settings which is captured in notions such as patient empowerment and shared decision-making,[54] as well as in recognition of the importance of disclosing material risks to patients so that they can make their own decisions about medical treatment recommended by their treating healthcare professionals.[55]

This marks a shift away from long entrenched paternalism on the part of healthcare professionals and institutions,[56] which is rooted in the idea that patients – including vulnerable groups of patients such as the elderly and those with a disability for example – are in need of protection in relation to the provision of healthcare.[57] This may translate in clinical practice to a 'doctor knows best' approach to the provision of information to patients in discussions regarding medical treatment. It may also contribute to (over-) reliance on the notion of the *therapeutic exception*, in which information is withheld on the part of the treating doctor on the basis of a reasonable belief that to disclose such information would be seriously detrimental to the patient's health.[58]

[53] J Samanta, 'Tracey and Respect for Autonomy: Will the Promise be Delivered?' (2015) 23(3) Medical Law Review 467, 474.
[54] See for example D Wakefield at al., 'Patient Empowerment, What Does It Mean for Adults in the Advanced Stages of a Life-Limiting Illness: A Systematic Review Using Critical Interpretive Synthesis' (2018) 32(2) Palliative Medicine 1288.
[55] See *Montgomery v Lanarkshire Health Board* [2015] UKSC 11; *Fitzpatrick v White* [2007] IESC 51; General Medical Council, 'Decision Making and Consent' (9 November 2020). https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/decision-making-and-consent.
[56] See for example, *Sidaway v Board of Governors of the Bethlem Royal Hospital* [1985] AC 871.
[57] As noted by Laurie et al, how best to understand the relationship between autonomy and paternalism is far more complex in the context of geriatric medicine, particularly against a background where there is now no common law duty in Scotland on the part of children to take care of their (elderly) patients. As a result, such of the care of the elderly is within the remit of medical and social services, and both must be supported by the law. See G Laurie, S Harmon and E Dove, *Mason McCall Smith's Law and Medical Ethics* (Oxford University Press, 11th edn, 2019) 441-2.
[58] E Cave, 'The Ill-Informed: Consent to Medical Treatment and the Therapeutic Exception' (2017) 46(2) Common Law World Review 140; S Menon et al, 'How Should the 'Privilege' in Therapeutic Privilege be Conceived When Considering the Decision-Making Process for Patients with Borderline Capacity? (2021) 47 J Med Ethics 47.

### b. Beneficence (striving to do good) and non-maleficence

Healthcare professionals have ethical obligations to uphold the principles of *beneficence* and *non-maleficence*. Cousins, de Vries and Dening refer to the principle of beneficence, where positive steps are taken to help others.[59] They say that it extends the Hippocratic Oath 'by insisting that a patient must not be harmed and must also benefit from the process of receiving care'. They link this to concepts such as professionalism, kindness, understanding and compassion.[60] They cite examples of where the hard work of care home staff positively impacted upon residents. For example, COVID-19 was used by some care homes as a 'catalyst for innovation which improved care quality'.[61] However, it can be argued that, in the care home context, there was a failure to adopt strategies that were sufficiently beneficent. This was particularly apparent when patients were discharged from hospitals to care homes. Non-maleficence is about not causing harm to others. The policies adopted in both England and Ireland (such as the lack of PPE and testing and hospital discharge to care homes) undoubtably caused harm. It also likely that the blanket use of DNACPRs failed to consider the importance of beneficence and non-maleficence.

### c. Justice

Questions of *justice* may also feature strongly in relation to decision-making polices and procedures. For the individual patient, questions of justice may be strongly linked into notions of autonomy and dignity in terms of being able to participate in discussions about the merits of otherwise of CPR in their particular case. More broadly, justice in the healthcare context is more usually associated with fairness in the allocation of (scarce) resources, although this does not necessarily equate with treating everyone equally.[62]

[59] Emily Cousins, Kay de Vries and Karen Harrison Dening, 'Ethical care during COVID-19for care home residents with dementia' (2021) Care Ethics 28(1) 46-57.
[60] Also see J Summers, Principles of Healthcare Ethics in EE Morrison, *Health Care Ethics: Critical Issues for the 21st century*, (2nd ed, Jones and Bartlett Publishers, 2009) p 41-56.
[61] Cousins, de Vries and Dening (n 187).
[62] A Buchanan, *Justice and Health Care: Selected Essays* (Oxford University Press, 2012).

### d. Wellbeing

The concept of wellbeing is also very important. Care home staff have to abide by a code of conduct and one of the key principles related to wellbeing.[63] The isolation policies adopted by care homes and the lack of regular visitation had a detrimental impact on many residents' emotional wellbeing. Arguably, this is particularly true in the case of residents with dementia.[64]

## 4. Regulation and accountability

### a. Oversight and regulation

Prior to the COVID-19 pandemic, issues with care homes had long been recognised. Arguably, the pandemic highlighted existing shortcomings in the structure, regulation, and organisation of care home care. The issues of oversight and regulation were, however, particularly problematic and have highlighted the need for care home reform in both England and Ireland. Although speaking in the context of residential care in the United States, Grabowski argues that 'COVID-19 has brought into clear view many problems that have lingered under the surface for years, including low quality of care, a broken payment model, ineffective regulation, and a lack of transparency related to care home residents' health outcomes and experiences.'[65] In this regard, the pandemic may be viewed as McGarry et al. note as a 'crisis on top of a crisis.'[66]

Under the Health Act 2007, in Ireland, since 2009 all care homes (private/voluntary and public) are regulated by the Health Information Quality Authority. The purpose of regulation in this context is to 'ensure that the appropriate standard of care and support is provided to safeguard people who are receiving residential services.' Regulation encompasses registration; monitoring and inspection; and where required, enforcement. Compliance with regulations is a requirement for obtaining and maintaining registration.[67]

[63] Skills for Care, Code of conduct for healthcare support workers and adult social care workers in England, (Skills for Care, 2013); see also, https://www.hiqa.ie/sites/default/files/2017-01/National-Standards-for-Older-People.pdf.
[64] Cousins, de Vries and Dening (n 45).
[65] David Grabowski, 'Strengthening care home policy for the postpandemic world: how we can improve residents' health outcomes and experiences' (2020) New York: Commonwealth Fund 1.
[66] Brian McGarry and David Grabowski, 'Care homes and COVID-19: A crisis on top of a crisis' (2021) 698(1) The ANNALS of the American Academy of Political and Social Sciences 137.
[67] Care homes are considered 'compliant' where the provider and/or the person in charge is in full compliance with the regulations; 'substantially compliant' applies where the provider and/or person in charge has generally met the requirements of the regulations, but some action is outstanding in order to achieve compliance. HIQA further outline

In March 2020, due to concern over the spread of COVID-19, the Health Information and Quality Authority (HIQA) temporarily suspended its routine regulatory and monitoring inspections in care homes. Given the high death rate amongst this cohort, media reported of the 'abandoning' of care homes. However, it has been noted that HIQA 'implemented on-going risk assessments throughout the pandemic.'[68]

In reviews that have since taken place in Ireland on the management of COVID-19 in care homes, shortcomings in governance structures and accountability have been highlighted. For example, the Special Oireachtas Committee on COVID-19 has commented that 'the lack of statutory clinical oversight of care for residents in the private care home sector is one of the biggest weaknesses exposed by COVID-19.'[69] In its Interim Report on COVID-19 in Care Homes the Committee recommended the review of the role and observed that there is a need for 'authoritative clinical governance, greater accountability of providers and improved co-ordination across the care home sector.'[70] The Final Report of the Special Committee on COVID-19 reported that an analysis of reports from HIQA and the Expert Panel highlighted 'a silo type approach on behalf of the State that certainly did nothing to prevent the spread of the disease.'[71] The Special Committee on COVID-19 also recommended that a review be undertaken into the impact of the privatisation of Ireland's care homes.[72]

It is clear from the past two years that the questions of accountability and oversight must be addressed to ensure the ongoing and future safety of residents in care homes. As the Special Oireachtas Committee on COVID-19 noted in its final report, '[a]ll that has been done and said, and examined and analysed, will be for nothing unless the State learns from it, embraces change and acts quickly as it sees challenges coming.'[73]

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that '[w]here the non-compliance does not pose a significant risk to the safety, health and welfare of residents using the service, it is risk-rated appropriately and the provider must reach compliance within a reasonable time frame.'

[68] COVID-19 Care Homes Expert Panel: Final Report available at: https://www.gov.ie/en/publication/3af5a-covid-19-care-homes-expert-panel-final-report/

[69] https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/special_committee_on_covid_19_response/reports/2020/2020-07-31_interim-report-on-covid-19-in-care-homes_en.pdf

[70] https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/special_committee_on_covid_19_response/reports/2020/2020-07-31_interim-report-on-covid-19-in-care-homes_en.pdf

[71] COVID-19 Care Homes Expert Panel: Final Report available at: https://www.gov.ie/en/publication/3af5a-covid-19-care-homes-expert-panel-final-report/

[72] COVID-19 Care Homes Expert Panel: Final Report available at: https://www.gov.ie/en/publication/3af5a-covid-19-care-homes-expert-panel-final-report/

[73] https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/special_committee_on_covid_19_response/reports/2020/2020-10-09_final-report-of-the-special-committee-on-covid-19-response-sccr004_en.pdf

### b. The role of private law remedies

Whilst cases are yet to reach the courts in Ireland, it has been reported in the media that there are over 40 families pursuing claims in relation to alleged negligent acts / omissions of care homes during the COVID-19 pandemic.[74] Whilst it is beyond the scope of this WP to explore the theoretical underpinnings of private law remedies, it is worth noting that the primary form of redress that a tortious action for claims of this kind may offer is damages. Families of individuals who have unfortunately died may bring an action for 'wrongful death' and/or negligence.[75] Although those who are ultimately successful in their actions may view this as a form of accountability, litigation of this kind is typically highly contentious and lengthy. The Special Oireachtas Committee has noted that '[t]here has been a failure to provide answers to the relatives of those who died and this has exacerbated their pain and suffering…',[76] whilst compensation for loss is important, and litigation may provide some answers by way of discovery and expert evidence, it is argued that a more holistic and humanising way of resolving these disputes is required.

In England, the same issues exist in relation to compensation, and it is possible that families will bring tortious claims for negligence or wrongful death. Sections 11 the Coronavirus Act 2020 provides indemnity for health service activity. It is likely that the case of *Wilsher* v *Essex Area Health Authority* will be of relevance. Mustill LJ stated that:

> I accept that full allowance must be made for the fact that certain aspects of treatment may have to be carried out in …. 'battle conditions'. An emergency may overburden resources and, if an individual is forced by circumstances to do too many things at once, the fact that he does one of them incorrectly should lightly ben taken as negligence.[77]

[74] https://www.irishexaminer.com/news/arid-40238195.html
[75] Civil Liability Act 1971.
[76] https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/special_committee_on_covid_19_response/reports/2020/2020-10-09_final-report-of-the-special-committee-on-covid-19-response-sccr004_en.pdf
[77] [1988] AC 1074.

## Part II: Management of COVID-19 in Care Homes in Ireland

### 1. The structure of care homes and the industry in Ireland

Before proceeding to discuss and analyse the management of COVID-19 in care homes in Ireland, it is first necessary to provide background and context to the structure of care home provision in this jurisdiction.

Over a decade ago, commentators such as Brady and O'Donnelly observed the following:

> The Irish healthcare system has developed in an ad hoc fashion over the last decades and is somewhat difficult to categorise as it is a mixture of funding and provision structures. The system is an eclectic mix of elements of the private and national service models… Services are delivered through a combination of private, public and voluntary organisations and the system has been criticised for being fragmented.'[78]

Such observations remain relevant today. This is particularly so in the context of the structure of care home care in Ireland. The Irish system comprises a mixture of public care homes managed the Health and Service Executive (HSE), which oversees the provision of publicly funded health and social care in Ireland, and privately owned/voluntary care homes.[79] The latter makes up approximately 80% of all care homes in the State.[80] The average capacity of a care home is 56 beds and approximately 30,000 staff are employed in these settings.[81] The 2016 census reported that 22,762 people aged 65 and over were living in care homes in Ireland.[82] In 2020, it was reported that approximately 32,000 people are living in the 585 registered care homes in the State.[83]

[78] Brady and O'Donnell, 'The Structure of the Irish Health Service' in Brady (ed) Leadership and Management in the Irish Health Service (Gill and MacMillan 2010) 5 at 9, as cited in D Madden, *Medicine, Ethics and the Law* (4th edn, Bloomsbury, 2016).
[79] The voluntary health sector in Ireland provides a number of health services including care home care. These institutions, whilst funded by the Department of Health, are typically run by 'boards comprised of religious and lay members'. See, D Madden, Medicine, Ethics and the Law (4th edn, Bloomsbury, 2016).
[80] Department of Health, 'Care Homes - Summary paper provided to Special Committee on COVID-19 Response' (15/06/2020), https://assets.gov.ie/77340/b73b66ea-01d8-41da-ba01-4bd9dadd449e.pdf (accessed 16/07/2021).
[81] https://www.hiqa.ie/sites/default/files/2020-07/The-impact-of-COVID-19-on-care-homes-in-Ireland_0.pdf p.10.
[82] Central Statistics Office, 'Census of Population 2016 - Profile 3 An Age Profile of Ireland' https://www.cso.ie/en/releasesandpublications/ep/p-cp3oy/cp3/agr/ (accessed 16/07/2021).
[83] COVID-19 Care Homes Expert Panel, 'Examination of Measures to 2021 - Report to the Minister for Health' (19/08/2020) https://assets.gov.ie/84889/b636c7a7-a553-47c0-88a5-235750b7625e.pdf (accessed 25/08/2021).

The Irish State provides financial support for those who require care home care via the 'Fair Deal Scheme', which was introduced in 2009. The scheme is managed by the Health Service Executive (HSE) and covers approved public and private/voluntary care homes. Through this scheme, individuals contribute a percentage of household income and assets towards the cost of care home care, the balance is then paid by the Irish health system.

Private and voluntary care homes do not fall under the HSE's remit.[84] Care Homes Ireland (NHI) is the national representative body for private and voluntary care homes.[85] However, all care homes (public, private, and voluntary) are regulated by the Health Information and Quality Authority (HIQA), which has statutory responsibility for monitoring safety and quality in care homes in Ireland.[86] HIQA inspection reports for different designated centres are published regularly and available for review by the public.[87]

Ireland does not have a specific legal framework in place (equivalent to the Deprivation of Liberty Safeguards/Liberty Protection Safeguards scheme in England and Wales) to address admission to care homes, where a person is resistant or lacks capacity to consent. The wardship jurisdiction has sometimes been used in this context and admission has been made by order of the wardship court. However, admission to wardship will no longer be possible when the Assisted Decision-Making (Capacity) Act 2015 comes into force in June 2022 and at present it is unclear whether (and how) the ensuing lacuna will be filled.

## 2. Care homes and the Irish response to COVID-19

Like many other jurisdictions, the management of COVID-19 in care homes in Ireland was challenging due to the frequent medical vulnerability of residents and increased risk of mortality

[84] Funding for long term residential care is provided under the State's 'Fair Deal Support Scheme'. 82% of residents in private and voluntary care homes are supported by this scheme.
[85] NHI advocates for its members and represents member care home resident and staff populations. For further detail see https://nhi.ie/about-nhi/who-we-are/ (accessed 25/08/2020).
[86] The Health Information and Quality Authority (HIQA) is an independent organisation. It has the legal power and responsibility for improving the quality, safety and value of private and public health and social care in Ireland (excluding mental health services). HIQA developed the National Standards for Residential Care Settings for Older People in Ireland which care homes need to meet to be registered by HIQA. The Health Act 2007 (as amended) empowers the Chief Inspector, a statutory officer within HIQA, to carry out this function through the processes of registration, continual monitoring and inspection and, where necessary, the application of its powers of enforcement. See also, HIQA, 'National Standards for Residential Care Settings for Older People in Ireland' (2016) https://www.hiqa.ie/sites/default/files/2017-01/National-Standards-for-Older-People.pdf (accessed 27/08/2021).
[87] Care homes must be registered every three years and inspected, these can be unannounced or planned inspections. HIQA, 'Care Home Standards Launched' (09 March 2009) https://www.hiqa.ie/hiqa-news-updates/care-homes-standards-launched (accessed 25/08/2021). See also, HIQA Inspection Reports here.

associated with the COVID-19 disease for older age groups, and the residential environment of care homes.[88] The first case of COVID-19 in a care home was reported on 13 March 2020,[89] and it soon became apparent that there was a lack of preparedness among this sector. A number of groups and advisory committees were established throughout the course of the pandemic to develop guidance in relation to the management of COVID-19 in care homes.

In Ireland, the National Public Health Emergency Team (NPHET) was established in January 2020 to provide advice on COVID-19, and subsequently, a number of subgroups were established to support the work of the NPHET. These included the establishment of a 'Vulnerable Groups Subgroup' (VPS), whose role including providing oversight to the co-ordinated response. This group met for the first time on 6 March 2020. It is noteworthy that this sub-group had no care home representative, a decision which was criticised.[90] Additionally, on 23 May 2020, the COVID-19 Care Homes Expert Panel (NHEP) was established.

A Special Committee on COVID-19 Response was also established in May 2020, to consider and take evidence on the Irish government's response to COVID-19.[91] As part of its work, the Committee also examined the response to COVID-19 in care homes (COVID-19 Care Homes Expert Panel). The findings and recommendations of these groups and committees are detailed throughout this WP.

As previously noted, a number of issues were identified in particular in relation to the management of COVID-19 in care homes (testing; personal protective equipment; staffing; do not attempt cardiopulmonary resuscitation; hospital discharge; visiting and access; and the recording of deaths). Having contextualised the phenomenon under discussion, the WP will now proceed to provide an overview of these key issues. In the discussion which follows, it should be noted that there is some repetition given the overlap of some of these issues. However, for the purposes of clarity, it is suggested that it is necessary to delineate these issues in so far as is possible.

[88] M. L. Barnett and D. C. Grabowski, 'Care Homes are Ground Zero for COVID-19 Pandemic' (2020) 1(3) JAMA Health Forum 1.
[89] https://www.hiqa.ie/sites/default/files/2020-07/The-impact-of-COVID-19-on-care-homes-in-Ireland_0.pdf p. 14.
[90] Correspondence from the CEO of the NHI , p. 134.
[91] https://www.oireachtas.ie/en/committees/33/special-committee-on-covid-19-response/

## 3. COVID-19 testing

As previously noted, the first case of COVID-19 in a care home in Ireland was reported on 13 March 2020. By 22 March 2020, four care home clusters were reported.[92] In Ireland, COVID-19 testing practices evolved throughout the course of the pandemic, with initial testing capacity somewhat limited. This was particularly problematic in the context of residential care settings such as care homes, given the nature of the environment e.g. residents and healthcare workers in close proximity to one another. As such, a system for the testing of care home staff and residents was required. Priority testing of this cohort was also identified as a matter of urgency by Care Homes Ireland (NHI).

Concerns relating to the availability of testing were raised a number of times. For example, on 12 March 2020, the CEO of NHI wrote to the HSE with concerns in response to the guidance provided on 10 March 2020, namely on monitoring testing of cases, noting that the HSPC website given no 'specific practical guidance for care homes.'[93]

Following the implementation of lockdown measures, at a NPHET meeting on 27 March 2020, it was decided that the HSE must ensure that individual outbreak control teams be put in place for each outbreak which arises in a hospital and residential care facility setting. At this point in time, care home outbreaks of COVID-19 accounted for 21.4% of all COVID-19 cases;[94] by 14 April 2020, this increased to 37%.[95]

Given the large increase in cases amongst this cohort, testing of staff and residents remained a priority throughout the pandemic. On 17 April 2020, NPHET made a number of recommendations for long-term residential facilities, following reports from the Department of Health (DoH), HIQA, and the HSE. These included recommendations in relation to testing, namely, 'national testing of staff across all settings with an initial widespread approach and thereafter ongoing testing, which may include both staff and patients, to be conducted on a rolling basis.'[96]

Consent to testing was recognised as an important consideration in the approach to the testing of care home residents. Guidance was issued to disability services by the HSE in relation to testing and

[92] As of midnight 20 March 2020.
[93] Correspondence from the CEO of the NHI in respect of COVID-19 testing
[94] https://www.hpsc.ie/a-z/respiratory/coronavirus/
[95] https://www.hpsc.ie/a-z/respiratory/coronavirus/
[96] National Public Health Emergency Team, Meeting Note (17 April 2020) available at NPHET meeting note.

persons lacking capacity, which noted the right to refuse.[97] A report on implementation followed some months thereafter and on 2 July 2020, the HPSC informed NPHET that serial testing of healthcare workers in care homes had begun on 24 June 2020.[98] NPHET received a final report on serial testing in care homes on 30 July 2020 and recommended fortnightly testing for two further cycles.[99]

On 1 April 2021 the Minister for Health published the Report of the COVID-19 Rapid Testing Group, which advised that care homes were one of the settings where Ireland should prioritise rapid testing.[100] However, by 8 May 2021, it was reported that serial testing in care homes would be phased out as 'vaccination has "virtually eliminated" deaths from the disease in the facilities and has significantly reduced infections.'[101]

## 4. Personal protective equipment

In addition to the initial challenges with COVID-19 testing, at the beginning of the pandemic, there were also shortages of personal protective equipment (PPE). At a governmental level, the primary focus at this time was on hospitals and their readiness for a 'surge' of the disease and associated illness. However, concerns were soon raised in relation to care homes. As O'Keeffe has noted, '[i]ronically and sadly, care homes themselves were probably the least safe places to be during the height of the pandemic.'[102]

As early as 27 February 2020, in a letter to the Department of Health, the CEO of NHI requested 'confirmation of procedures in place to provide care homes with stock of PPE.'[103] Again, concerns were largely raised by NHI and on 9 March 2020, the CEO of NHI raised a number of concerns to the secretary general of the DOH and the Minister for Health, including the issue of access to PPE. He noted that there was 'considerable anxiety' among NHI members and that suppliers were not in a position to supply PPE equipment as the HSE has exclusive supply 'at this time'.[104]

[97] https://hse-ie.libguides.com/Covid19V2/Covid19Testing
[98] National Public Health Emergency Team, Meeting Note (2 July 2020) available at NPHET meeting note.
[99] National Public Health Emergency Team, Meeting Note (30 July 2020) available at NPHET meeting minutes.
[100] COVID-19 Rapid Testing Group, Safe Sustainable RE-opening: The Role of Rapid SARS-CoV-2 Testing (2021) available at report.
[101] Jack Horgan-Jones and Paul Cullen, 'Care homes to phase out serial Covid testing as vaccination takes effect' The Irish Times (8 May 2021).
[102] Shaun T. O'Keeffe, 'COVID-19 Pandemic and Decision-Making about Cardiopulmonary Resuscitation and Advance Care Planning' (2020) 26(2) Medico-Legal Journal of Ireland 57, 66.
[103] NHI correspondence January and February.
[104] Correspondence from the CEO of the NHI in respect of COVID-19 testing.

On 12 March 2020, further concerns in relation to PPE were raised.[105] On 13 March 2020, the CEO of NHI requested 'immediate engagement' in relation to the issue of PPE.[106] On 15 March 2020, the CEO of NHI reported to the VPS that NHI members could not access PPE and requested 'confirmation of the provision of PPE to the sector as a priority.'[107]

Commitments to the provision of PPE and financial support for care homes were made on 30 March 2021, but no further detail as to the particularities were provided.[108] On 31 March 2020, at a NPHET meeting to establish 'Enhanced Public Health Measures for COVID-19 Disease Management in Long-term residential Care Facilities and Home Support', the provision of PPE and staff screening and prioritisation (including care home staff) was agreed.[109]

Detail on financial supports was provided shortly thereafter. On 4 April 2020, the Minister for Health announced the COVID-19 Temporary Assistance Payment Scheme (TAPS) for care homes.[110] Under this scheme, staff screening commenced in care homes twice a day; COVID-19 testing was prioritised for all staff; the HSE were to provide access to PPE, expert advice and training; and staff movement across residential facilities was to be minimised and the HSE committed to providing support staff with alternative accommodation and transport, if required. Each care home was also required to identify a COVID-19 lead.

On 25 June 2020, NHI made a submission to the Special Committee on COVID-19 Response on the '[s]crutiny of care home deaths and clusters during the COVID-19 crisis'. In its submission, the NHI identified a lack of supply of PPE as an issue.[111] The Special Committee published an interim report on 31 July 2020 which recommended that 'all care homes are stocked with PPE.'[112] In its final report,

[105] *Ibid*.
[106] *Ibid*.
[107] *Ibid*.
[108] Statement by NHI following meeting with Minister for Health available at https://nhi.ie/statement-by-nhi-following-meeting-with-minister-for-health/ .
[109] NPHET, Enhance Public Health Measures for COVID-19 Disease Management Long-term Residential Care (31 March 2020) available at NPHET note.
[110] The scheme was initially envisaged as operating for a 3-month period for both public and private care homes, providing a 'per head' payment of up to €800 per month (applicable to the first 40 residents, with reduced sums available for residents the next 40 residents and so on). The scheme has been extended a number of times, on 28 June 2020 and on 5 November 2020.
[111] Care Homes Ireland, Oireachtas Special Committee on Covid-19 Response: NHI response to request for submission 15th June (25 June 2020) available at https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/special_committee_on_covid_19_response/submissions/2020/2020-07-27_submission-care-homes-ireland-scc19r-r-0354d_en.pdf .
[112] Houses of the Oireachtas Special Committee on Covid-19 Response, Interim Report on Covid-19 in Care Homes (July 2020) available at https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/special_committee_on_covid_19_response/reports/2020/2020-07-31_interim-report-on-covid-19-in-care-homes_en.pdf .

published on 6 October 2020, the Special Committee identified the delays 'in reacting to an evolving and deteriorating situation in care homes, especially in the provision of supports like replacement staff and PPE' as key issues. [113]

## 5. Staffing

Ensuring appropriate levels of staffing was also an important consideration in the care home sector during the COVID-19 pandemic. Concerns about the recruitment and retention of staff were also highlighted by the care home sector, namely NHI, throughout the pandemic. On 13 March 2020 the CEO of the NHI wrote to the chair of the VPS and the HSE separately, with particular concerns on staffing levels. Additionally, on 17 March 2020, the CEO of the NHI wrote to the Minister for Health with a plea to 'desist targeting the recruitment of staff from the private and voluntary care home sector.'[114]

On 23 March 2020, HIQA wrote to care homes asking them to review the contingency plans they have in place to manage the COVID-19 outbreak, including staffing plans.[115] Emergency funding was sought by the NHI from the Department of Health 'to maintain service continuity', including the issue of staffing.[116] Additionally, on 25 March 2020, NHI raised concerns to the DOH that some staff were withdrawing applications following announcement of the PUP.[117]

The issue of staffing intensified in the following months and an urgent plea for staffing redeployment was made by the NHI on 23 April 2020, as the 'heralded redeployment' of staff promised by the HSE was 'not manifesting on the ground.'[118] Results from a NHI survey released on 8 May 2020 reported that 'many private and voluntary care homes are under immense staffing strain because of COVID-19.'[119] Similar to the HSE's 'Be on call for Ireland' campaign,[120] the NHI launched a recruitment drive for private and voluntary care homes.[121]

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[113] Houses of the Oireachtas Special Committee on Covid-19 Response, Final Report on Covid-19 in Care Homes (October 2020) available at https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/special_committee_on_covid_19_response/reports/2020/2020-10-09_final-report-of-the-special-committee-on-covid-19-response-sccr004_en.pdf .
[114] Correspondence from the CEO of the NHI , p.104.
[115] https://www.hiqa.ie/hiqa-news-updates/regulatory-response-hiqa-and-chief-inspector-social-services-covid-19-3
[116] Correspondence from the CEO of the NHI, pp. 155-156.
[117] Correspondence from the CEO of the NHI, pp. 162-166.
[118] https://nhi.ie/covid-19-staffing-crisis-escalating-within-care-homes/
[119] Care Homes Ireland, Covid-19 Survey (6 May 2021) available at https://nhi.ie/wp-content/uploads/2020/05/Survey-6th-May-2020-NHI-Media-Briefing.pdf .
[120] https://www.hse.ie/eng/services/news/newsfeatures/covid19-updates/oncall/.
[121] https://nhi.ie/recruitment-drive-launched-by-care-homes-ireland/ .

On 31 July 2020, the Special Committee on COVID-19 response published an Interim Report on COVID-19 in Care Homes with 19 key recommendations including the development of a plan for ensuring staffing levels are adequate.[122] However, staffing issues remained ongoing and on 25 September 2020, the NHI CEO called again for the Minister for Health to 'stop the HSE targeting staff in care homes for recruitment in advance of the Winter period.'[123] Furthermore, on 18 October 2020, NHI called for a six month pause on recruiting vital care homes staff due to concerns over loss of care home staff to the HSE.[124]Interestingly, in the context of the HSE's 'be on call for Ireland' campaign, of the 73,000 applicants approximately less than 1% of applicants were hired.[125]

### 6. Hospital discharge

Concerns about the 'safe and appropriate discharges from acute hospitals to care homes' were raised at an early stage in the pandemic.[126] This was significant due to the fact that on 16 March 2020, the Government published Ireland's National Action Plan in response to COVID-19 which detailed 16 key actions, including action 5 which identified as a priority the 'maximising [of] patient flow through our hospitals and making efficient use of existing resources.'[127] It was proposed that in order to expand hospital capacity, the health sector would 'source and deploy additional step-down beds in care homes, hotels etc. to facilitate early discharge.'[128]

A lack of COVID-19 testing prior to admission to care homes and/or discharge from hospitals was identified as playing a role in the high number of cases in care homes.[129] Clarification on the responsibilities of the HSE and NHI was sought in early March 2020 in relation to swab discharges for possible COVID-19 infection. The CEO of the NHI in correspondence to the Department of

[122] Houses of the Oireachtas Special Committee on Covid-19 Response, Interim Report on Covid-19 in Care Homes (July 2020) available at https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/special_committee_on_covid_19_response/reports/2020/2020-07-31_interim-report-on-covid-19-in-care-homes_en.pdf.
[123] This comes after an initial plea the day before to provide 'explicit commitment' that staff in care homes 'will not be targeted for recruitment as capacity within our acute hospitals is increased to prepare for the Winter period.' See, statement.
[124] Carole Coleman, 'Concerns over loss of care home staff to the HSE' (18 October 2020) RTE available at https://www.rte.ie/news/2020/1018/1172325-care-home-staff/ .
[125] Cianan Brennan, 'HSE hires less than 1% of 'Be on Call' applicants after 73,000 apply' *The Irish Examiner* (7 February 2021).
[126] Correspondence from the CEO of the NHI.
[127] Government of Ireland, Ireland's National Action Plan in response to COVID-19 (Coronavirus) (16 March 2020) available at Action Plan.
[128] *Ibid*.
[129] https://nhi.ie/wp-content/uploads/2021/08/Accenture-NHI-Report-Final-August_2021.pdf p.19.

Health stated that there is an 'immediate requirement on the HSE to outline the procedures for discharge.'[130]

The safe and appropriate discharge from hospitals to care homes was an issue raised several times by the CEO of the NHI. For example, on 6 March 2020, significant concerns were raised by the CEO of the NHI who also requested that the HSE outline the procedure for discharge.[131] Interim guidance on this matter was provided by the HSE on 10 March 2020,[132] with formal guidance following on 19 March 2020. [133]

## 7. Do Not Attempt Cardiopulmonary Resuscitation (DNACPR) Orders

A number of media reports have highlighted that 'Do Not Attempt Cardiopulmonary Resuscitation' orders were made during the COVID-19 pandemic in circumstances where the individual concerned and/or their family were not consulted.[134]

On 8 May 2020, the HSE released guidance on 'Cardiopulmonary Resuscitation (CPR) and DNAR Decision-Making during the COVID-19 Pandemic'.[135] The guidance noted that the 'fundamental principles of good clinical practice remain the same during COVID-19', including decisions relating to CPR and DNAR. It further noted that there should be no discrimination against individuals in this context due to the presence or suspicion of COVID-19.

There is some emerging evidence, however, that there was a notable increase in DNACPR documentation at the beginning of the COVID-19 pandemic. For example, Connellan et al. have noted that the 'magnitude of increase in documentation of DNACPR in older patients with COVID-19 was striking and was over two-fold higher than documentation in older patients without COVID-19 and four-fold higher compared to 2019.'[136] These findings raise questions about how these DNACPR decisions, whether there was any element of discrimination, and also, whether there was adequate engagement with the patient concerned and/or their family.

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[130] Correspondence from the CEO of the NHI.
[131] NHI correspondence January and February.
[132] HSE, 'Guidance on the Transfer of Hospitalised Patients from an Acute Hospital to a Residential Care Facility in the Context of the Global COVID-19 Epidemic' (10 March 2020) available at https://nhi.ie/wp-content/uploads/2020/04/Guidance-on-the-Transfer-of-Hospitalised-Patients-19-March-2020.pdf .
[133] *Ibid*.
[134] Paul Cullen, 'COVID-19 and care homes: Six key questions' The Irish Times (18th April 2020).
[135] https://www.hse.ie/eng/about/who/qid/other-quality-improvement-programmes/assisteddecisionmaking/background-note-v1-1.pdf
[136] D Connellan et al., 'Documentation of Do-Not-Attempt-Cardiopulmonary-Resuscitation orders amid the COVID-19 pandemic' (2021) 50(4) Age Ageing 1048, 1051.

## 8. Visiting and access

The introduction of disease mitigation and control measures such as visiting restrictions to care homes, were adopted throughout the pandemic. Interestingly, at the beginning of the pandemic there was a brief divergence of approach between public and private/voluntary care homes in Ireland. For example, visiting restrictions were introduced by the NHI on 6 March 2020 in more than 400 private and voluntary care homes.[137] In contrast, at a NPHET meeting on 10 March 2020, it was decided that 'unilateral / widespread restriction of visiting to care homes, hospitals and healthcare facilities is not required at this time.'[138]

Furthermore, the restrictions imposed by the NHI were criticised by the Chief Medical Officer (CMO). Just two days later, this position was reversed and following NPHET recommendations, all visits to residential healthcare centres were ceased, with specific exceptions on compassionate grounds.[139] In guidance provided by the HSCP in July 2021, the terms 'critical and compassionate grounds' were noted as being 'difficult to define and of necessity require judgement'.[140] Furthermore, it was maintained that these terms should *not* be interpreted restrictively, for example, it would be overly restrictive to assign such grounds only to circumstances where death is imminent.[141]

Lockdown measures were announced throughout the course of the pandemic. Initially, a phased approach was adopted with phase 1 being the least restrictive and phase 5 being the most restrictive. On 27 March 2020, new lockdown measures were implemented including the ongoing restriction of visits to all residential care settings, with special exceptions on compassionate grounds.[142] Whilst Ireland moved into 'phase 2' of the easing of COVID-19 restrictions on 8 June 2020 no information in relation to care homes and visitation was provided. This was despite direction from NPHET on 4

[137] https://nhi.ie/covid-19-coronavirus-care-home-care/ .
[138] At this point, there are 34 confirmed cases of COVID-19 in Ireland. National Public Health Emergency Team, Meeting Note (10 March 2020) available at NPHET minutes.
[139] https://www.gov.ie/en/press-release/96eb4c-statement-from-the-national-public-health-emergency-team/.
[140] https://www.hpsc.ie/a-z/respiratory/coronavirus/novelcoronavirus/guidance/infectionpreventionandcontrolguidance/residentialcarefacilities/Normalising%20visiting%20in%20LTRCF.pdf
[141] The HPSC set out a number of examples of 'critical and compassionate grounds' including: '[c]ircumstances in which a resident is significant distressed or disturbed and although unable to express the desire for a visit there is reason to believe that a visit from a significant person may relieve distress'; '[w]hen there is an exceptionally important life event for the resident (for example death of a spouse or birthday'.
[142] Letter from the Chief Medical Officer, Dr Tony Holohan, to the Minister for Health, Mr Simon Harris TD, available at correspondence.

June 2020 that planning should commence for 'phased resumption of indoor visiting of residents in residential care facilities in accordance with guidance issued by the HPSC'.[143]

Guidance was subsequently provided by the HPSC which advised that visitations would be permitted from 15 June 2020 where there is no 'ongoing COVID-19 outbreak' and where there is 'no active outbreak'.[144] Several other measures were implemented, for example, each resident was only permitted a maximum of two named visitors with only one being allowed visit at any one time; visits were to be arranged in advance; visits were to be limited to 30 minutes and a maximum of one visit per visitor per week was allowed.[145]

Lockdowns remained ongoing in Ireland. On 4 August 2020, NPHET advised the extension of phase 5 measures until 31 August 2020, rather than progressing to phase 4.[146] On 17 August 2020, new measures were introduced to limit the spread of COVID-19 until 13 September 2020, with no mention of changes to care home visits.[147] By 10 September 2020, the situation had not improved and NPHET recommended that the measures were extended for a further three weeks, they also requested that the HSE design a new 'Visiting Guidance Framework' for long-term care facilities outlining the restrictions to apply at each corresponding level within the 5-level framework for NPHET consideration.[148]

Over the course of the pandemic, some counties in Ireland with particularly high incidences of COVID-19 were placed under lockdown. For example, on 18 September 2020, Dublin was placed under level 3 restrictions and visits to long-term care facilities were suspended except on 'critical and compassionate circumstances.'[149] Approximately a month thereafter, on 19 October 2020, the Government announced level 5 restrictions for the country, and visits to care homes were suspended nationwide except for compassionate circumstances.[150]

[143] Letter from the Chief Medical Officer, Dr Tony Holohan, to the Minister for Health, Mr Simon Harris TD, available at correspondence.
[144] HSE, COVID-19 Guidance on visitations to Residential Care Facilities available at guidelines.
[145] *Ibid*.
[146] https://www.gov.ie/en/speech/4cf9b-speech-by-an-taoiseach-micheal-martin-post-cabinet-briefing-4-august-2020/ .
[147] https://www.gov.ie/en/publication/77b6d-statement-on-the-introduction-of-new-measures-to-limit-the-spread-of-covid-19/ .
[148] https://www.gov.ie/en/publication/77b6d-statement-on-the-introduction-of-new-measures-to-limit-the-spread-of-covid-19/.
[149] Harry McGee, Pat Leahy, and Vivienne Clarke, 'Coronavirus: Dublin to remain under Level 3 until October 10th – Taoiseach' The Irish Times (18 September 2020).
[150] https://www.gov.ie/en/press-release/66269-ireland-placed-on-level-5-of-the-plan-for-living-with-covid/

On 25 November 2020, NPHET accepted the HSE's updated guidance on visitation to long-term care facilities, noting:

> With regard to the general wellbeing of those living within long-term residential care the NPHET agreed updated and enhanced visiting guidance where, for critical and compassionate grounds, residents can receive a weekly visit by one person at Levels 3 and 4 and a fortnightly visit by one person at Level 5. In line with operational advice these should come into effect on 7th December.[151]

On 30 November 2020, the Minister for Mental Health and Older People announced the publication of new 'Visitation Guidance for Care Homes'.[152] On 1 December 2020, Ireland moved to level 3 restrictions.[153] However, this was short lived and by 30 December 2020, the country was under level 5 restrictions and visits to long-term residential facilities were suspended, aside from on the basis of compassionate grounds.

On 18 February 2021, NPHET recommended that the HSE Antimicrobial Resistance and Infection Control (AMRIC) assess scope for easing of visitor restrictions to long-term residential facilities.[154] Visitation and access were later expanded on 11 March 2021, with effect given to same on 22 March 2021, following the approval of AMRIC guidance by NPHET.[155]

The guidance expanded the scope of visiting on general compassionate grounds rather than 'critical and compassionate' grounds. It also refined 'the guidance across Levels 1 to 5, which now provides for increased visiting at Levels 3,4, and 5, subject to risk assessment and no open outbreak.' Residents could now receive two visits per week, following two weeks after full vaccination of approximately 8 out of 10 of all residents and healthcare workers in the care home. There was no requirement to limit visits to less than one hour.[156]

On 23 April 2021, the HPSC published COVID-19 guidance on visits to long-term residential care facilities, the implementation date for this guidance is 4 May 2021. No major changes are introduced

[151] National Public Health Emergency Team, Meeting Note (25 November 2020) available at NPHET minutes.
[152] https://www.gov.ie/en/press-release/0fd01-minister-for-mental-health-and-older-people-welcomes-the-publication-of-new-visitation-guidance-for-care-homes/
[153] https://www.gov.ie/en/press-release/5b068-ireland-placed-on-level-3-of-the-plan-for-living-with-covid-with-special-measures-for-a-safe-christmas/
[154] National Public Health Emergency Team, Meeting Note (18 February 2021) available at NPHET meeting minutes.
[155] National Public Health Emergency Team, Meeting Note (11 March 2021) available at NPHET meeting minutes.
[156] https://www.gov.ie/en/press-release/2b3d8-minister-for-health-and-minister-for-mental-health-and-older-people-welcome-new-visitation-guidance-for-care-homes/

with this guidance.[157] On 9 July 2021, the HPSC publish 'COVID-19 Normalising Visiting in Long Term Residential Care Facilities', which provides for care home restrictions to be eased on 19 July.[158] Despite the easing of restrictions and the 're-opening' of society in Ireland in June 2021, access and visitation remained limited in care home settings.

Restrictions eased as the COVID-19 vaccination programme was rolled out. During the rollout of the COVID-19 vaccination programme, those who were fully vaccinated received 'EU Digital COVID-19 Certificates'.[159] These certificates were required by care homes for access and visitation from November 2021, although some exceptions applied, namely visitation on compassionate grounds.[160]

Although there have since been attempts at 'normalising visiting' in care homes,[161] and the majority of restrictions have now been lifted, the introduction of restrictive lockdown measures has been criticised for its failure to recognise 'the significance of resident-family relationships as a means of supporting resident autonomy and enhancing the quality of residents' lives and their care.'[162] It is suggested that this is an issue for further discussion.

## 9. Recording of deaths

In Ireland, COVID-19 deaths were and are recorded in line with the World Health Organization (WHO) methodology. The WHO advise that a: death due to COVID-19 is defined for surveillance purposes as a death resulting from a clinically compatible illness, in a probable or confirmed COVID-19 cases, unless there is a clear alternative cause of death that cannot be related to COVID disease (e.g. trauma).'[163] Additionally:

> There should be no period of complete recovery from COVID-19 between illness and death. A death due to COVID-19 may not be attributed to another disease (e.g. cancer)

[157] Implementation date for this guidance is the 4th of May.
[158] https://www.hpsc.ie/a-z/respiratory/coronavirus/novelcoronavirus/guidance/infectionpreventionandcontrolguidance/residentialcarefacilities/Normalising%20visiting%20in%20LTRCF.pdf
[159] https://www.gov.ie/en/publication/3a698-eu-digital-covid-certificate/#what-the-eu-digital-covid-certificate-is
[160] Ciara O'Loughlin and Eilish O'Regan, 'Care home visitors will need Covid passes from next Monday, though exceptions will apply' Irish Times (12 November 2021).
[161] https://www.hpsc.ie/a-z/respiratory/coronavirus/novelcoronavirus/factsheetsandresources/Normalising%20visiting%20in%20care%20homes%20%20and%20residential%20care%20facilities.pdf
[162] Irene Hartigan et al., 'Visitor restrictions during the COVID-19 pandemic: An ethical case study' (2021) 28(7-8) Care Ethics 1111, 1123.
[163] https://www.who.int/classifications/icd/Guidelines_Cause_of_Death_COVID-19.pdf

> and should be counted independently of pre-existing conditions that are suspected of triggering a severe course of COVID-19.'[164]

Data was collected and reported from care homes from the start of the pandemic.[165] A census of mortality across all long-term residential care facilities that included deaths from COVID-19 since 1 January 2020 began on 18 April 2020.[166] An analysis of the resulting data outlined that from 1 January – 19 April 2020 there was a total of 585 COVID-19 related deaths in care homes, comprising 18% of all deaths in care homes during this period.[167]

## 10. Conclusion

There are lessons to be learned from the management of COVID-19 in care homes. As Davidson and Szanton note, '[t]he COVID-19 pandemic is providing us with many painful lessons particularly the vulnerability of individuals living with chronic conditions and the need for preparedness, coordination and monitoring.'[168]

Submissions were made by both NHI and HIQA to the Special Committee on COVID-19 Response Committee on 'Scrutiny of care home deaths and clusters during the COVID-19 crisis.' NHI identified a number of issues as contributing to the deteriorating situation in care homes, namely: access to PPE, testing, and staffing.[169] HIQA made a number of recommendations, including: the establishment of formal communication pathways with key clinical community and hospital specialities; the implementation of appropriate governance, leadership, and management; staffing; and taking steps to ensure preparedness for public health emergencies.[170]

The impact of COVID-19 and its management on the sector, staff, and residents and their families is still to be fully ascertained. Some of the issues identified in this WP are likely to be further considered

[164] *Ibid*.
[165] D. W. Molloy et al., 'The experience of managing COVID-19 in Irish care homes in 2020' (2020) 6 Jour Care Home Res 47.
[166] https://www.gov.ie/en/publication/868ad8-mortality-census-of-long-term-residential-care-facilities-1-january-/ .
[167] This total of 585 includes 376 COVID-19 lab-confirmed deaths and 209 COVID-19 'probable' deaths. For further detail see, Census.
[168] P.M. Davidson and S. L. Szanton, 'Care homes and COVID-19: We can and should do better' (2020) J Clin Nurs.
[169] https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/special_committee_on_covid_19_response/submissions/2020/2020-07-27_submission-care-homes-ireland-scc19r-r-0354d_en.pdf
[170] https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/special_committee_on_covid_19_response/submissions/2020/2020-07-27_submission-health-information-and-quality-authority-scc19r-r-0328-d_en.pdf

by the courts. As previously noted, on 5 March 2021, it was reported that 40 families are pursuing legal action for wrongful death and negligence against up to 15 public and private care homes.[171]

[171] Neil Michael, 'Forty families to take action against up to 15 care homes' *Irish Examiner* (5 March 2021).

## Part III: Management of COVID-19 in Care Homes in England

### 1. The structure of the care home industry in England

The purpose of this section of the WP is to set out the key issues pertaining to the management of the COVID-19 pandemic in care homes in England. It is widely accepted that a disproportionate number of residents of care homes died from COVID-19. Many residents were particularly vulnerable to COVID-19 because of advantaged age, underlying medical conditions and, arguably, insouciance on the part of providers/government agencies/possible lack of political action. In the UK, there are over 400,000 people living in care homes, with more than 500,000 people working in this sector.[172] This introductory section considers the structure of care homes in England, before going on to examine the governmental and care sector response to the risks posed by COVID-19, with specific reference to COVID-19 testing, PPE, staffing, hospital discharge, and visitation.

In England, care homes are mainly run by private providers. They differ from the National Health Service (NHS) in the sense that they are not free at the point of use and means testing is the main method used to decide if someone can receive funded support by a local authority.[173] Jarrett explains that 'local authorities have considerable negotiating power with care homes, and, combined with pressures on local authorities' finances, it has been shown that the local authority fees paid on average are near to or at cost'.[174] This creates an issue of 'cross-subsidisation' where, according to the Competition and Markets Authority, self-funders usually pay approximately 40% more than local authority residents. In 2017, there were 179,000 residents in private sector places in comparison with 10,500 NHS places.[175]

In 2016, 84,000 residents over the age of 65 were self-funded while 127,000 residents were funded by local authorities. In relation to 'care homes', self-funders comprised of 88,000 residents and 103,000 funded by local authorities or the NHS.[176] 47.5% of residents' fees were paid in full or partially by a local authority.[177]

[172] Office for National Statistics, Deaths involving Covid-19 in the Care Sector, England and Wales, occurring 12 June and registered up to 20 June 2020 (provisional). (London, England: Office for National Statistics, 2020).
[173] Tim Jarrett, 'Social care: care home market – structure, issues, and cross-subsidisation' (13 February https://researchbriefings.files.parliament.uk/documents/CBP-8003/CBP-8003.pdf (accessed 17 February 2022).
[174] *Ibid*.
[175] LaingBuisson, Care of Older People: UK Market Report, (28th edition, May 2017) p12–13, table 2.3 https://www.laingbuisson.com/shop/care-homes-for-older-people-uk-market-report-31ed/ (accessed 17 February 2022).
[176] *Ibid* p 204, Table 7.1
[177] *Ibid*.

According to LaingBuisson, 'the balance of market power in the public pay segment of the market has to date remained firmly with local authority commissioners, which are the largest single purchasers in most parts of the country'.[178] They also state that 'care home placements are local authorities' largest single cost head, and one that they would like to reduce'.[179]

As discussed above, a means test is applied to care home residents to determine if they are eligible for support from their local authority. If an individual's total assets are worth less than £23,250 in England or £50,000 in Wales, they may be entitled to financial help.[180] This means test will include questions relating to income, pensions, capital, some benefits, and property. The value of property is included in the means test unless certain people still reside there. The local authority must disregard certain financial considerations, such as disability living allowance and half of any pension if they are assigned to a spouse or civil partner.

Thus, anyone with assets over £23,250 in England must self-fund their care care. If a person has assets between £14,250 and £23,250, a contribution plus a tariff income has to be paid, while for anyone with less that £14,250 in assets, a tariff income will not be required. A relatively similar approach in other devolved administrations. In Northern Ireland for example, a person with capital of £23,250 is assessed as able to pay for the care home privately;[181] whereas In Scotland, a person with capital of £18,000 is assessed as able to pay for the care home privately.[182]

The *Grant Thornton* report involved a comprehensive financial review of care homes on a UK wide basis. The report identified the management of care homes as a 'relatively fragmented sector', noting that a quarter of the market is dominated by ten large for-profit providers, while roughly 38 % is provided by smaller for-profit organisations.[183] The report claimed that fees for (UK-styled) care homes are usually higher than for residential homes (in 2018, £841 per week versus £600 per week). It is also noted that there is, essentially, a two-tier market: 'operators whose income is predominantly

[178] *Ibid* p 88.
[179] *Ibid* p 203.
[180] Age UK, 'Care Homes', (Age UK, August 2021) https://www.ageuk.org.uk/globalassets/age-uk/documents/information-guides/ageukig06_care_homes_inf.pdf (accessed 17 February 2022).
[181] NI Direct, 'Paying your residential care or care home fees' https://www.nidirect.gov.uk/articles/paying-your-residential-care-or-care-home-fees (accessed 17 February 2022).
182 https://www.ageuk.org.uk/globalassets/age-scotland/documents/ia---factsheets/care/care-5-care-home-guide---funding-may-2021.pdf
[183] Age Scotland, 'care home guide: funding' (Age Scotland, May 2021) p 4.
https://www.grantthornton.co.uk/globalassets/1.-member-firms/united-kingdom/pdf/documents/care-homes-for-the-elderly-where-are-we-now.pdf (accessed 17 February 2022).

from local authority or NHS placements achieving significantly lower profits than those whose client base is self-paying'.[184]

Some other interesting statistics were published in report including the following: around a quarter of residents have their more than 75% of their fees paid by the local authority and, as indicated previously, '[care] homes charge self-funders around 40% more than they charge for UK council-funded placements'. It is worth noting that the private pay market is rising at a significant rate in comparison with the local authority-funded market 'with local authority-funded operators increasingly repositioning their care homes to cater for private clients'.[185] It is somewhat surprising that, despite an ageing population, there was a been a 4.4% decline in the number of residents in care homes between 2001 and 2016, which may be linked to the tightening of local authority budgets. The *Grant Thornton* report indicates that profit has fallen from 32.8% in 2006/2007 to 2016/17, mostly due to increasing property and food costs. Note that '[d]espite the decline in underlying profitability of the major care home groups with high exposure to state paid fees, operators whose business model relied on self-paying clients fared better'.[186]

Care homes in England are inspected and regulated by the Care Quality Commission. The CQC inspects premises, and the care homes is graded using the following criteria: is it safe; effective; caring; responsive to people's needs; and well-led. The CQC was granted Health and Safety Executive powers in 2015 and it has fined providers which have not met required standards. Those who oversee care homes also need to provide appropriate protection from COVID-19 for residents who lack capacity under the Deprivation of Liberty Safeguards (DoLS) scheme.[187]

## 2. Care homes and the response to the COVID-19 pandemic in England

From early 2020 onwards, a number of measures were adopted in order to try to prevent vulnerable patients from being infected with COVID-19  On 25 February 2020, Public Health England produced

[184] *Ibid* p 4.
[185] *Ibid*.
[186] *Ibid* p 10.
[187] See Department of Health, Mental Capacity Act (Northern Ireland) 2016 https://www.health-ni.gov.uk/mca (accessed 17 February 2022).

guidelines in relation to COVID-19 in care homes.[188] The guidance indicated that 'it remains very unlikely that people receiving care in a care home or the community will become infected.'[189]

On 3 March 2020, a Coronavirus Action Plan was published, which was premised on four stages: contain, delay, research, mitigate. This concerned the approaches that would be adopted if the COVID-19 situation deteriorated. However, the plan placed insignificant focus on care homes. In relation to the mitigate stage, the guidance stated that 'health and social care services will work together to support early discharge from hospital, and to look after people in their own homes'.[190] New guidance was then issued on 13 March 2020.[191] Care home providers were asked to consider different techniques to keep people safe, such as through the increased use of Skype. Arrangements were made to use Personal Protective Equipment (PPE) more frequently.

In England, the care home support package was also introduced.[192] The action plan involved focusing on four issues: (i) controlling the spread of infection; (ii) supporting the workforce; supporting independence; (iii) supporting people at the end of their lives, and responding to individual needs; and (iv) supporting local authorities and the providers of care.[193] On 15 April 2020, the UK government said that before being transferred to a care home, hospital patients needed to be tested for COVID-19. However, it is our view that this came far too late. Note that the requirement for patients to be tested following discharge was not included in the action plan and, according to the National Audit Office (NAO), it is estimated that 25,000 patients were discharged from hospitals and moved to care homes without COVID-19 testing.[194] On 28 April, testing was expanded to include the testing of all care home residents.[195]

[188] Public Health England, Guidance for social or community care and residential settings on COVID-19, (25 February 2020) https://web.archive.org/web/20200306105109/https:/www.gov.uk/government/publications/guidance-for-social-or-community-care-and-residential-settings-on-covid-19/guidance-for-social-or-community-care-and-residential-settings-on-covid-19 (accessed 17 November 2021).
[189] *Ibid*.
[190] Coronavirus: action plan. A guide to what you can expect across the UK (03 March 2020) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/869827/Coronavirus_action_plan_-_a_guide_to_what_you_can_expect_across_the_UK.pdf (accessed 17 November 2021).
[191] Public Health England, COVID-19: guidance on residential care provision, (13 March 2020) https://web.archive.org/web/20200316125115/https:/www.gov.uk/government/publications/covid-19-residential-care-supported-living-and-home-care-guidance/covid-19-guidance-on-residential-care-provision
[192] Public Health England, Coronavirus (COVID-19): care home support package, (updated 01 April 2021) https://www.gov.uk/government/publications/coronavirus-covid-19-support-for-care-homes/coronavirus-covid-19-care-home-support-package (accessed 17 November 2021).
[193] *Ibid*.
[194] NAO, Readying the NHS and adult social care in England for COVID-19, (NAO, 2020).
[195] BBC News, 'Coronavirus: Millions more to be eligible for testing', (BBC News, 28 April 2020) https://www.bbc.com/news/uk-52462928 (accessed 17 November 2021).

A new support package of £699 million was introduced in May 2020.[196] The package was intended to help local authorities cover the costs pertaining to measures adopted to reduce the transmission of COVID-19. Care homes were asked to restrict staff to working in only one care home, where possible. The money would also be used towards paying for staff who were self-isolating.[197] Up to this point very little had been done financially to support care homes (in comparison with the actions taken in hospital settings.

Following a rise in case numbers in October 2020, new restrictions were introduced in England – this was a three-tier system. During this later period in 2020, residents were permitted to receive visitors, under particular circumstances (e.g., through the COVID-19 testing of visitors.) Also, the first residents were vaccinated in December 2020. Some changes were made to the rules pertaining to visitation in March 2021, following a very strict period in January and February 2021. This is the only point where absolute restrictions were placed on visitation.

The role of guidance has been particularly important in the different nations. Particular focus is placed on coordination between care providers, making use of available assets and ensuring that staff receive appropriate training, making discharge arrangements based on scientific advice, supporting care homes and ensuring access to PPE.

## 3. COVID-19 testing

On 14 March 2020, the UK government priorities the testing of vulnerable people, including care home residents. This decision was made in conjunction with Public Health England and the Department of Health and Social Care (DHSC). This was when the UK moved from a 'contain' into the 'delay' stage of the pandemic. If there were a suspected COVID-19 outbreak, some of the residents could be tested. Members of the community did not need to be tested if they had symptoms such as a cough or a fever. Priority was given, amongst others, 'where an outbreak has occurred in a residential or care setting, for example long-term care facility or prisons'.[198]

[196] Public Health England, Coronavirus (COVID-19): care home support package (n 11).
[197] Department of Health and Social Care, Press release: Care home support package backed by £600 million to help reduce Coronavirus infection' (15 May 2020, last updated 18 May 2020) https://www.gov.uk/government/news/care-home-support-package-backed-by-600-million-to-help-reduce-coronavirus-infections (accessed 17 February 2022).
[198] Public Health England, 'Coronavirus testing' (Public Health England 14 March 2020) https://www.gov.uk/government/news/coronavirus-testing (accessed 17 February 2022).

However, BBC Reality Check indicates that some provides found it extremely difficult to access testing.[199] On 15 April 2020, a commitment was made to test all care home staff who required one (e.g. if they were living in a house where someone was self-isolating). This was set out in the social care plan.[200] This was later extended to all residents and staff, whether they were symptomatic.[201] As the pandemic continued, it was common practice for (fully vaccinated) visitors to take a lateral flow test (LFT) in advance of their visit.

Currently, asymptomatic staff should be tested via a LFT every day before they begin working. This is based on the new guidelines published on 4 February 2022.[202] Prior to this, asymptomatic staff were advised to have a PCR test once a week and to take LFTs per week. Care home residents should receive a PCR test monthly and other tests may be needed for visits in and out of the home or if there is exposure to COVID-19.

If a resident has COVID-19 symptoms, he or she should be isolated and tested, using a PCR test. Following this PCR test, residents can be tested using a lateral flow test. If the resident has a positive LFT or PCR, the resident is to be treated as having contracted COVID-19. Residents who have COVID-19 symptoms should remain isolated until they receive a negative test result. Under the current guidance, what happens if there is a COVID-19 outbreak? All residents and staff are tested (using a PCR test) on days 1 and once between days 4 and 7. Residents are also tested using a LFT. Any newly symptomatic patient is tested using a PCR test. Ultimately, the Health Protection Team will decide when the restrictions can be removed. Members of staff must receive consent from the resident to conduct a test and, if necessary, staff should liaise with family members and GPs.

### 4. Personal Protective Equipment

The initial guidelines indicated that during normal day-to-day activities ‘facemasks do not provide protection from respiratory viruses, such as COVID-19 and do not need to be worn by staff in any of

[199] Reality Check Team, ‘Covid: What happened to care homes early in the pandemic?’ (BBC News, 28 May 2021) https://www.bbc.co.uk/news/52674073 (accessed 17 February 2022).
[200] DHSC, ‘COVID-19: our action plan for adult social care’, (DHSC updated 14 December 2020) https://www.gov.uk/government/publications/coronavirus-covid-19-adult-social-care-action-plan/covid-19-our-action-plan-for-adult-social-care (accessed 17 February 2022).
[201] DHSC and Matt Hancock MP, ‘Health and Social Care Secretary’s statement on Coronavirus (COVID-19) 28 April 2020’ (30 April 2020) https://www.gov.uk/government/speeches/health-and-social-care-secretarys-statement-on-coronavirus-covid-19-28-april-2020 (accessed 17 February 2022).
[202] UK Health Security Agency, ‘COVID-19 care home testing guidance for regular and outbreak testing of staff and residents’ (updated 17 February 2022) https://www.gov.uk/government/publications/coronavirus-covid-19-testing-in-adult-care-homes/covid-19-care-home-testing-guidance-for-regular-and-outbreak-testing-of-staff-and-residents (accessed 17 February 2022).

these settings.'[203] It was recommended that they should only be worn by people infected by COVID-19 when asked to do so by a healthcare professional in order to reduce the possibility of transmitting the infection to others.[204]

Guidance was introduced in March 2020 in relation to the use of PPE in care homes and it was stated that the PPE should be used in a similar manner to that applied in hospitals. It was promised on 19 March that each care home provider would receive 300 masks. It became apparent that there was a shortage of PPE.

The CEO of *Community Integrated Care* stated that there was a significant shortage of face masks, in particular. A DHSC spokesperson stated that '[t]he full weight of the government is behind this effort and we are working closely with industry, social care providers, the NHS, and the army so all our NHS and care staff have the protection they deserve'.[205] Due to the private nature of care home providers, they were responsible for buying PPE and it was accepted by the UK government that providers were facing difficulties in receiving PPE. Consequently, on 10 April 2020, a PPE action plan was announced, which stated that:

> As an initial step, social care providers across England received an emergency drop of 7 million items of PPE, so that every CQC registered care home and social care provider received at least 300 face masks to meet immediate needs. Starting in the week beginning 6th April 2020, we have authorised the release of a further 34 million items of PPE across 38 local resilience forums (LRFs), including 8 million aprons, 4 million masks and 20 million pairs of gloves.[206]

[203] Public Health England, Guidance for social or community care and residential settings on COVID-19, (25 February 2020) https://web.archive.org/web/20200306105109/https:/www.gov.uk/government/publications/guidance-for-social-or-community-care-and-residential-settings-on-covid-19/guidance-for-social-or-community-care-and-residential-settings-on-covid-19 (accessed 17 February 2022).
[204] *Ibid*.
[205] BBC News, 'Care home plead for coronavirus help' (BBC News, 27 March 2020) https://www.bbc.co.uk/news/uk-england-52066318 accessed 17 February 2022).
[206] DHSC, 'Covid-19: Personal Protective Equipment (PPE) Plan', (DHSC, 10 April 2020) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/922273/Coronavirus_COVID-19__-_personal_protective_equipment__PPE__plan.pdf (accessed 17 February 2022).

On 14 December 2020, it was clarified that, traditionally, care homes made their own arrangements to buy PPE and that facemasks were very rarely required. The guidance changed to place a focus on the wearing of facemasks in care homes in particular circumstances.[207] As such:

> … the government has stepped in to support the supply and distribution to the care sector for the first time. The government has focused on ensuring there is an emergency supply in place, while building a longer-term solution for distribution to the sector. Our normal supply chain for PPE was designed to accommodate delivering to 226 NHS trusts. As of the week starting 6 April 2020, we are now providing essential PPE supplies to 58,000 different providers including care homes, hospices, residential rehabs and community care organisations. This is an unprecedented shift in scale.

It is worth noting, however, that the UK government's procurement and supply of PPE during the early stages of the pandemic has been criticised by the House of Commons Public Accounts Committee.[208] This report indicates that 'stocks ran perilously low; single use items were reused; some was not fit for purpose and staff were in fear that they would run out'.[209] The report claims that most of the existing suppliers of PPE could not meet the extreme demand. Although the DHSC spent over £12 billion on PPE between February and July 2020, the Committee states that much of the PPE purchased was unsuitable. The Committee also argues that the Department's

> … decision to prioritise hospitals meant social care providers did not receive anywhere near enough to meet their needs, leaving them exposed. Many workers at the front line in health and social care were put in the appalling situation of having to care for people with COVID-19 or suspected COVID-19 without sufficient PPE to protect themselves from infection.[210]

Surveys were carried out by the British Medical Association, the Royal College of Care, the Royal College of Physicians and Unison.[211] They indicated that least 30% of healthcare professionals who participated stated that they lacked the necessary PPE. Interestingly, 51% of nurses said that they were asked to reuse single-use PPE.

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[207] DHSC, 'COVID-19: our action plan for adult social care' (DHSC, updated 14 December 2020) https://www.gov.uk/government/publications/coronavirus-covid-19-adult-social-care-action-plan/covid-19-our-action-plan-for-adult-social-care (accessed 17 February 2022).
[208] House of Commons Public Accounts Committee, 'COVID-19: Government procurement and supply of Personal Protective Equipment' 42nd Report of Session 2019-2020, (10 February 2021) https://committees.parliament.uk/publications/4607/documents/46709/default/ accessed 17 February 2022).
[209] *Ibid*.
[210] *Ibid*
[211] *Ibid* at para 25.

## 5. Staffing

Staff in care homes have in England had to work in extraordinary times, in line with changing guidelines and advice. They were particularly susceptible to being infected with COVID-19. According to the House of Commons Health and Social Care, Science and Technology Committees, '[e]vidence from across the sector, including from staff themselves, was unanimous that the lack of provision of regular testing for social care staff had meant that social care staff were more likely to transmit the disease within care homes'.[212]

Between March 2020 and August 2020, 7.5% of work days were lost to sickness in comparison to 2.7% pre-pandemic.[213] The Office for National Statistics states that during the first peak of COVID-19 (March-May 2020), there were 760 deaths of people working in care which is double the average number of annual deaths from 2014-2019 and COVID-19 was listed as causing the deaths of 74% of such workers.[214]

During the height of the pandemic, residents and staff were advised be monitored twice daily (e.g., did they have a fever? Was there a new persistent cough or a worsening cough? Was there shortness of breath?). The guidance stated that staff should have recognised the possible atypical nature of symptoms of residents in care homes. The guidelines proclaimed that monitoring is very important for patients who lack capacity because these residents might find it difficult to report symptoms. Staff were advised to use appropriate language/methods of communication because residents may be in distress, which can be exacerbated by the use of PPE. The guidelines said that restraint should not be used to enforce social distancing.

For a care home resident who had COVID-19 symptoms, staff were told that the resident should be isolated, and their condition should be monitored. If the resident's condition had not improved after seven days, the care home should seek the advice of a GP. Care homes were advised to identify single cases of COVID-19 and possible clusters. The most recent advice for staff in care homes in England

[212] *Ibid*.
[213] Skills for Care, 'The state of the adult social care sector and workforce in England', (October 2020) p 61 https://www.skillsforcare.org.uk/adult-social-care-workforce-data/Workforce-intelligence/publications/national-information/The-state-of-the-adult-social-care-sector-and-workforce-in-England.aspx (accessed 17 February 2022); Public Health England, 'Disparities in the risk and outcomes of COVID-19', (Public Health England, August 2020) p 7 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/908434/Disparities_in_the_risk_and_outcomes_of_COVID_August_2020_update.pdf (accessed 17 February 2022).
[214] Skills for Care (n 134) ,p 61, Public Health England, Disparities in the risk and outcomes of COVID-19, p 53.

is found in *COVID-19: management of staff and exposed patients or residents in health and social care settings* (updated 14 February 2022).[215]

The Queen's Care Institute published a report on the experiences of care home staff during the pandemic.[216] It claims that '[f]or the majority of respondents, the pandemic has been a very negative experience. They indicated that their work has been worse or much worse than normal during the survey period'. There have been concerns in relation to staff availability.

On 13 July 2021, legislation was approved that required care home staff in England to be vaccinated (Health and Social Care Act 2008 (Regulated Activities) (Amendment) (Coronavirus) Regulations 2021).[217] This is particularly controversial. The Regulations state that all providers that are registered by the CQC must ensure that someone does not enter the care home unless her or she is a resident, or the person can produce evidence that he or she has been vaccinated with an authorised vaccine.

If the individual is a new starter from 6 January 2022, they must have received at least one dose 21 days before starting their job and must receive their second dose with 10 weeks of the first dose.[218] Someone can enter the care home if it is 'reasonably necessity to undertake emergency assistance or maintenance assistance of if the person is exercising their duties with the emergency services. A friend or relative can also visit the resident without proof of vaccination. The booster dose is not currently addressed in the Regulations. For the purposes of a job interview, the individual must show proof of vaccination unless they are exempt. If they do not been vaccinated yet, the interview is expected to take place outside of the care home or online.[219] However, the requirements for care home staff to be vaccinated has recently been removed.[220]

[215] UK Health Security Agency, 'COVID-19: management of staff and exposed patients or residents in health and social care settings' (updated 14 February 2022) https://www.gov.uk/government/publications/covid-19-management-of-exposed-healthcare-workers-and-patients-in-hospital-settings/covid-19-management-of-exposed-healthcare-workers-and-patients-in-hospital-settings (accessed 17 February 2022).
[216] The Queen's Care Institute, 'The Experience of Care Home Staff During Covid-19' (2020) https://www.qni.org.uk/wp-content/uploads/2020/08/The-Experience-of-Care-Home-Staff-During-Covid-19-2.pdf (accessed 17 February 2022).
[217] BBC News, Compulsory vaccinations for care home staff in England backed by MPs' (BBC News, 13 July 2021) https://www.bbc.com/news/uk-57829135 (accessed 17 February 2022).
[218] DHSC, 'Coronavirus (COVID-19) vaccination of people working in care homes: operational guidance' (updated 09 February 2022) https://www.gov.uk/government/publications/vaccination-of-people-working-or-deployed-in-care-homes-operational-guidance/coronavirus-covid-19-vaccination-of-people-working-or-deployed-in-care-homes-operational-guidance (accessed 17 February 2022).
[219] *Ibid*.
[220] BBC News, 'Compulsory Covid jabs for care home staff scrapped' (BBC News, 1 March 2022) https://www.bbc.com/news/health-60575519 (accessed 10 March 2022).

## 6. Hospital discharge

According to the House of Commons Health and Social Care, Science and Technology Committee:

> The most damaging way in which the prioritisation of the NHS over social care manifested itself during the first wave of the pandemic was in the rapid discharge of people from hospital to care homes without adequate testing. In order to free acute hospital beds in anticipation of the first wave of the pandemic, NHS providers were instructed to urgently discharge all medically fit patients as soon as it was clinically safe to do so, and care home residents were not tested on their discharge from hospital.[221]

Between 17 March and 15 April 2020, approximately 25,000 patients were moved from hospitals to care homes without mandatory COVID-19 testing.[222] The guidelines stated at the time that 'any [care home] resident presenting with symptoms of COVID-19 should be promptly isolated' and that 'negative tests are [were] not required prior to transfers / admissions into the care home.' In line with this, visitation was only permitted in very serious situations, such as when residents were dying.[223] The Committees argue that:

> The rapid discharge of people from hospitals into care homes without adequate testing or rigorous isolation was indicative of the disparity. It is understandable that the Government should move quickly to avoid hospitals being overwhelmed but it was a mistake to allow patients to be transferred to care homes without the rigour shown in places like Germany and Hong Kong. This, combined with untested staff bringing infection into homes from the community, led to many thousands of deaths which could have been avoided.[224]

[221] House of Commons Health and Social Care, and Science and Technology Committees, 'Coronavirus: lessons learned to date', Sixth Report of Session 2021-2022, (212 September 2021) https://committees.parliament.uk/publications/7496/documents/78687/default/ (accessed 17 February 2022); See Letter from Sir Simon Stevens, Chief Executive of NHS England, to NHS providers, (17 March 2020) https://www.england.nhs.uk/coronavirus/wp-content/uploads/sites/52/2020/03/20200317-NHS-COVID-letter-FINAL.pdf (accessed 17 February 2022).

[222] NAO, Readying the NHS and adult social care in England for covid-19, 12 June 2020, and Health Service Journal, 'Discharges to care homes increase year-on-year during 'critical period'' https://www.nao.org.uk/wp-content/uploads/2020/06/Readying-the-NHS-and-adult-social-care-in-England-for-COVID-19.pdf (accessed 17 February 2022).

[223] DHSC, 'Coronavirus (COVID-19): admission and care of people in care homes', (DHSC, 2 April 2020) https://www.gov.uk/government/publications/coronavirus-covid-19-admission-and-care-of-people-in-care-homes (accessed 17 February 2022).

[224] See para 311.

Following the initial stages when testing was not required for patients who were discharged from hospitals to care homes, all new residents had to have a negative COVID-19 test and all new residents were put in self-isolation for 14 days. The isolation periods could be shared between different settings. Residents who were been discharged into a care home who were asymptomatic and who have tested negative should still needed to isolate for 14 days. Anyone who had previously contracted COVID-19 should continue to be isolated. It is noted that that most of the residents who were been admitted for their own homes had have self-isolated.

The current advice (updated 11 February 2022) in England is that everyone must receive a negative PCR test within 48 hours before they are released from hospitals, unless they previously tested positive for COVID-19 in the past 90 days.[225] The hospital has to ask two questions: (i) 'Has the individual completed their isolation period from their symptom onset or positive test result (if asymptomatic)?' and (ii) 'Is the individual free from any new COVID-19 symptoms?' If the answer to both questions is 'no', then 'the individual may pose an infection risk so should be discharged to a suitable designated setting to complete their isolation period'. If the answer is 'yes', then the patient can be discharged from the hospital. The recent guidelines (updated on 14 February 2022) state that residents no longer need to self-isolate upon arrival if they have been PCR tested. Thus, patients who are discharged from hospital no longer need to isolate in the care home if they have a negative test.[226]

## 7. Do Not Attempt Cardiopulmonary Resuscitation (DNACPR) Orders

In the early stages of the pandemic, some care homes applied blanket 'No not attempt cardiopulmonary resuscitation' (DNACPR) orders. This is a document that is issues which tells a medical team not to attempt cardiopulmonary resuscitation. The aim of a DNACPR is to allow for a patient's wishes to be vindicated and to prevent clinically unnecessary DNACPR, which may also result in harm, from being conducted. The Clinical Commissioning Croups (CCGs) issued guidance to care homes about the blanket use of DNACPRs in light of the COVID-19 crisis. According to a report by Amnesty International, the blanket approach to DNACPT was unlawful and/or inappropriate.[227] According to the Joint Committee on Human Rights:

[225] UK Health Security Agency, 'Discharge into care homes: designated settings' (updated 11 February 2022) https://www.gov.uk/government/publications/designated-settings-for-people-discharged-to-a-care-home/discharge-into-care-homes-designated-settings (accessed 17 February 2022).
[226] CQC, DHSC, UK Health Security Agency, 'Admission and care of residents in a care home during COVID-19) (updated 14 February 2022) https://www.gov.uk/government/publications/coronavirus-covid-19-admission-and-care-of-people-in-care-homes/coronavirus-covid-19-admission-and-care-of-people-in-care-homes (accessed 17 February 2022).
[227] Amnesty International. 'As if expendable: the UK government's failure to protect older people in care homes during the covid-19 pandemic' (Amnesty International, 4 October 2020) https://www.amnesty.org.uk/files/2020-10/Care%20Homes%20Report.pdf?kd5Z8eWzj8Q6ryzHkcaUnxfCtqe5Ddg6= (accessed 28 February 2022).

> The blanket imposition of DNACPR notices without proper patient involvement is unlawful. The evidence suggests that the use of them in the context of the Covid-19 pandemic has been widespread.[228]

In response to the fact that the DNACPRs were being applied in a blanket fashion, the British Medical Association (BMA), the Royal College of General Practice (RCGP), the Care Quality Commission (CQC), and the Care Provider Alliance (CPA) stated that:

> 'It is unacceptable for advance care plans, with or without DNAR form completion to be applied to groups of people of any description. These decisions must continue to be made on an individual basis according to need.[229]

It was then announced by NHS England and NHS Improvement that the focus should be on individual needs and that blanket policies were inappropriate, especially in relation to DNACPRs 'which should only ever be made on an individual basis and in consultation with the individual or their family'.[230]

## 8. Visiting and access

Following the national lockdown on 22 March 2020, DHSC guidance on visitation in care homes was produced in April 2020.[231] It stated that 'family and friends should be advised not to visit care homes, except next of kin in exceptional situations such as end of life.' The guidance also mentioned that 'alternatives to in-person visiting should be explored, including the use of telephones or video, or the use of plastic or glass barriers between residents and visitors.' Care homes were told to isolate residents who tested positive to COVID-19 and that a resident's room could be used for this purpose. In the context of visitation, the guidance stated the following:

[228] Joint Committee on Human Rights, House of Commons House of Lords, 'The Government's response to COVID-19: human rights implications', (21 September 2020) https://committees.parliament.uk/publications/2649/documents/26914/default/ (last accessed 28 February 2022).
[229] Joint statement by the British Medical Association (BMA), the Care Provider Alliance (CPA), the Care Quality Commission (CQC) and the Royal College of General Practice (RCGP) (1 April 2020) https://www.england.nhs.uk/coronavirus/wp-content/uploads/sites/52/2020/04/maintaining-standards-quality-of-care-pressurised-circumstances-7-april-2020.pdf (last accessed 28 February 2022).
[230] Letter, Ruth May, Chief Care Officer in England and Professor Stephen Powis, National Medical Director at NHS England and NHS Improvement, (7 April 2020) https://www.england.nhs.uk/coronavirus/wp-content/uploads/sites/52/2020/04/maintaining-standards-quality-of-care-pressurised-circumstances-7-april-2020.pdf (last accessed 28 February 2022).
[231] DHSC, 'Coronavirus (COVID-19): admission and care of people in care homes' (n 151). .

> To minimise the risk of transmission, care home providers are advised to review their visiting policy, by asking no one to visit who has suspected COVID-19 or is generally unwell, and by emphasising good hand hygiene for visitors. Contractors on site should be kept to a minimum. The review should also consider the wellbeing of residents, and the positive impact of seeing friends and family.

On 22 June 2020, visitors were permitted to visit relatives in England, but this could only include one visitor per resident.[232] In July 2020, the UK government advised that limited visitation would be allowed. Specific guidance was produced for parts of the UK that were in Tier 1 (medium level).[233] This guidance said that factors would have to be considered by care homes as part of their risk assessments. For example, visits were limited to a single visitor, where possible, with a maximum of two constant visitors per resident in the care home, PPE had to be work and the visits were supervised 'at all times to ensure that social distancing and infection control measures [were] adhered to.'[234] For tiers 2 and 3 (high and very high respectively), the government declared that people 'should not visit a care home except in exceptional circumstances, e.g. to visit someone who [was] at the end of their life.'[235]

However, although it seemed that the situation was improving, the UK government wrote to care homes in September 2020, indicating that there was a rise in COVID-19 cases in care homes.[236] Residents were still permitted to receive visits. On 01 December 2020, in England, family members were allowed to visit residents if they had a negative COVID-19 test.[237] During this period, the UK government said that 'receiving visitors is an important part of care home life'.[238] They also said that 'maintaining some opportunities for visiting to take place is critical for supporting the health and wellbeing of residents and their relationships with friends and family.'[239] In December 2020, the

[232] BBC News, 'Coronavirus: Care home visits to resume in England' (BBC News, 22 July 2020) https://www.bbc.com/news/uk-53502377 (accessed 17 February 2022).
[233] DHSC, 'Visiting care homes during coronavirus', (22 July 2020) https://www.gov.uk/government/publications/visiting-care-homes-during-coronavirus (accessed 17 February 2022).
[234] House of Lords House of Commons Joint Committee on Human Rights, Care homes: Visiting restrictions during the covid-19 pandemic: Government's Response to the Committee's Fifteenth Report of Session 2019-21, (15 July 2021) https://committees.parliament.uk/publications/6756/documents/72015/default/ (accessed 17 February 2022).
[235] DHSC, 'Local COVID alert level: high',( 27 October 2020) http://allcatsrgrey.org.uk/wp/download/infection_control/Local-COVID-Alert-level_-High-GOV.UK__2.pdf (accessed 17 February 2022).
[236] BBC News, 'Coronavirus: care homes in England warned of rise in infection' (BBC News, 13 September 2020) https://www.bbc.com/news/uk-54137078 (accessed 17 February 2022).
[237] BBC News, 'Covid: Families with negative test can visit care homes in England' (BBC News, 01 December 2020) https://www.bbc.com/news/uk-55152413 (accessed 17 February 2022).
[238] DHSC, 'Guidance on care home visiting', (DHSC, November 2020).
[239] *Ibid*.

government stated that 'visiting should be supported and enabled wherever it is possible to do so safely—in line with this guidance and within a care home environment that takes proportionate steps to manage risks.'[240]

A new lockdown was announced in January 2021 during the absolute peak of the pandemic. During this period, residents could not receive visits from family members. The guidance declared that '[v]isits to care homes [could] take place with arrangements such as substantial screens, visiting pods, or behind windows. Close-contact indoor visits [were] not allowed. No visits [were] permitted in the event of an outbreak.'[241] Following this national lockdown there has been a gradual easing of restrictions. On 08 March 2021, care home residents were permitted to hold hands with regular visitors indoors if the visitors had a negative test. They were allowed a regular visitor (which was extended to two visitors from 12 March 2021). They were not allowed to hug or kiss their visitors.[242]

What is the most recent guidance on visitation? Visitation is permitted and visitors should take a lateral flow test on the day of the visit. If a patient who has capacity wishes to leave a care home for a visit, this will usually not result in the patient having to isolate for self-isolation if certain criteria are met.[243] According to the most recent guidance from the DHSC, which was updated on 2 February 2022:

> Visiting is an integral part of care home life. It is vitally important for maintaining the health, wellbeing and quality of life of residents. Visiting is also crucial for family and friends to maintain contact and life-long relationships with their loved ones, and to contribute to their support and care.[244]

In 2022, new advice was published which states that visitors should contact care homes in advance of the visits in order to ensure that visiting practices can be put in place. Crucially, there should be no limits on the length of the stay. Visits should also take place in rooms where the resident is comfortable. Visitors are advised to take a LFT on the day of their visit.[245] Also, in the case of

[240] DHSC, 'Guidance on care home visiting', (DHSC, December 2020).
[241] Cabinet Office, (COVID-19) Coronavirus restrictions: what you can and cannot do, https://www.gov.uk/guidance/covid-19-coronavirus-restrictions-what-you-can-and-cannot-do (accessed 17 February 2022).
[242] Megan White, 'Care home visits with hand-holding to be allowed in England and Wales' (LBC News, 20 February 2021) https://www.lbc.co.uk/news/care-home-residents-regular-indoor-visitor-march/ (accessed 17 February 2022).
[243] DHSC, 'Guidance on care home visiting' (updated 2 February 2022) https://www.gov.uk/government/publications/visiting-care-homes-during-coronavirus/update-on-policies-for-visiting-arrangements-in-care-homes (accessed 17 February 2022).
[244] *Ibid*.
[245] *Ibid*.

essential care givers, they should be able to visit the care home even if there is an outbreak. The new guidelines encourage physical contract in order to support and enhance the residents' health and wellbeing, as long as PPE is used, and the area is well ventilated. Residents are now encouraged to take visits out of the care home, in line with the need for testing.[246] The guidelines say that visitors should not come to the care home if they present with any of the COVID-19 symptoms and that they should not visit the care home for at least five days.[247]

For care home residents, it is clear that the COVID-19 pandemic has been particularly difficult. It has robbed many residents of their precious later years of life, it has caused great distress, it has meant that they have been unable to hug or hold their children, their husband or wife, or their grandchildren. To some, it has resulted in an almost prison-like environment, where there has been an adverse impact on the quality of life of many residents. Human beings thrive on love, intimacy, friendship, laughter – much of this has been removed from the lives of residents during the pandemic. That is a sad and troubling reality. Obviously, the measures that were adopted had a laudable aim – to stop the spread of COVID-19 in care homes and to protect vulnerable people from been infected – but were there ethical preparedness for the consequences of the various deprivations of liberty associated with the actions taken for good reason?

## 9. Recording of deaths

It is a sad reality that many care home residents died from COVID-19 in the early stages of the pandemic. According to Public Health England, the policy that allowed for patients to be moved from hospitals to care homes may have impacted upon the significant death rate – the patients were not tested for COVID-19.[248]

An anomaly existed in relation to the way in which deaths were recorded. From 20 April 2020 onwards, mortality statistics included residents of care homes. Prior to this, there was no explicit classification of their deaths because of COVID-19. The deaths of care home residents were, thus, rendered invisible and did not constitute part of the public narrative. This change in practice only took place on foot of public disquiet and media pressure.[249]

[246] *Ibid*.
[247] *Ibid*.
[248] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005583/Nosocomial_Seeding_OF_care_home_outbreaks_report_Official_Sensitive-3.pdf (accessed 17 February 2022).
[249] The Health Foundation, 'Care homes have seen the biggest increase in deaths since the start of the outbreak' https://www.health.org.uk/news-and-comment/charts-and-infographics/deaths-from-any-cause-in-care-homes-have-increased (13 May 2020) (accessed 17 February 2022).

On 21 April 2020, the National Audit Office reported that in England and Wales, there was a 'twenty year high' in the number of deaths from all causes in the week up to 10 April and that there was a significant jump in deaths in care homes. On 29 April 2020, official figures included deaths in care homes as well as deaths in the community. The mortality rate from COVID-19 jumped from 4,419 to 26,097.[250]

On 19 April 2020, the Chair of Care England, Professor Martin Green criticised the government and said that a priority should have been given to care homes from the start of the pandemic.[251] On this date, it had been reported that 11,600 residents in care homes had died from COVID-19 in UK care homes.[252]

Between 10 April 2020 and 31 March 2021, it was reported by the Care Quality Commission that 39,000 care home residents died from COVID-19 in England.[253] According to the House of Commons Health and Social Care, Science and Technology Committees, between 16 March 2020 and 30 April 2021, over a quarter of all deaths in England from COVID-19 occurred in care homes. They state that 'The UK was not alone in suffering significant loss of life in care homes, but the tragic scale of loss was among the worst in Europe and could have been mitigated'.[254]

## 10. Conclusion

Urgent response was needed to protect vulnerable people in care homes, and it is arguable that, indeed, a response was given. What is less sure is how effective that response was. This does not excuse the alarming death rate in UK care homes, but it provides an explanatory note to some of the initial inaction that may have curtailed the use of more thoughtful and creative protective approaches during the first wave of the pandemic, in particular. Several human rights issues have been briefly identified in this paper. These are not particular, however, to the UK and it is likely that, on the world

[250] BBC News, Coronavirus: UK deaths pass 26,000 as figures include care home cases' (BBC News, 29 April 2020) https://www.bbc.com/news/uk-52478085 (accessed 17 February 2022).
[251] BBC News, 'Coronavirus: Care homes should have been prioritised from the start, MPs told' (BBC New, 19 May 2020) https://www.bbc.com/news/uk-52727221 (accessed 17 February 2022).
[252] *Ibid*.
[253] BBC News, 'Covid-19: New data shoes care homes worst hit by Covid, and Starmer isolating' (NNC News, 21 July 2020) https://www.bbc.com/news/uk-57920430 (accessed 17 February 2022).
[254] House of Commons Health and Social Care, Science and Technology Committees, Coronavirus: lessons learned to date, Sixth Report of the Health and Social Care Committee and Third of the Science and Technology Committee2021-22, https://committees.parliament.uk/publications/7496/documents/78687/default/ (accessed 17 November 2021).

stage, the deprivations of liberty associated with COVID-19 restrictions may be challenged in both ethical discourse and in the courts of law.

## Appendix A Chronology: Key Events in the Management of COVID-19 in Care Homes in Ireland

### Summary

The 2016 census showed us that 22,762 people aged 65 and over were living in care homes. Now, approximately 30,000 are living in the 576 registered care homes in the State. The Irish system comprises of public, HSE care homes and approximately 440 privately owned/voluntary care homes, which make up approximately 75% of all care homes in the State. The average capacity of a care home is 55 beds and approximately 30,000 staff are employed in these settings. Firstly, there is the option of choosing a public (HSE) or privately owned care home. Should they choose a HSE care home, they can receive State support through the Care Home Support Scheme, also known as the Fair Deal Scheme.[255]

Under the Fair Deal Scheme, the cost of care home care is managed through 'the HSE paying either the full or part of the cost and by allowing those charged with paying the resident's portion of the cost to defer the charge.' Deferral of the charge is called 'Ancillary State Support' or a Care Home Loan and it means that the patient does not have to repay the loan in their lifetime. Instead, if approved, the HSE will pay the entire amount of money to the care home on the person's behalf and if it has not been repaid, it will be collected after the person's death. The State provides over €1 billion through the Fair Deal Scheme to support citizens to access care homes and care home providers to deliver care and additionally provides approximately €30 million to private care homes for transitional care services. Alternatively, the older person can choose a private care home where they pay the full cost of care directly.

The Health Information and Quality Authority (HIQA) has the legal power and responsibility for improving the quality, safety and value of private and public health and social care in Ireland (excluding mental health services). HIQA developed the National Standards for Residential Care Settings for Older People in Ireland which care homes need to meet to be registered by HIQA. HIQA inspection reports for different designated centres are published regularly and available for examination by the public. Care homes must be registered every three years and inspected, these can be unannounced or planned inspections. The Health Act 2007 (as amended) empowers the Chief Inspector, a statutory officer within HIQA, to carry out this function through the processes of

255 Established under the Care Home Support Scheme Act 2009 as am by the Care Home Support Scheme (Amendment) Act 2021.

registration, continual monitoring and inspection and, where necessary, the application of its powers of enforcement. Care Homes Ireland (NHI) is the national representative body for the private and voluntary care home sector which accounts for 90% of all private and voluntary care home beds in the State. NHI advocates for its members and represents member care home resident and staff populations.

**Resources:**

- Government website for COVID-19.
- Health Protection Surveillance Centre, Covid-19 cases reported in Ireland

| 2019-2022 | EVENT | NOTES |
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| | **2019** | |
| 31 December | The Chinese authorities notify the WHO of an outbreak of pneumonia in Wuhan City, which was later classified as a novel disease: COVID-19. | WHO Statement on the notification of an outbreak of pneumonia of unknown cause in Wuhan city, Hubei province of China. |
| | **2020** | |
| 08 January | Care Homes Ireland (NHI)publishes 'Care homes report disorganised discharge processes are contributing to hospital delays'. | 'An estimated 2,000 beds are available in private and voluntary care homes across the country to facilitate timely discharge of patients from acute hospitals to care home care, NHI today revealed. However, NHI states feedback from Members is the discharge process within hospitals is disorganised, inconsistent and supports are not available to enable staff facilitate the timely discharge of patients to care home care, where required.'<br><br>'HSE figures inform circa 60% of the hundreds of patients clinically fit for discharge in our acute hospitals are awaiting long-term care home care. Recent figures state at the end of November, almost 700 patients within our hospitals were delayed discharges.' |

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| 30 January | The WHO declare the outbreak of COVID-19 a 'public health emergency of international concern'. | WHO - Statement on the second meeting of the International Health Regulations (2005) Emergency Committee regarding the outbreak of novel coronavirus (2019-nCoV) |
| 27 February | CEO of NHI, Tadhg Daly, writes to the DOH 'urgently' requesting 'dedicated guidance and advices' on COVID-19 for the Care Home sector. | This request comes as a result of the announcement of the first case of COVID-19 on the island of Ireland.<br><br>Mr Daly notes in his correspondence that the HSE propose to establish a 'working group to develop guidance for the care home sector' and are currently reviewing the Scottish guidance document with the NHI to develop same.<br><br>Mr Daly also notes that the HSE have 'confirmed to the media that there is "adequate stock"' of PPE equipment but this 'is not the case for our member Care Homes who require stock of PPE.' Mr Daly requests 'confirmation of procedures in place to provide care homes with stock of PPE.' |
| 29 February | First case of COVID-19 is confirmed in the Republic of Ireland. | NPHET officially announce the first ever case of coronavirus which was notified to the Health Protection Surveillance Centre. |
| 03 March | NPHET agrees to establish a Vulnerable Groups Subgroup (VPS) to support the work of NPHET and | NPHET meeting note. |

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| | 'provide oversight to the co-ordinated response'. | |
| 04 March | Mr Daly, CEO of the NHI, writes to the DOH again asking for an "express commitment" that the needs of the private and voluntary care home sector are addressed by NPHET. | Dr Kathleen Mac Lellan, Assistant Secretary, Social Care Division of the DOH confirms that the care home sector will be 'encompassed' within the scope of the work of the VPS. (p. 12) |
| 05 March | Mr Daly writes to the DOH proposing issuing guidance to care homes on implementing restrictions on visitors. | Mr Daly also questions the issue of staff who have returned from affected areas. (p. 27) |
| 06 March | The VPS meet for the first time. | The group was established by NPHET to 'provide guidance around the specific preparedness, measures and actions that need to be taken to protect vulnerable groups and individuals in society.' An 'integrated cross government approach' is being taken by the Subgroup.<br><br>The term 'vulnerable people' includes but is not limited to:<br>- older people<br>- people with a disability<br>- mental health service users<br>- people with an underlying illness or condition<br>- children in care<br>- people accessing social inclusion services |

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| | | Services to vulnerable people are provided through a range of settings and are under the remit of a number of government departments.<br><br>These settings include:<br>- long and short-term care<br>- primary care, respite, day services<br>- prisons and youth detention centres<br>- direct provision and care in individual homes<br><br>The subgroup is chaired by Dr Kathleen Mac Lellan, with multidisciplinary membership from representatives of other Departments.<br><br>Terms of reference of the subgroup.<br>Dedicated webpage for the VPS. |
| | NHI introduce visiting restrictions in more than 400 private and voluntary care homes across the country as a result of the COVID-19 outbreak. | As part of these restrictions, no non-essential visiting or visits by children or groups would be allowed.<br>This does not apply to the whole State, only to NHI member care homes (453 according to 2019/2020 BDO-NHI Survey) |
| | CEO of the NHI writes to the HSE querying about 'safe and appropriate discharges from acute hospitals to care homes' stating that there is an 'immediate requirement on the HSE | Mr Daly writes saying that there are 'increasing queries from members' on this matter and that communication is important 'or this may get out of control.' (p.30) |

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| | to outline the procedures for discharge.' | Mr Daly has concerns around the responsibilities and roles of the HSE and NHI to swab discharges for possible COVID-19 infection, reassurances to protect care home residents and staff, and what information will be provided to care homes. |
| 09 March | Mr Daly raises a number of concerns to the secretary general of the DOH and Minister for Health on care home preparedness. | Mr Daly raises a number of points, including that:<br>- Workers from the care homes sector are being recruited to tackle Covid-19 elsewhere in the health service which would be at the 'severe detriment' of people in the care home sector and would 'threaten the capacity' of care homes to 'meet their care needs' which will present as a move that will 'endanger older people.' Mr Daly requests that the Minister lift restrictions on recruiting healthcare assistants from outside of the EU as an 'imperative necessity' and appoint international candidates rather than those in the care home sector. (p. 38)<br>- The NHI seeks assurances for access to immediate supply of PPE as there is 'considerable anxiety' among NHI members; suppliers have informed |

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| | | members that they are not in a position to supply PPE equipment as the HSE has exclusive supply 'at this time'. (p.40)<br>- The NHI seeks designation of the care home sector as an essential service and to give workers in the sector the same rights as those in the public system and the same protocols to apply in terms of PPE etc. (p.40)<br>- The NHI proposes that a database of available, vetted, workers with key skills is made by the Department of Social Protection. These people could potentially work at short notice in care homes if required. (p.41)<br><br>Mr Daly also asks the DOH/HSE again in a separate email for guidance on admissions to care homes from acute hospital and community settings. (p.43) |
| 10 March | At a NPHET Meeting, it is decided that 'unilateral/widespread restriction of visiting to care homes, hospitals and healthcare facilities is not required at this time'. | On this day, there are 34 confirmed cases of COVID-19 in the State. NPHET states at its meeting however, that this will 'be kept under review' and that there is an 'opportunity to reiterate infection prevention and |

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| | | control advice to the public and visitors to healthcare facilities.<br><br>Dr Tony Holohan also comments that 'blanket restrictions in place on visiting at care homes and some hospitals, aimed at curbing the risk of infection, should be lifted'. Dr Holohan stated that the NHI's decision to impose restrictions 'had a major impact on residents, for whom social interaction was a key part of wellbeing' and concluded that while 'restrictions might be necessary in a particular care home depending on circumstances… we want to avoid introducing measures before they are really necessary.'<br><br>Additionally, the VPS presents a report to NPHET on its terms of reference and other relevant information about its remit. |
| | The HSE publish Interim Guidance on Transfer between Care Facilities. | Guidance document |
| | HIQA announce it will continue to carry out required inspections in care homes but with changes to its inspection process. | Care homes are required to notify the Chief Inspector of Social Services in HIQA of any outbreak of COVID-19 (as a notifiable disease), and HIQA reminds care homes of this requirement. |

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| | | One of the key changes is that all inspections of designated centres will be announced by telephone the day before, rather than having unannounced inspections. This is to establish in advance if there are any suspected or confirmed cases of COVID-19 in centres or services. HIQA announcement. |
| 11 March | The WHO declare the COVID-19 outbreak a global pandemic. | WHO Director-General's opening remarks at the media briefing on COVID-19 |
| | The first death of a person with COVID-19 in the Republic is confirmed. | NPHET state that the patient was a 'female, in the east of the country, with an underlying medical condition.' NPHET confirm 43 cases of COVID-19 in Ireland.<br><br>Irish Times article |
| 12 March | Mr Daly, CEO of the NHI writes to the HSE with concerns in response to the guidance published on the 10th of March. | Mr Daly raises concerns on monitoring testing of cases, PPE and notes that the HPSC website gives no 'specific practical guidance for care homes'. (p.59) |
| | The Taoiseach announces restrictive public health measures for a two-week period until March 29th 2020, including restrictions on visiting long term care settings (i.e. care homes). | NPHET statement. |
| | HIQA announces that all routine inspections of designated centres (including care homes) have been cancelled until further notice | HIQA announcement.<br><br>HIQA states that the decision was made due to the evolving COVID-19 |

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| | following the Government announcement of new measures. | situation 'for the safety and wellbeing of people using services.' |
| 13 March | Mr Daly writes to the chair of the VPS and the HSE separately in response to new measures with concerns on staffing levels, PPE and lack of guidance on how to reduce transmission in care homes. | Mr Daly says the recently issued HSE guidance contains 'no practical guidance to care homes on how to reduce the risk of transmission' and says 'no information' has been provided in relation to PPE and requests 'immediate engagement.' (p.80)<br>Mr Daly is told by the chair of the VPS that 'work is ongoing' on guidance.<br>(See p. 58-82 for these) |
| | The first notification to the Chief Inspector of HIQA of a suspected or confirmed outbreak of COVID-19 in a care home is received. | HIQA report (p.14). |
| 14 March | The HPSC publishes 'Coronavirus (COVID-19) guidance for settings for vulnerable groups□'. | Link to document. |
| 15 March | Mr Daly reports to the VPS that NHI members cannot access PPE and requests 'confirmation of the provision of PPE to the sector as a priority.' | Mr Daly writes again the next day to the VPS with the same concerns raised on the 9th on March regarding PPE equipment, recruitment of the workforce by the DOH, dedicating the sector as essential service etc. (p. 91) |
| 16 March | The Government publishes Ireland's National Action Plan in response to Covid-19 (Coronavirus) with 16 key Actions. | Specific details are not provided in the Action Plan -<br>Action 2: Cross-Cutting Actions |

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| | | A key activity is to **'maintain community care including for socially vulnerable groups, community palliative care,** mental health, home support and short-term / transitional **/ long-term for older people** and those within our specialist disability services' (emphasis added)<br><br>Action 4: Caring for our people who are 'At Risk' or Vulnerable<br>A key activity in this action is to 'maintain essential health and social care services as well as GP services, to maximise the management of existing chronic diseases, palliative care, mental health, specialist disability services and **care of older people**' (emphasis added)<br><br>Action 5: Caring for people in Acute Services<br>A priority activity here was identified as 'maximising patient flow through our hospitals and making efficient use of existing resources'. To expand hospital capacity, the health sector would 'source and deploy additional step-down beds in **care homes**, hotels etc. to facilitate early discharge' |
| | The first care home COVID-19 cluster is notified to the HPSC. | See page 6. |

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| 17 March | Mr Daly writes to the Minister for Health with a plea to 'desist targeting the recruitment of staff from the private and voluntary care home sector.' | See p. 104 |
| | The HSE launches the 'Be on Call for Ireland' recruitment campaign. | This campaign sought to recruit all healthcare professionals from all disciplines who are not already working in the public health service to register to be "on call" for Ireland, including students and volunteers. Webpage |
| | Parallel to the HSE campaign, the NHI also launches a recruitment drive for care home staff following the appeal to the Minister for Health. | The NHI appeals to 'people within our hospitality and retail sectors to look for opportunities that will present in providing care to older people during the Coronavirus emergency' doing temporary work such as 'catering, activities, ancillary or administrative support' and<br><br>The NHI also sought to recruit 'healthcare professionals including nurses and physios, healthcare assistants' |
| | The HSE publish 'Preliminary Clinical and Infection Control Guidance for COVID-19 in nurse-led Residential Care Facilities (RCF)'. | The document provides guidance on general measures to reduce the risk of accidental introduction of COVID-19 into a LTRC; procedures to be followed for clinically suspect residents; guidance on clinical investigations and monitoring and on infection prevention and control. The document also provides detailed step- |

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| | | by-step instructions across a range of scenarios. Link to Guidance. |
| 18 March | At its meeting, the VPS establishes the Working Group on the Care Home Sector. | VPS meeting note.<br>This will be a new 'short-life interagency working group' 'on care homes/other long stay facilities'. The group will be chaired by Niall Redmond PO of Older Persons Service Development Policy in the DOH.<br><br>See Appendix 3 for Terms of Reference and Governance Structure.<br><br>The group met on three occasions from the 19th to the 26th of March to develop a paper submitting proposals for a NPHET by the 31st of March. |
| 19 March | The HSE publishes 'Guidance on Transfer of Hospitalised Patients from an Acute Hospital to a Residential Care Facility in the Context of Covid-19'. | Guidance Document. |
| | The NHI requests an urgent meeting/teleconference with the Minister for Health. | See p. 124-125. |
| | The Pandemic Ethics Advisory Group (PEAG - a subgroup of NPHET) is established. | Under its Terms of Reference, the purpose of the group is:<br>'to act as an advisory body to Government, policymakers and health service providers' which 'will review and answer ethical questions relating to Covid-19 preparedness and response' and provide expert ethical |

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| | | advice to NPHET, the DOH, the HSE and others as appropriate. |
| 20 March | CEO of the NHI expresses that he is 'appalled' by the DOH's decision to establish a subgroup of the VPS on the care home sector without 'any representative from the main provider of such care.' | See p. 134<br>The Chair of the group replies stating that 'the group will be seeking to identify and report on:<br>- The issues and pressures facing the sector in the wake of COVID-19;<br>- The role of the sector in contributing towards the response to COVID-19; and<br>- to propose any recommendations how to assist in the sector in its capacity to respond and to manage these pressures.'<br><br>The Chair also welcomed written submissions on issues from the NHI. |
| 21 March | The WHO publish (interim) 'Infection Prevention and Control guidance for Long-Term Care Facilities in the context of COVID-19'. | In the document, it states that 'the people living in LTCF are vulnerable populations who are at a higher risk for adverse outcome and for infection due to living in close proximity to others. Thus, LTCFs must take special precautions to protect their residents, employees, and visitors.' |
| 22 March | The HPSC report 4 care home clusters as of midnight 20th of March. | HPSC epidemiology. |
| 23 March | The PEAG meets for the first time. | Membership of the group:<br>• Dr Siobhán O'Sullivan, Chief Bioethics Officer, DOH (Chair)<br>• Dr Simon Mills SC, Law Library |

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| | | • Prof. David Smith, Healthcare Ethics and Law, RCSI<br>• Dr Barry Lyons, Director of Patient Safety, College of Anaesthesiologists of Ireland, Consultant, Dept. of Anaesthesia & Critical Care Medicine, CHI Crumlin<br>• Mr Stephen McMahon, Director, Irish Patients Association<br>• Dr Joan McCarthy, Healthcare Ethics, School of Care and Midwifery, UCC<br>• Dr Louise Campbell, Medical Ethics, School of Medicine, NUI Galway<br>• Dr Andrea Mulligan BL, School of law, TCD<br>• Mr Mervyn Taylor, Executive Director, Sage Advocacy<br><br>Website for meeting minutes of the group. |
| | Over 60,000 people register for HSE's 'Be On Call for Ireland' recruitment campaign. | HSE press release. |
| | In its 7th update Rapid Risk Assessment, the ECDC recommends that 'measures taken at this stage should ultimately aim at protecting the **most vulnerable population groups** from severe illness and fatal outcome by reducing transmission in the general population and enabling the | The ECDC identifies vulnerable groups as 'elderly people above 70 years of age, and people with underlying conditions' and advise on implementing social distancing measures to 'limit outside visitors and limit the contact between the residents of confined settings, such as long-term care facilities' |

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| | reinforcement of healthcare systems.' | |
| | HIQA writes to care homes asking them to review the contingency plans they have in place to manage the COVID-19 outbreak. | Plans should involve taking account of staffing considerations, governance and management arrangements, and infection prevention and control procedures. Providers are advised to refer to current HSE and Government guidance and advice when updating their plans. |
| 24 March | NHI writes a submission to the Minister for Health for emergency funding needed for the sector to maintain service continuity and again requests a meeting. | NHI also states an enhanced support structure will be required to include staffing, funding and PPE in the event of a 'significant outbreak in an individual care home' See p. 155-156. |
| | NPHET recommend enhanced social distancing measures after considering the ECDC's latest technical document.[256] | In relation to long-term care facilities NPHET recommends, 'social distancing measures, in as far as is practicable, is to be ensured between the clients/patients in confined settings, such as long-term care facilities, either for the elderly or persons with special needs' |
| | HIQA issues guidance on sector wide COVID-19 preparedness arrangements to all designated centres and registered providers. | Link to mention of guidance. (See p. 27 of the document) |
| 25 March | NHI raises concerns to the DOH that some staff in the sector were withdrawing applications for jobs after the Government's weekly | See p. 162-166 |

256 ECDC, Novel coronavirus disease 2019 (COVID-19) pandemic: increased transmission in the EU/EEA and the UK – sixth update (12/03/2020), https://www.ecdc.europa.eu/sites/default/files/documents/RRA-sixth-update-Outbreak-of-novel-coronavirus-disease-2019-COVID-19.pdf

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| | pandemic payment of €350 was announced. | NHI press release: Government Urgently needs to Meet Care Home Sector |
| | The HSE publishes 'Preliminary Clinical and Infection Control Guidance for COVID-19 in nurse-led Residential Care Facilities (RCF)'. | Guidance document. |
| | The ECDC publishes its 7th Update of its Rapid Risk Assessment which upgrades the risk of 'severe disease associated with COVID-19 for people in the EU/EEA and the UK is currently considered moderate for the general population and very high for older adults and individuals with chronic underlying conditions.' | It further states that "measures taken at this stage should ultimately aim at protecting the most vulnerable population groups from severe illness and fatal outcome by reducing transmission in the general population and enabling the reinforcement of healthcare systems." |
| 26 March | NHI prepares submissions for the Working Group on the Care Home Sector of the VPS. | Issues which are identified are:<br>- Emergency funding to maintain service continuity<br>- Staffing<br>- Priority testing of care home staff and residents<br>- Access to PPE and other equipment among other supports such as contingency plans for the sector.<br>See p. 180-188. |
| | 255 cases and 10 deaths were confirmed, bringing the total number of confirmed cases to 1,819, and the total number of deaths to 19, more than double the previous day's total | According to Chief Medical Officer Tony Holohan, most of the deaths occurred in "institutional settings", i.e. hospitals and care homes. At this point, deaths began to accelerate rapidly. |

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| 27 March | New 'lockdown' public health measures are implemented following NPHET recommendations. | NPHET statement of COVid-19 in the country<br>Briefing on the government response to Covid-19<br><br>All visits to hospitals, **residential healthcare centres, other residential settings**, prisons to cease, with specific exceptions on compassionate grounds.<br><br>Among these measures is 'cocooning', where those over 70 and those is specified categories who are extremely vulnerable to COVID-19 are advised to remain at home and not have any social contact, unless for essential reasons. |
| | At a NPHET meeting, it was decided that the HSE must ensure that individual Outbreak Control Teams be put in place for each outbreak which arises in both hospital and residential care facility settings. | These teams should include an appropriate level of public health input.<br><br>As of midnight, there are 22 reported care home COVID-19 clusters/outbreaks, amounting to 21.4% of the total outbreaks. |
| | The DOH publishes the 'Ethical Framework for Decision-Making in a Pandemic'. | The Framework received some input from the PEAG. |
| 28 March | The Working Group on the Care Home Sector writes to the VPS with a findings report on care homes and issues previously identified. | Document. |

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| 30 March | NHI CEO meets the Minister for Health to discuss the challenges in the care home sector. | In its press release, NHI state that the Minister 'committed to immediately addressing PPE and staffing issues and to bring forward a package of financial supports for care homes before the end of the week. No detail was given.' |
| | The HPSC publishes 'Interim Public Health and Infection Prevention Control<br>Guidelines on the Prevention and Management of COVID-19<br>Cases and Outbreaks in Residential Care Facilities and<br>Similar Units'. | V3.1 of the guidelines from 14/04/2020 (living document) |
| 31 March | NPHET meet to establish 'Enhanced Public Health Measures for COVID-19 Disease Management in Long-term residential Care Facilities and Home Support' | This decision was made in response to the 'growing number of clusters in care homes and residential care settings.'<br><br>The agreed public health actions were as follows:<br>1. Strengthened HSE national and regional governance structures in respect of infection prevention and control (IPC);<br>2. Transmission risk mitigation in residents and staff of long-term residential care settings and homecare settings, where the setting has suspected or known COVID-19 positive cases;<br>3. Staff screening and prioritisation for COVID-19 testing; |

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| | | 4. HSE provision of personal protective equipment (PPE) and oxygen, as appropriate;<br>5. Training for all staff across IPC and other priority skills, including end of life care;<br>6. Preparedness planning by Long Term Residential Care Facilities and Homecare Providers. |
| 03 April | The HSE reports that some of the first batch of PPE from China (costing €200m) is 'not suitable' for use by frontline staff. | Irish Times article. |
| | NPHET decide that the HSE is to immediately deploy an integrated outbreak crisis management response across LTRCs, home support and acute hospital settings, to drive the infection prevention and control, and public health measures agreed by NPHET at their last meeting. | The HSE is to report daily on the implementation of the measures across both home support and LTRC. The HSE is also to use a CRM system to capture homecare and LTRC public health, patient flow and outbreak-related data. |
| 04 April | The Minister for Health announces the COVID-19 Temporary Assistance Payment Scheme (TAPS) for care homes and a number of new measures which will support the sector. | The measures which will be introduced will include:<br>- Staff screening will start in care homes twice a day;<br>- COVID-19 testing will be prioritised for staff;<br>- The HSE will provide access to PPE, expert advice and training;<br>- Each care home will be identifying a COVID-19 lead; |

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| | | - Staff movement across residential facilities will be minimised and the HSE will provide support staff with alternative accommodation and transport, if required.<br><br>The financial assistance scheme will operate for a 3-month period additionally for both public and private care homes. 'It will include a per head payment of up to €800 a patient a month for each person in a care home. This will apply to the first 40 residents. The figure for the next 40 residents will be €400 per month and it will be €200 per resident per month thereafter.<br>In addition to this, any care home that has an outbreak of Covid-19 will be able to apply for financial assistance of up to €75,000 a month for the months of April, May and June.<br><br>This money will be provided when a care home has incurred significant costs arising directly from a Covid-19 outbreak as certified by the HSE. The costs involved will have to be independently certified by an auditor.<br><br>The then Minister for Health, Mr Simon Harris said if all the care homes take up the maximum allocation of |

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| | | funds, the scheme will cost €72 million. This would represent a spend of €3,000 for each of the 24,000 long term residents of the State's care homes.' |
| 06 April | HIQA launches new COVID-19 support service, the 'Infection and Control Hub' for the residential social care sector. | 'The Hub is available to providers and staff of care homes, residential centres for people with a disability, special care units and Tusla children's residential settings.<br><br>The Infection Prevention and Control Hub will provide guidance on how to prepare for and manage a COVID-19 outbreak in a residential service and offer advice on infection prevention and control measures when caring for a resident with confirmed or suspected COVID-19. The Hub will also offer support in understanding and applying national advice in individual centres and answer any general infection prevention and control queries that services and their staff may have.'<br>HIQA press release. |
| 07 April | The HSE present their first report to NPHET of the position of long-term residential care settings. | Among other matters, they report that:<br>- Preparedness proformas have issued to all homecare and care home services today, along with guidance.<br>- There are significant numbers of staff absent across the community services due to COVID-19 related issues. |

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| | | Work is underway to increase staff to provide supports where needed.<br><br>NPHET states that the HSE is to immediately roll out the CRM system into long-term residential care settings and homecare, for public health, patient flow and outbreak-related data. |
| 08 April | The HSE publishes 'COVID Residential Care/Home Support COVID Response Teams CRT Operational Guidance'. | Link to document. |
| | ECDC updated risk assessment (8th update): risk of severe disease associated with COVID-19 in the EU/EEA and UK is currently considered moderate for the general population and very high for populations with defined risk factors associated with elevated risk on 8th April 2020. | ECDC update. |
| 10 April | NPHET recommends that public health measures in place are extended. | NPHET letter to Minister.<br><br>The HPSC epidemiology report published on this day states that there are 117 clusters/outbreaks in care homes (as of the 8th of April) which accounts for 34.5% of outbreaks. There are also 1670 cases (23%) of COVID-19 in those 65+ out of the total 7071 in the State. Additionally, 257 in this age category have died out of the total 283 deaths in the country, |

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| | | amounting to 90.8% of all COVID-19 deaths. |
| | The HSE issues 'Interim Guidance on the use of oxygen in long term residential care settings for older people during the Covid-19 pandemic'. | Link to guidance. |
| 11 April | Public health measures are extended for an additional three weeks until midnight on 04/05/2020. | RTE article. |
| 14 April | NPHET recommends the HSE put in place a 'coordinated national process for carrying out prevalence surveys across care homes and other residential healthcare settings'. | There should be 'a particular focus on detecting COVID-19 infections in these settings'<br>NPHET meeting note.<br><br>On this day, a total of 10,385 cases are recorded by the HPSC (as of 12th April), with 151 clusters (or 37%) being care homes. A total of 2316 cases in the State have been in the 65+ age group, with 359 deaths, which is 90.9% of all COVID-19 deaths in the State. |
| | NPHET also approves of a guidance document, 'Ethical Considerations for PPE Use by Health Care Workers in a Pandemic'. | The document was prepared by the PEAG. |
| 17 April | The TAPS opens for applications. | The Scheme will run until the end of June 2020. |
| | NPHET makes a number of recommendations for long-term residential care facilities, following | NPHET recommends immediate additional actions focused on long term residential healthcare settings, to |

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| | reports from the DOH, HIQA and the HSE. | further inform and direct the public health response, including:<br>'a) a survey of mortality is to be conducted;<br>b) national testing of staff across all settings with an initial widespread approach and thereafter ongoing testing, which may include both staff and patients, to be conducted on a rolling basis;<br>c) the publication and assessment of a COVID-19 quality assurance regulatory framework for these settings by HIQA;<br>d) the implementation of previous recommended actions with enhanced reporting through an expanded 'Care Homes/LTRC settings Actions Tracker', which is to include the roll out of the Contact Management (CRM) system.' |
| 18 April | NHI states that the Minister for Health is leaving '5,000 residents behind in care homes' with the introduction of the new TAPS. | NHI state that the Minister and his officials 'published a flawed scheme that excludes supports for approximately 5,000 residents in care homes. This was despite an express commitment to engage with NHI arising from the considerable concerns of care homes across Ireland regarding the scheme. The funding only applies to Fair Deal residents, excluding all residents accommodated for transitional care, respite and other |

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| | | people who self-pay for care in care homes.' |
| | A census of mortality across all long-term residential care facilities, that covers all deaths from COVID-19 and all non-COVID-19 deaths since 1 January, begins. | RTE article. |
| 19 April | CEO of NHI issues a statement requesting an 'immediate review' of the decision made to exclude NHI from the Care Homes Working Group, a sub-group of the VPS. | Mr Daly further states that NHI 'remain appalled at the decision to establish a working group on care homes and exclude representation of the majority provider of residential care of older persons.' |
| 21 April | NPHET recommends a number of measures to be made in relation to long-term care facilities. | NPHET accepts the advice by the Expert Advisory Group given on the 10th April 2020 on face masks:<br>a) Surgical masks should be worn by healthcare workers when providing care to patients within 2m of a patient, regardless of the COVID 19 status of the patient.<br>b) Surgical masks should be worn by all healthcare workers for all encounters, of 15 minutes or more, with other HCWs in the workplace where a distance of 2 metres cannot be maintained.<br><br>NPHET state that the HPSC is to update its guidance and the HSE to operationalise accordingly. |

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| | | NPHET also accepts recommendations made by the group on the 20th of April 2020:<br>a) There will be an updated algorithm for long term residential facilities,<br>b) Contact training of asymptomatic healthcare workers is to commence from 24 hours prior to the test,<br>c) face masks should be worn in long term residential facilities for near patient care,<br>d) The definition for healthcare-associated COVID-19, as per current HPSC guidance was reviewed and accepted.<br><br>The HPSC is to update its guidance and the HSE is to implement accordingly. The DOH wrote to care home representatives on the new NPHET advice the following day. |
| | The DOH publishes 'Ethical Considerations for PPE Use by Health Care Workers in a Pandemic' (which was previously approved by NPHET) | Link to document. |
| | HIQA publish 'Regulatory assessment framework of the preparedness of designated centres for older people for a COVID-19 outbreak' | Link to document. |

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| | The HSE announces that the second order of PPE from China worth €130m is due to arrive during the week. | Irish Examiner article. |
| 23 April | NHI state that urgent staffing redeployment is required as the 'heralded redeployment' of staff promised by the HSE 'is not manifesting on the ground'. | NHI reports that 'a huge crisis is now emerging' with 96% of care homes (227 of 236 responses received) replying that staff had not been made available and redeployed by the HSE to support the staffing complement during COVID-19.<br><br>In a snapshot survey undertaken on the 22/04/2020, the NHI reports that:<br>- 60 care homes informed the survey that 107 senior nurses are absent due to COVID-19;<br>- 102 care homes informed the survey of 223 nurses being absent due to COVID-19 (four care homes informed of 10+ care staff being absent);<br>- 158 care Homes informed of 427 healthcare assistants being absent due to COVID-19 (29 care homes informed of 10+ being absent);<br>- 122 Care Homes informed of 281 persons being absent from other disciplines. |
| | A further 936 cases and 28 deaths were reported, and 3 deaths previously reported were reclassified as unrelated to COVID-19, bringing | Chief Medical Officer Holohan said that above 45% of deaths in the country until this time had been among residents of care homes |

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| | the totals to 17,607 cases and 794 deaths. | |
| 29 April | HIQA commences online and telephone assessments of compliance on the preparedness of designated centres for older people for a COVID-19 outbreak | Reference to assessments commencing (p.35). |
| 01 May | The Government publishes the data from the mortality census of people in long-term residential care facilities. | This census data was presented at a DOH press briefing with the Chair of the VPS.<br><br>The Census (from 1st January 2020-19th April 2020) outlines that there was a total of 585 COVID-19 deaths in care homes, this figure is the sum of:<br>- 376 COVID-19 Lab Confirmed deaths; and<br>- 209 COVID-19 'Probable' deaths<br><br>This total of 585 COVID-19 deaths makes up 18% of all deaths (3,243) in care homes from January to April. |
| | NPHET recommend the extension of public health measures until the 17th of May and give updated recommendations for those 'cocooning' and Healthcare workers. | At their meeting, NPHET continue to advise:<br>'those aged over 70 years of age and over and the medically vulnerable of the importance of remaining cocooned for their safety, however, should they now wish to leave their homes to engage in exercise and activities outdoors, they should continue to adhere to strict social distancing, keep |

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| | | 2 metres from other people, comply with appropriate guidance regarding maintaining a 'no touch' approach and hand hygiene on returning home.'<br><br>NPHET also advise in a healthcare facility where there is enhanced testing place, healthcare workers with a history of COVID-19 infection who have completed 14 days of self-isolation and whose illness has resolved, can continue to attend work if they are asymptomatic even if they receive a test result which suggests the persistence of COVID-19 in their test. |
| | At the time of giving its recommendations, NPHET report a total of 3,679 confirmed cases in care homes. | NPHET meeting report.<br><br>According to the HPSC report published on this day (reported up to 29th April), the total number of cases in the 65+ age group stands at 5596, with 952 deaths or 92.2% of all deaths in the State. |
| 05 May | The HSE publish 'Guidance Regarding Cardiopulmonary Resuscitation and DNAR Decision-Making during the COVID-19 Pandemic' | This guidance was revised on two occasions, (later in May and then in August 2020).<br><br>The guidance is for health and social care professionals. It is said to be applicable to all care environments where services are provided for and on behalf of the HSE including acute hospitals, the ambulance service, community hospitals, residential care |

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| | | settings, general practice and home care.<br><br>The guidance includes information on:<br><br>- advance care planning and CPR<br>- advance healthcare directives<br>- decision-making including making Do Not Attempt Resuscitation (DNAR) decisions.<br>- performance of CPR during the COVID-19 outbreak |
| 06 May | The Government establishes the Special Committee on COVID-19 Response. | This Committee is established 'to consider and take evidence on the State's response to the Covid-19 pandemic.'<br><br>Membership of the Committee is comprised of government TDs. |
| 08 May | NHI report 'many private and voluntary care homes are under immense staffing strain because of Covid-19' from a recent survey. | The survey had responses from 233 care homes around the country. Care homes informed of :<br><br>- 306 senior and general care staff being unavailable due to Covid-19; 606 Healthcare Assistants being unavailable and 240 from other disciplines, totalling 1,152 staff.<br>- The care homes informed of 40 nurses from the HSE being |

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| | | redeployed; 26 healthcare assistants and 13 other staff.<br>- 40% of care homes said they do not have sufficient supply of Facemasks, despite recently introduced HSE and HPSC policy that facemasks should be worn when in close contact with a resident.<br>- Almost half (45%) of the care homes responding to the survey informed they had incurred a wait five days or beyond for the results of testing to be returned. One quarter (25%) were awaiting the results of tests undertaken. |
| 14 May | NPHET recommends the establishment of an expert independent panel to be established, the COVID-19 Care Home Expert Panel – Examination of Measures to 2021. | This is recommended at a NPHET meeting. This expert panel will examine 'the national response to COVID-19 as well as international measures and emerging best practice' and will 'make recommendations to the Minister for Health by the end of June 2020 to ensure all protective COVID-19 response measures are planned for, in light of the expected ongoing COVID-19 risk for care homes over the next 6 to 18 months.' |
| | NPHET also recommend the easing of restrictions into Phase 1 of the Roadmap from the 18th May to go ahead. | On the date of this recommendation NPHET notes a total of 4,641 confirmed cases in care homes. |

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| | | According to the HPSC's epidemiology report from this day (reporting as of midnight 12/05/2020) there were a total of 246 outbreaks in care homes. This made up 32.2% of the clusters in the State, the highest proportion out of all other categories. |
| 15 May | The Government approve the easing of restrictions into Phase 1 of the Recovery Plan. | News article. |
| 18 May | Public Health restrictions are eased. | Citizens are still advised to stay at home but can meet people in groups of no more than 4 outside within 5km of their home, go to work if it cannot be done at home, some retail stores will reopen, among a number of other measures.<br><br>Attendance at funerals is kept to a maximum of 10 people - and only members of the household, close family or close friends if the deceased has no household or family members.<br><br>There is no information regarding care homes. |
| 21 May | The Minister for Health announces the recruitment of members for the Care Homes Expert Panel (NHEP) to the Dáil. | Irish Times article. |
| 22 May | NPHET approve of 'Overview of the Health System Response to date - Long Term Residential Centres'. | At the NPHET meeting, it is decided that the report will be submitted to the Minister for Health for consideration. |

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| 23 May | The COVID-19 Care Homes Expert Panel (NHEP) is officially established. | Terms of Reference and Membership details. |
| 26 May | The DOH publishes 'Overview of the Health System Response to date - Long Term Residential Centres'. | Link to document.<br><br>The document states that as of 20/05/2020, 258 COVID-19 clusters are in care homes with 4,872 cases (20% of all cases). Out of the total 1,571 deaths in the State, 851 deaths (51%) are associated with care home outbreaks. To date 13 clusters in care homes have been closed. |
| 28 May | NPHET approve of the DOH's 'Ethical considerations relating to long-term residential care facilities in the context of COVID-19'. | NPHET meeting minutes. |
| | The DOH publish Comparison of Mortality Rates between Ireland and other countries in EU and Internationally. | Link to document. |
| | NPHET propose that the DOH incorporate the HSE's proposal to bring forward the easing of visiting restrictions from its current implementation date of 29th June 2020 (Phase 3) to the earlier date of 8th June 2020 (Phase 2). | NPHET meeting minutes. |
| 04 June | The DOH publish The Phase 1 – 'Status Report on COVID-19 as part of the Framework for Future Decision Making' which helped inform NPHET recommendations. | Link to Document.<br><br>In its report, the DOH report that as of '2nd June there was a cumulative total of 471 outbreaks/clusters in residential care settings, 258 of these in care |

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| | | homes and the remainder in other residential care facilities.' |
| | NPHET advise that the Government move the country into Phase 2 of lifting public health restrictions. | In its letter to the Minister for Health, NPHET recommends that from Phase 2, 'planning commences for the phased resumption of indoor visiting of residents in residential care facilities in accordance with guidance issued by the HPSC.'<br><br>NPHET note that a total of 5,170 confirmed COVID-19 cases were in care homes as of the 4th of June. |
| | 'Ethical considerations relating to long-term residential care facilities in the context of COVID-19' is published by the DOH and disseminated to relevant bodies. | Link to Document.<br><br>This was prepared by the Pandemic Ethics Advisory Group. |
| 05 June | The Taoiseach announces that the country will moving into Phase 2 from the 8th of June. | Link to announcement. |
| | The Government publish information on the Easing the COVID-19 restrictions from the 8th of June (Phase 2). | As part of the easing of restrictions, up to 25 immediate family and close friends may attend funeral services. Advice says that people may 'meet up to six people from outside their household both indoors and outdoors for social gatherings. Those over 70 who are not in residential facilities are advised to be 'extremely vigilant' and are advised the following:<br><br>- stay at home as much as possible |

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| | | - you may welcome small numbers of people to your home, but maintain social distancing<br>- for shopping, please use the times specially allocated by retailers<br>- if you are visiting someone who is over 70 years or medically vulnerable, please be extra vigilant<br><br>There is no information given yet on visiting care homes. |
| | The HPSC publish guidance on visitations, 'COVID-19 Guidance on visitations to Residential Care Facilities' which include care homes. | According to the guidelines, visitations will be allowed from the 15th of June 2020.<br><br>The guidelines provide for visiting where there is no ongoing COVID-19 outbreak and where there an active outbreak. In the case of the latter, all but essential visiting (such as end of life) is suspended in the interests of protecting others.<br><br>Each resident has a maximum of two named visitors, only one of those visitors can be present at any one time and visits should be arranged in advance with the facility. There are also a number of other safeguarding requirements such as visits being limited to less than 30 minutes, with |

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| | | each visitor allowed a maximum of one visit per week, visitors being required to wear a surgical mask if they are not able to maintain social distancing during the visit. |
| 15 June | The DOH submits a 'Care Homes summary paper' to the Special Committee on COVID-19 Response. | Link to document. |
| 25 June | NHI makes a submission to the Special Committee on COVID-19 Response on 'Scrutiny of care home deaths and clusters during the Covid-19 crisis'. | NHI also mentions infection control and supply of PPE among a number of other issues. |
| | The Government confirms that it is safe to proceed to Phase 3 of restrictions. | Link to article. |
| 27 June | A new Minister for Health is appointed, Stephen Donnelly. | Statement by the Taoiseach announcing new government ministers. |
| 28 June | The Minister for Health announces a 3-month extension of the COVID-19 TAPS, until the end of September 2020. | Link to press release. |
| 29 June | Phase 3 of the roadmap to reopen society and the economy commences. | Link to Government page. |
| 01 July | NHI makes a submission to the Special Committee on COVID-19 Response on the 'Capacity in the healthcare system to deal with Covid-19 cases'. | This is following a request on the 22nd of June 2020. Link to document. |

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| 02 July | The HPSC inform NPHET that serial testing of healthcare workers (in care homes) has begun). | This testing began on 24th June 2020 at 136 care homes with a total of 6,329 swabs taken in week 1, a participation rate of 82% and 14 COVID-19 infections identified. The testing will go on for four weeks. Where infections are detected among staff, NPHET was advised that outbreak guidance is followed, and all residents may be tested. |
| 03 July | HIQA publishes 'The impact of COVID-19 on care homes in Ireland'. | Link to document. |
| 14 July | NPHET advises the government to extend current public health measures (with some adjustments) until 10th August rather than progressing to Phase 4 as initially planned. | NPHET, among other factors, considered:<br>- 'the significant impact of COVID-19 on care homes, the gravity of the outcomes of COVID-19 on this older vulnerable population, the high intensity and pace of transmission within care homes, the asymptomatic transmission of COVID-19, the atypical presentation of COVID-19 in older people, and the ongoing open clusters within care homes'; and<br>- the fact that 'community disease suppression protects vulnerable care home residents and staff and the pending significant recommendations for protective actions for care home residents from the Care Home Expert Panel' |

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| | | NPHET notes at this meeting that 'the number of confirmed cases in residential care facilities stands at 7,656 of which 5,834 have been in care homes'. |
| 16 July | The Government announce that Phase 3 measures will remain in place until 10th August following NPHET recommendations. | Link to briefing. |
| 21 July | The Health Information and Quality Authority announced that half of care homes inspected by the authority were not following proper infection prevention and control regulations. | |
| 27 July | HIQA present a submission to the Special Committee on COVID-19 specific to care homes. | The submission is made on:<br>1. Scrutiny of care home deaths and clusters during the C19 crisis, and<br>2. Scrutiny of response to initial Covid-19 clusters in care homes and impact of updated supports for the sector |
| 30 July | NPHET receive a final report on serial testing in care homes and recommend fortnightly testing for two further cycles. | NPHET meeting minutes.<br><br>Testing went from 24/06/2020-26/07/2020.Staff in Residential Care Facilities (RCFs)were tested once a week, for 4 consecutive weeks.<br>- 99,705 staff were tested in 563 RCFs for older persons, representing a 69% participation rate.<br>- A total of 132 tests had a COVID-19 detected result. |

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| | | - There was a total of 677 contacts identified from the 132 confirmed COVID-19 cases identified during serial testing |
| 31 July | The Special Committee on COVID-19 response publish an 'Interim Report on Covid-19 in Care Homes' with 19 key recommendations. | Link to document.<br>This follows a number of submissions from NHI, HIQA and a number of other elderly care organisations and charities.<br><br>Some of the recommendations include immediately developing a plan for ensuring staffing levels are adequate; urgently reviewing current regulations and standards on whether they fully protect patients' health; ensuring that all care homes are stocked with PPE; and urgently reviewing clinical oversight and governance arrangements for private and public care homes, by requiring a designated medical officer to be appointed to each care home. |
| 04 August | NPHET advises the extension of measures rather than progressing to Phase 4 until the 31st August. | NPHET states at its meeting the situation will be reviewed again before the 31st.<br><br>The Taoiseach announces the delay on this day. |
| 11 August | The Government announce that it is working on a medium-term plan for living with COVID-19. | Irish Times article.<br><br>The following day, it is announced that a colour-coded system rather than |

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| | | the Phased approach is being considered. |
| 17 August | New measures are introduced to limit the spread of COVID-19 until 13th of September with no mention of changes to care home visits. | Government announcement. |
| 19 August | The COVID-19 NHEP publish their Final Report 'COVID-19 Care Homes Expert Panel: Examination of Measures to 2021'. | Link to document.<br>The document provided guidance on these key themes:<br>The thematic areas associated with the recommendations are:<br><br>1) Public Health measures<br>2) Infection prevention and control<br>3) Outbreak management<br>4) Future admissions to care homes<br>5) Care home management<br>6) Data analysis<br>7) Community Support Teams<br>8) Clinical – general practitioner lead roles on Community Support Teams and in care homes<br>9) Care home staffing & workforce<br>10) Education<br>11) Palliative care<br>12) Visitors to care homes<br>13) Communication<br>14) Regulations<br>15) Statutory care supports<br><br>Recommendation 14.1 of the Report recommends that a 'clear document outlining the roles and responsibilities of key stakeholders should be |

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| | | developed to include a clear overview of the roles and responsibilities of NPHET, the Department of Health, HSE, HIQA, and individual providers'.<br><br>A key figure given in this report is that 'as of midnight on 14/07/2020, '79% of all notified deaths from COVID-19 occurred in the over 75 age groups and that deaths in care homes (985 cases) represented 56% of total deaths (1,748 cases) in Ireland.'<br><br>COVID 19 Response: Care Homes - Overview of Roles of Key Stakeholders is developed by the DOH to fulfil this. |
| 25 August | The NHEP Report: Implementation Oversight Team (IOT) meet for the first time. | Following the publication of the COVID-19 NHEP Final Report, an 'inter-agency Implementation Oversight Team was established by the Minister for Health to oversee the implementation of the recommendations of the report.'<br><br>First meeting note. |
| 27 August | NPHET note in their meeting of growing cases and clusters of COVID-19. | NPHET note that as of 22nd August there have been:<br><br>'490 clusters in residential care facilities, of which 275 have been in care homes. The number of confirmed cases in residential care facilities |

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| | | stands at 7,624, of which 5,871 have been in care homes. 53 clusters in residential care facilities remain open, of which 37 are in care homes;<br><br>In the past week (15th-22nd August 2020), there have been 4 new outbreaks in residential care settings, of which 3 were in care homes. There have been 33 new cases in residential care facilities, of which 12 were in care homes' |
| 03 September | NPHET receives another update from the HPSC on outbreaks in care homes and noted that it warrants 'careful and continuous monitoring'. | The key points were as follows:<br>• There have been 278 outbreaks in care homes up to 2nd September 2020;<br>• There have been 5,919 lab confirmed cases, of these cases 816 died;<br>• There have been 25 outbreaks notified since the 1st July 2020, of which 17 remain open.<br>• The total number of HCW/staff cases associated with the 17 outbreaks is 39;<br>• The total number of client cases associated with these 17 outbreaks is 24;<br>• The total number of cases that cannot be identified as HCW or client is 1. |
| 10 September | NPHET advises that current public health measures are extended for a further 3 weeks. | NPHET also requests the HSE to design a new 'Visiting Guidance Framework' for LCFs outlining the guidance/restrictions to apply at each corresponding level within the 5-level framework for NPHET consideration. |

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| 15 September | The Government publishes 'Resilience and Recovery 2020-2021: Plan for Living with COVID-19'. | Link to announcement. |
| 17 September | HIQA publishes 'COVID-19: An assurance framework for registered providers - preparedness planning and Infection prevention and control measures'. | Link to document. |
| | NPHET recommends that Dublin is placed on Level 3 restrictions and suspends visits to LCFs except on 'critical and compassionate circumstances'. | NPHET meeting minutes.<br><br>Taoiseach's announcement the following day of restrictions until October 10th. |
| 25 September | NHI CEO calls again for the Minister for Health to 'stop the HSE targeting staff in care homes for recruitment in advance of the Winter period.' | This comes after an initial plea to the Minister for Health the previous day to provide 'explicit commitment' staff in care homes 'will not be targeted for recruitment as capacity within our acute hospitals is increased to prepare for the Winter period.'<br><br>Mr Daly says in his statement that NHI are 'receiving calls from care homes across the country stating approaches are being made to staff encouraging them to transfer to the HSE. This is despite commitments by the HSE that this would cease. The inevitability of it is that it will impact the continuity of care within our care homes at a most challenging time.' |
| 05 October | Patients and residents began self-isolating in a care home in | By 06 October there were 31 positive cases of COVID-19 were confirmed in |

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| | Portlaoise, County Laois after 18 people tested positive for COVID-19. | a care home in Portlaoise, County Laois with 21 cases among residents and 10 cases among staff<br><br>By 12 October, three of these died. |
| 06 October | The Special Committee on COVID-19 Response publish their final report. | With respect to care homes, the Committee have identified a number of key issues:<br>'i. The State, through the public health authorities, became overly focussed on preparing acute hospitals for the oncoming pandemic in February and March and failed to recognise the level of risk posed to those in care homes.<br>ii. There were delays in reacting to an evolving and deteriorating situation in care homes, especially in the provision of supports like replacement staff and PPE.<br>iii. While Trojan efforts were made by care home staff, there are unanswered questions as to why some care homes were free of Covid-19 whereas others were severely impacted through the death of residents and the sickness levels of staff.<br>iv. There has been a failure to provide answers to the relatives of those who died and this |

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| | | has exacerbated their pain and suffering – this issue must be addressed.' |
| 07 October | At its meeting, the NHEP Report Implementation Oversight Team agree that an information campaign targeting persons-in-charge of care homes should be developed and launched. | This decision is made 'in response to growing concern regarding increasing numbers of COVID-19 cases in care homes'. This campaign will build on the 'ongoing training programmes available through HSE and HIQA.'<br><br>Link to document. |
| | A care home in Convoy, County Donegal confirmed 30 positive cases of COVID-19 | |
| 15 October | NPHET recommends that Level 5 restrictions be put in place for 6 weeks. | NPHET meeting minutes. |
| 18 October | NHI calls for a six month pause on recruiting vital care home staff due to concerns over loss of care home staff to the HSE. | Link to article. |
| 19 October | The government announces Level 5 restrictions will be in place until the 1st of December. | This is the highest level of restrictions. With respect to care homes it is announced that:<br>'Visits to Long Term Residential Care facilities are suspended with the exception of visits required for critical and compassionate circumstances'. |
| 21 October | The Care Homes Expert Panel Report: Implementation Oversight Team finalise their first progress report. | At their meeting, the team will accept final comments up until close of business on 22nd October. The DOH will circulate the final Progress Report. |

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| | A care home in Moate, County Westmeath confirmed an outbreak of COVID-19 after a number of residents tested positive for COVID-19 | |
| 22 October | A care home in Ahascragh, Ballinasloe, County Galway appealed to the Health Service Executive (HSE) for emergency staff after two residents admitted to Portiuncula University Hospital tested positive for COVID-19, which resulted in 42 confirmed cases of COVID-19 and one death. | |
| 23 October | A care home in Moate, County Westmeath confirmed an outbreak of COVID-19 after 11 of 47 residents and four staff tested positive for COVID-19 | |
| 02 November | NIAC presents interim recommendations to the DOH identifying priority groups for a future COVID-19 vaccine. | These recommendations were requested by the DOH to 'assist the work of the COVID-19 Immunisation Strategy group… to identify priority groups… according to the current and evolving understanding of the clinical, microbiological and epidemiological profile of COVID-19 internationally and in Ireland, with a focus on those at greatest risk from COVID-19.'<br><br>The document pays reference to reports and publications by the Centers for Disease Control and Prevention, the ECDC, the HPSC, the WHO and |

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| | | international publications on vaccine allocation strategies.<br><br>NIAC recommended a four Phase approach of the vaccine rollout, going from highest to lowest priority.<br><br>**Phase 1:**<br>a. Those most essential in sustaining the ongoing COVID-19 response:<br>• Frontline healthcare workers in direct contact with COVID-19 patients (including those in long term care facilities) and who risk exposure to bodily fluids or aerosols.<br>b. Those most essential to maintaining core societal functions:<br>• Essential workers e.g. other healthcare workers not in direct contact with COVID-19 patients, Gardai, fire service personnel, key decision makers<br>c. Those at greatest risk of severe illness and death and their caregivers:<br>**• Adults aged ≥65 years, including residents of long-term care facilities**<br>• Residents of long-term care facilities aged 18-64 years<br>• Adults aged 18-64 years with medical conditions which put them at high risk of severe disease. |

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| 04 November | An outbreak of COVID-19 was confirmed in a care home in County Kerry after 19 residents and staff tested positive for COVID-19. | On 20 November, The Health Service Executive (HSE) confirmed that six residents of a County Kerry care home died after testing positive for COVID-19 |
| 05 November | The Minister for Health announces further extension of the TAPS until the end of June 2021. | Link to press release.<br><br>Guide to extended Scheme. |
| 25 November | NPHET accepted the HSE's updated guidance on visitation to LTRCFs. | NPHET stated that 'with regard to the general wellbeing of those living within long-term residential care the NPHET agreed updated and enhanced visiting guidance where, for critical and compassionate grounds, residents can receive a weekly visit by one person at Levels 3 and 4 and a fortnightly visit by one person at Level 5. In line with operational advice these should come into effect on 7th December.' |
| | The Health Service Executive (HSE) started to move residents out of a care home, where 8 residents died, in Listowel, County Kerry after an outbreak of COVID-19 was confirmed. | |
| 30 November | The Minister for Mental Health and Older People announces the publication of new 'Visitation Guidance for Care Homes'. | The new guidance outlines an updated definition for 'critical and compassionate circumstances', which now provides that residents may be facilitated to receive:<br><br>- up to one visit by one person per week under Levels 3 and 4 |

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| | | of the COVID-19 restrictions framework<br>- up to one visit by one person per two weeks under Level 5<br>It also notes that at all framework levels every practical effort should be made to accommodate an additional visit on compassionate grounds during the period of a major cultural or religious festival or celebration of particular significance to the resident, such as the Christmas/New Year period. |
| 01 December | Ireland moves to less restrictive measures, Level 3. | Government announcement.<br><br>This allows for up to one visit by one person per week to a care home. |
| | The Health Protection Surveillance Centre issued new guidance around visits to care homes from 7 December | |
| 08 December | The Minister for Health announces the Allocation Strategy for COVID-19 vaccines. | The strategy prioritises those over the age of 65 living in long-term care facilities, frontline healthcare workers who are in direct patient contact and those aged 70 and over<br><br>Allocation framework 16th December 2020. |
| 11 December | The president of the High Court, Ms. Justice Irvine, writes to the CMO concerning the administration of the COVID-19 vaccine to wards of court. | Ms Justice Irvine 'manages a list of more than 2,000 wards of court, including a large number of elderly and vulnerable people. A substantial |

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| | | number of wards are in care homes or other residential care facilities.'<br><br>Ms. Justice Irvine says 'she is concerned that wards will get the vaccine, on the direction of their clinicians, without undue delay. She hoped it would not be necessary to have formal applications brought in every case for an order permitting the vaccine to be administered, she added.' |
| 15 December | The Minister for Health announces the National COVID-19 Vaccination Strategy and an Implementation Plan (prepared by the High-Level Task Force and approved by the Government.) | The aim of the Strategy is to 'build on the public health response to COVID-19 to date through the efficient provision of safe and effective vaccines to the population and, in doing so, to reduce serious illness and death as a consequence of COVID-19.' The detailed vaccine allocation sequencing approved by the Government on the date of the Strategy is as follows:<br><br>1. Adults aged ≥65 years who are residents of long-term care facilities. (Consider offering vaccination to all residents and staff on site.)<br>2. Frontline healthcare workers (HCWs) in direct patient contact roles (including vaccinators) or who risk exposure to bodily fluids or aerosols… |

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| | | The foundations for the priority decisions made regarding the allocation of a COVID-19 vaccine are based on four core ethical principles:<br>1. Moral equality<br>2. Minimisation of Harm<br>3. Fairness<br>4. Reciprocity<br><br>The Strategy also 'points to the importance of the procedural values of transparency, inclusiveness, responsiveness, reasonableness and accountability'. |
| 16 December | The NHEP Report: Implementation Oversight Team finalise their second progress report. | The Report will be submitted to the Minister for Health after outstanding comments are finalised up to 18th December.<br><br>Final Progress Report. |
| 17 December | The DOH (with input from HIQA) publish a paper on 'Care Homes: Preparedness and Ongoing Response to COVID-19'. | Link to document. |
| 21 December | NIAC provides recommendations to the DOH for the COVID-19 vaccination rollout in Ireland. | These precautionary recommendations due to reports of 'a small number of reports of immediate serious adverse allergic reactions' in the vaccine rollouts currently in place in the UK and the US.<br><br>NIAC recommends that:<br>- The initial COVID-19 vaccine rollout in late December 2020 |

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| | | 'should take place in facilities where there is immediate access to a medical team that can help to support the identification and management of any acute severe reaction.'<br>- 'Provided there are no unanticipated issues, a full rollout in all planned sites can take place from January 2021.'<br>- Specific observation times following vaccinations should be adhered to, depending on the patient's medical history and/or reactions at the vaccination site.<br>- Each vaccinator should have an anaphylaxis kit. |
| 24 December | The Minster for Health signs S.I. No. 698 of 2020: Medicinal Products (Prescription and Control of Supply) (Amendment) (No. 7) Regulations 2020 | The Regulations allow for the authorisation of a COVID-19 vaccine to be administered and requires consent from the vaccine receiver. |
| 29 December | Annie Lynch is the first person in the State to receive a COVID-19 (Pfizer-BioNTech) vaccine. | Ms. Lynch received the vaccine at St. James Hospital, Dublin. |
| 30 December | NPHET advises that Level 5 measures are put in place as a matter of urgency and remain in place for a period of six weeks. | NPHET notes that:<br>'Of the 110 deaths so far in December, 40 have been associated with hospital outbreaks and 38 have been associated with care home outbreaks'; and<br>'There are currently 47 open clusters associated with care homes; 974 cases |

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| | | have been linked to these outbreaks with 41% of these cases related to healthcare workers. There have been 54 deaths linked to these outbreaks' |
| | The Government follows NPHET advice and places the country under Level 5 measures until 31st January 2021. | Government announcement.<br>Visits to LTRC facilities are suspended, aside from critical and compassionate circumstances. |
| **2021** | | |
| 05 January | The first care home resident, a 95-year-old woman, is vaccinated in the State with the Pfizer/BioNTech vaccine. | Irish Times Article. |
| 06 January | The Government agree on further restrictive measures to keep schools closed and halt construction. | Irish Independent Article. |
| 07 January | The COVID-19 vaccine rollout begins in privately-owned and voluntary care homes. | According to the article, the Government 'hopes to vaccinate all 30,000 care home residents and 35,000 staff in the country's 582 care homes by the end of [February]' |
| 08 January | The Minister for Health announces an acceleration of the country's vaccination programme. | The Minister said that the plan to give over '40,000 vaccines to frontline healthcare workers and care home staff and residents… is on target.'<br><br>Thus, the plan will be accelerated 'for residents and staff in long term residential care facilities – this means care homes as well as mental health and disability residential centres.' This decision is made in light of the plan to give 40,000 vaccines to frontline healthcare workers, care home staff |

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| | | and residents being on target. The Minister says that the Government has decided to use some of its 'one-week buffer' as the supply of vaccines 'has been constant and we've received solid reassurance from Pfizer that this will continue to be the case.'<br><br>The Minister said that 'speed is of the essence and this is especially true for the most vulnerable people in our society.' |
| 15 January | NIAC writes to the CMO following the notification of 23 deaths in 'very frail elderly people' which have been temporally related to administration of Comirnaty (Pfizer-BioNTech) vaccine advising that the 'vaccination rollout should continue as planned.' | NIAC also advises that the EMA 'is gathering information and has not advised any change in the use of the vaccine' and 'as in all situations, a careful, individual assessment of the risk/benefit ratio for those receiving a COVID-19 vaccine should be carried out.'<br>NIAC advises that it 'will keep the situation under review.' |
| 21 January | HSE National Disability Services publish 'Guidance & Practical Resource Pack to prepare for the COVID-19 vaccination programme in Disability Services'. | The document includes information on the consent process and obtaining consent from people with disabilities for the vaccination. |
| | The DOH and HSE publish a joint paper 'Care Homes: Preparedness and Ongoing Response to COVID-19 – Update Paper'. | Link to document. |

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| 22 January | The Health Service Executive (HSE) confirmed that 11 residents of a care home in North County Dublin died after testing positive for COVID-19 | |
| 26 January | Level 5 measures are extended until 5th of March 2021. | Government announcement. |
| 01 February | A care home in Tuam, County Galway appealed for help from qualified nurses following the deaths of 12 residents due to COVID-19. | It was announced that more than 30 residents of 4 Cork care homes and a community hospital in Kerry died in the previous two weeks following COVID-19 outbreaks |
| 02 February | Latest figures showed a total of 1,543 staff and residents in care homes died during the pandemic with 369 in January alone. | |
| 03 February | NIAC publishes its 'Recommendations for the use of COVID-19 vaccine AstraZeneca in Ireland' | The recommendations advise that 'any currently authorised COVID-19 vaccine can be given to adults of all ages, including those aged 70 and older' and that mRNA vaccines (Pfizer BioNTech and Moderna approved in Ireland) should be used for the over 70s where practicable and timely. |
| 05 February | The HSE Consent for COVID-19 Vaccination Working Group publishes a Guidance Note on 'Supporting the consent process in those who lack capacity and are anxious / or refusing vaccination' | The document states that it may be helpful 'when vaccination is refused by someone who, despite all support, lacks capacity to decide regarding vaccination' and when 'vaccination is for the benefit of the person, every practicable effort should be made to persuade (not force) them to accept it.' |

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| 09 February | Latest figures released by NPHET showed that more than one in three deaths from COVID-19 in February reported were associated with outbreaks in care homes | |
| 12 February | The HSE sends a 'Guidance regarding Consent for COVID 19 Vaccination' to relevant public health staff and community health organisations. | The guidance document provides flow charts for the process healthcare workers administering vaccinations should adopt if the person has 'capacity' and consents/ does not consent to vaccination, or if the person does not have capacity. It also outlines the process if the person is a ward of court and whether they 'agree' or 'do not agree' to vaccination. |
| 18 February | At its meeting, NPHET recommends that AMRIC (HSE Antimicrobial Resistance and Infection Control) assess scope for easing of visitor restrictions to LTRC facilities. | NPHET meeting minutes.<br><br>NHI news article. |
| 22 February | NIAC publishes updated recommendations on Priority Groups for COVID-19 vaccinations. | NIAC advises that there is now 'further national and international evidence to include additional conditions' to the list of medical conditions associated with an increased risk of serious COVID-19 disease and death for the purposes of the current priority list.<br>NIAC also advises that after the vaccination of those aged 70 and older, 'those aged 16-69 at very high-risk should be next to be vaccinated.' By age, the next cohort to be vaccinated are those 65-69. |

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| | | Additionally, NIAC suggests that all other health care workers who have not been vaccinated 'and those providing services essential to the vaccination programme should be vaccinated in parallel with those aged 65-69' who are the next cohort by age. |
| 23 February | The Government once again extends public health measures until 5th of April 2021. | Government announcement. |
| | The Government publishes a revised plan for living with and reducing the spread of COVID-19, 'Resilience and Recovery 2021 Plan: The Path Ahead'. | The document states that in 'light of the advanced stage of rollout of the COVID-19 vaccine in LTRCs for both residents and staff, a process will be progressed for considering the scope and application of LTRC visiting restrictions in the context of the Framework of Restrictive Measures having regard to international and national evidence, the rollout of the COVID-19 vaccine and the level of disease in the community.' |
| 26 February | NHI welcome the reduction in care home COVID-19 cases. | NHI states that after 'NPHET yesterday informed 91 lab confirmed cases for care homes were confirmed for the week of 21st February by comparison with 482 for the week of February 14th, representing an 82% reduction' represents a 'substantial reduction' |
| 02 March | The HPSC publish its first version of the 'Summary of Key Guidance | Link to guidance document. |

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| | Points for Infection Prevention and Control and Outbreak Control in a Long-Term Residential Care Facility'. | |
| 05 March | The National Consent for COVID-19 Vaccination Working Group publish the 'Consent for vaccination for COVID-19: Guiding Principles' | The document lays out 'the principles and processes of consent for vaccination against Sars-CoV-2 generally and to describe the consent process to be adopted in relation to the delivery of the vaccination for Sars-CoV-2.' |
| | Forty families take legal action for wrongful death and negligence against up to 15 public and private care homes. | PA Duffy, law firm, says it has '40 clients who want to sue in relation to their loved ones' treatment in care homes during the Covid-19 pandemic.' The firm also seeks a full public inquiry and a separate human rights investigation under section 35 of the Human Rights and Equality Commission Act 2014.<br><br>More than half of the 4,357 deaths from Covid-19 have been residents in care homes while, in January and February this year, there were more than 200 care home outbreaks, adding up to over a third of deaths. |
| 06 March | The Taoiseach announces that more than half a million vaccines have been administered in the State. | Irish Times Article.<br><br>The HSE's IIS COVID-19 Dashboard records 513,322 vaccine doses administered as of 5th of March 2021. |

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| 09 March | Only 328 of the 73,330 'Be on Call for Ireland' applicants have been hired to date. | Irish Examiner. |
| 11 March | NPHET endorses the HSE's (AMRIC) latest "COVID-19 guidance on visits to Long-Term Residential Care Facilities (LTRCFs)" which will come into effect on the 22nd of March. | NPHET meeting note.<br><br>This is later announced by the Minister for Health and the Minister for Mental Health and Older People.<br><br>This new guidance expands the scope of visiting on general compassionate grounds rather than critical compassionate grounds. It also 'refines the guidance across Levels 1 to 5, which now provides for increased visiting at Levels 3, 4 and 5, subject to risk assessment and no open outbreak.'<br><br>'Residents may be facilitated to receive two visits per week on general compassionate grounds. This will be possible following two weeks after full vaccination of approximately 8 out of 10 of all residents and healthcare workers in the care home. There is no requirement to limit visits to less than one hour. This is an increase from the current guidance where one visit per resident is facilitated every two weeks.' |
| 12 March | Nine residents at a care home with an outbreak of COVID-19 in Trim, County Meath died after the first | |

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| | doses of a COVID-19 vaccine were administered there | |
| 26 March | The HSE has clarifies that that the number of residents in long-term care who have yet to be fully vaccinated against Covid-19 is about 5,000. | This is correcting the error it made in a letter to a TD stating that 30,000 residents had not been vaccinated. |
| 29 March | NIAC publishes updated recommendations on priority groups for COVID-19 vaccinations. | NIAC recommends that an 'operationally simple, age-based programme for those aged 16-64 in descending order is the most equitable and efficient way of continuing the vaccination rollout.'<br><br>NIAC proceeds to recommend that after those aged 16-64 years with medical conditions which put them at high risk of severe disease the priority groups who should be vaccinated next should be as follows:<br>1. Those aged 16 - 64 years who are,<br>**- Residents of long-term care facilities**<br>- Those in the traveller and Roma communities<br>- People who are homeless |
| 30 March | The Government announces phased easing of public health restrictions from 12th of April. | Announcement. |

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| 01 April | The Minister for Health publishes the Report of the COVID-19 Rapid Testing Group. | This report advised that care homes are one of the settings where Ireland should prioritise rapid testing.<br><br>Members of the group. |
| 08 April | One millionth COVID-19 vaccine dose is administered. | Independent article.<br><br>The HSE's IIS COVID-19 Dashboard reports 1,018,264 vaccine doses as of the 8th of April. |
| 19 April | The HPSC publish the most updated version of 'Interim Public Health, Infection Prevention & Control Guidelines on the Prevention and Management of COVID-19 Cases and Outbreaks in Residential Care Facilities'. | Link to document. |
| 23 April | The HPSC publishes the COVID-19 Guidance on visits to Long Term Residential Care Facilities (LTRCFs). | Implementation date for this guidance is the 4th of May.<br><br>The key points in the document outline that:<br>1. Service providers will need to facilitate visiting and ensure that there is sufficient staff on duty at key times to support visiting.<br>2. Visiting is subject to a risk assessment.<br>3. It is essential that the service providers engage with residents, involve them in decision making and communicate clearly with each resident and relevant others regarding visiting policy including any |

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| | | restrictions, the reasons for those restrictions and the expected duration of restrictions and who they can contact for support if they are dissatisfied.<br>4. Service providers should comply with the spirit of the guidance and facilitate visiting of residents as advised within their facilities to the greatest extent possible. Restrictions on visiting that are in excess of those outlined in the guidance (for example in the context of an outbreak) should be agreed with the local public health department, be clearly documented and communicated in engagements with HIQA (along with expected duration of same).<br>5. Residents in LTRCFs have the right to have or refuse visitors. |
| 25 April | The Taoiseach announces 1 million vaccine doses have been administered. | This announcement comes 4 days before the Government announce Ireland's reopening plan after four months of COVID-19 restrictions.<br><br>The 1 million mark is in fact passed on the HSE's IIS COVI-9 dashboard on the 8th of April, at 1,018,264 first doses. |
| 28 April | The President of the High Court issues a new guidance note regarding the vaccination of wards of court or intended wards of court for the Covid-19 virus. | The detailed guidance is available here.<br><br>1. Vaccination of all wards of court against Covid-19 should proceed as |

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| | | per the practice applied in wardship in respect of the delivery of the flu vaccine. Unless an objection is notified, the ward's treating clinician should decide, having regard to the ward's medical history and a balancing of all relevant risks, whether or not the vaccine should be administered. The clinician should also notify the Committee in advance (the person appointed by the President of the High Court to act on behalf of the ward)<br><br>2. If the Committee objects to the ward receiving the vaccine, that objection must be made within seven days of notification of the intended administration of the vaccine and must be accompanied by medical opinion or other material demonstrating why it is not in the ward's best interests that they receive the vaccine.<br><br>3. Where the ward or an intended ward objects to receiving the vaccine, the Committee or the intended ward's guardian ad litem should be notified. In light of the objection, the ward / intended ward's treating clinician should be asked whether, in his/her opinion, the ward/intended ward is capable of making an informed decision to object to the administration |

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| | | of the vaccine. If they are found not to have capacity to make such a decision, the clinician's opinion must be notified to the Ward and their Committee / guardian ad litem in writing. Such notification must advise the recipient that in default of an application to the court within seven days of receipt of that notification, vaccination will proceed.<br><br>4. If, following assessment, the clinician is satisfied that the ward/intended ward has capacity to object to the administration of the vaccine, the vaccine should not be administered.<br><br>5. In any case in which the refusal of a ward/intended ward to accept the vaccine could adversely impact on their placement, the matter should be listed before the court for directions. |
| 08 May | Serial testing in care homes will be phased out 'as vaccination has "virtually eliminated" deaths from the disease in the facilities and has significantly reduced infections.' | Irish Times article. |
| 10 May | The HSE publishes: 'The impact of the COVID-19 pandemic and the societal restrictions on the health and wellbeing of the population, on our staff and on health service capacity | The document includes a short summary on care homes. |

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| | and delivery: A plan for healthcare and population health recovery'. | |
| 17 May | The Care Homes Support Scheme (Amendment) Bill 2021 is presented to the Dáil. | Link to Bill as initiated. |
| 02 June | The HPSC publishes its 'Guidance on visits to and from Long-Term Residential Care Facilities (LTRCFs) for people with Disabilities'. | Link to document. |
| 08 June | The HPSC publishes its 'Guidance on reopening of day services for older people in context of COVID 19 vaccination programme'. | Link to document.<br><br>Information leaflet for residents and visitors. |
| 11 June | NHI describes the decision by Government to cease funding supports for the TAPS as 'grossly irresponsible and a retrograde step for care home care.' | NHI statement.<br><br>NHI seeks clarity from the Government on State supports for care homes. |
| 30 June | NHI writes an open letter to all TDs and Senators on the cessation of infection prevention control funding supports for care homes. | This comes after multiple calls for clarity and support from the Government in previous weeks. |
| 09 July | The HPSC publish 'COVID-19: Normalising Visiting in Long Term Residential Care Facilities (LTRCFs)'. | This guidance provides for care home restrictions to be eased on July 19th. |
| 15 July | The Care Homes Support Scheme (Amendment) Bill 2021 is passed by the Dáil to the Seanad. | Link to bill. |
| 22 July | The Care Homes Support Scheme (Amendment) Act 2021 is signed into law. | The Act will commence on 20th October 2021. It is described as being: |

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| | | 'An Act to amend the Care Homes Support Scheme Act 2009, to make further provision for the financial assessment of persons applying for financial support to be made available to them in respect of long-term residential care services who have, or had, an interest in a farm or relevant business and comply with certain conditions; and to provide for related matters.'<br><br>The Minister for Mental Health and Older People welcomes the new act. The changes brought about will be as follows:<br>- Introducing additional safeguards in the Care Home Support Scheme to further protect the viability and sustainability of family farms and businesses that will be passed down to the next generation of the family;<br>- The change will be to cap financial contributions based on farm and business assets at three years, where a nominated family successor commits to working the productive asset for a period of 6 years;<br>- The Act extends the existing 3-year cap on contributions to the cost of care based on the value |

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| | | of a principal residence to the proceeds from the sale of that residence.<br>- This introduces 'fairness – by treating the home and its proceeds in a similar way – in the context of the housing crisis, it removes a disincentive to selling a vacant home when someone moves to long-term care' |
| 26 July | A High Court challenge is launched over the State's refusal to hold a public investigation into coronavirus-related deaths in care homes. | This action is being made by 19 individuals who are challenging a decision by the Minister for Health on June 28th not to establish a formal investigation into COVID-19 deaths in care homes in the State. |
| 08 August | A private care home notes that private operators are getting "top up" payments from the HSE of between €5,000 to €12,000 a month for residents with complex care needs. | Link to article. |
| 28 August | Taoiseach Micheál Martin refused to confirm or deny reports that the National Public Health Emergency Team (NPHET) would be disbanded following a report from the Irish Independent | |
| 31 August | The Government of Ireland announced a further reopening plan for the country, with all remaining COVID-19 restrictions to be eased by 22 October, including the two- | From 1 September:<br><br>Public transport would be operating at 100% full capacity, with the requirement to wear masks remaining |

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| | metre social distancing rule depending on the requirement of individual sectors, while masks would still be required in the health and retail sectors and on public transport | From 6 September:<br><br>Larger crowds could gather for religious ceremonies with up to 50% capacity allowed in places of worship<br><br>Outdoor sports events could have 50% capacity in stadiums<br><br>Indoor venues could operate at 60% capacity for events for those who are vaccinated, while outdoor events could operate at 75% capacity for those who are vaccinated<br><br>Resumption of live music indoors at weddings and in bars<br><br>From 20 September:<br><br>The phased return to the workplace would commence<br><br>Resumption of indoor after-school activities along with sports indoors<br><br>From 22 October:<br><br>Easing of the remaining COVID-19 restrictions depending on COVID-19 cases remaining manageable and 90% of adults being fully vaccinated, including the easing of requirements on social distancing and mask wearing |

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| 01 September | Taoiseach Micheál Martin announced that the National Public Health Emergency Team would cease to exist as a separate body over time and that their role and the vaccine taskforce would be transitioned into the normal functions of the Department of Health and the HSE. | |
| 08 September | Minister for Health Stephen Donnelly announced an update to Ireland's COVID-19 vaccination programme, with residents aged 65 years and older living in long term residential care facilities and people aged 80 years and older living in the community to receive a booster dose of an mRNA COVID-19 vaccine | |
| 02 October | In a video message on Twitter, Chief Medical Officer Tony Holohan said that the number of COVID-19 cases had "stabilised". | |
| **2022** | | |
| 21 January | Taoiseach Micheál Martin announced the easing of almost all COVID-19 restrictions from 6am on 22 January | The requirements of vaccine certificates and social distancing were to end, restrictions on household visits and capacity limits for indoor and outdoor events to end, nightclubs to reopen and pubs and restaurants to resume normal trading times, while rules on isolation and the wearing of masks would remain. |

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| 29 January | The Novavax vaccine was approved for use as Ireland's fifth COVID-19 vaccine | |
| 17 February | The National Public Health Emergency Team (NPHET) recommended that the requirement to wear masks in most areas, where currently regulated, should end, while Chief Medical Officer Tony Holohan proposed that the NPHET be disbanded and replaced with a smaller monitoring group | |
| 05 March | Minister for Health Stephen Donnelly announced that the requirement for vaccination certificates and passenger locator forms for those arriving into Ireland would end from midnight | This was primarily to make it easier for Ukrainian refugees to enter the country |

## Appendix B Chronology: Key Events in the Management of COVID-19 in Care Homes in England

### Summary

In the UK, care homes provide 24-hour nursing and/or residential care, for older adults who cannot be accommodated at home or inn other settings. Robust national data for the care home population are scarce and data sources are fragmented, meaning our understandings of the needs and outcomes of care homes are poor.[257] The UK has over 400,000 persons in care homes (for England in particular, around 320,000) with more than 500,000 staff (for England, some 400,000).[258] England had the highest cumulative rate of excess deaths (i.e. deaths above the historical average for the same period in previous years) in Europe up until the end of May 2020, with Scotland at the third highest. Deaths in care homes were a major contributor to this excess, however as data published are aggregated, our understanding of variation between care homes is limited.

Between 2 March and 12 June 2020, there were 66,112 deaths of care home[259] residents in England and Wales, of which 19,394 (29%) are officially attributed to COVID-19. In terms of excess mortality, the mortality rate of care home residents in England and Wales form 28 December 2019 to 12 June 2020 was up by 45.9% on the same period in the previous year. The first death in a care home was reported on 20 March 2020, 15 days after the first reported death attributed to COVID-19 in the UK.

Deaths in care homes (generally understood to refer to deaths of care home resident whether in hospital or the care home) appear to have peaked in the week ending 24 April 2020 (those for the population at large peaked a week earlier). Monitoring in the form of testing but also counting mortality was a particularly weak point in the UK's response. Throughout March there was no specific procedure for monitoring the extent of the virus in care homes. On 2 April 2020 was guidance issued on procedures for admissions and care of residents in care homes. UK government policy-making in the area become active from early March 2020, with an intense period until mid-May 2020.

257 Hanratty B, Burton J, Goodman C, Gordon A, Spilsbury K 'Covid-19 and lack of linked datasets for care homes' BMJ. 2020; 369m2463

258 Office for National Statistics, Deaths involving Covid-19 in the Care Sector, England and Wales, occurring 12 June and registered up to 20 June 2020 (provisiona). (London, England: Office for National Statistics, 2020).

259 For the purposes of this report, care homes are defined as: "institutions and living arrangements where care and accommodation are provided jointly to a group of people residing in the same premises, or sharing common living areas, even if they have separate rooms". These may also be referred to as care homes or residential homes in literature.

**Resources:**

- Useful overview of key events: https://bfpg.co.uk/2020/04/covid-19-timeline/
- Infographics on COVID-19 care home mortality: https://www.health.org.uk/news-and-comment/charts-and-infographics/deaths-from-any-cause-in-care-homes-have-increased-by-99-per-cent
- Good commentary on UK (primarily England's) care home response: https://onlinelibrary.wiley.com/doi/10.1111/spol.12645
- Comparisons of all-cause mortality between European countries and regions: January to June 2020, Office for National Statistics: https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/articles/comparisonsofallcausemortalitybetweeneuropeancountriesandregions/januarytojune2020

| 2019-2022 | EVENT | NOTES |
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| | **2019** | |
| 31 December | Chinese authorities notify the WHO of an outbreak of pneumonia in Wuhan City, which was later classified as a novel disease: COVID-19 | WHO Statement on the notification of an outbreak of pneumonia of unknown cause in Wuhan city, Hubei province of China. |
| | **2020** | |
| 22 January | Public Health England moves the risk level to the British public from 'very low' to 'low' | |
| 29 January | The first two cases of COVID-19 were confirmed in the UK | |
| 30 January | WHO declare the COVID-19 outbreak a 'public health emergency of international concern' | WHO - Statement on the second meeting of the International Health Regulations (2005) Emergency Committee regarding the outbreak of novel coronavirus (2019-nCoV) |
| 25 February | Public Health England issues guidance to care homes | The guidance contains no restriction on visits, and states that, at the time, it was "very unlikely that people receiving care in a care home or the community will become infected. |
| 3 March | Coronavirus Action Plan set out | This was a mix of information about the virus and the four-phased response strategy adopted: contain, delay, research, mitigate.<br>Little (or no) attention was give in the action plan to the adult social care system, with only one mention throughout. The care home sector was included alongside first responders, employers, the justice system and education settings. |

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| | | This plan focused on how to maintain the delivery of care in the event of an outbreak or widespread transmission of the virus, and what to do if care workers of individuals being cared for show symptoms. It did not instruct care homes to shut down, only to deny entry to those suspected of having COVID-19. |
| 5 March | The first recorded death attributed to COVID-19 was recorded | |
| 11 March | WHO classify the COVID-19 outbreak a global pandemic | |
| 13 March | Public Health England issues new guidance for reducing the risk of transmission in residential settings, including care homes | Prior to this, care homes were represented as low-risk settings for COVID-19.<br><br>The guidance suggests that visitors who are feeling unwell should not visit care homes and emphasises the "positive impact" of seeing friends and family. This is advisory, and places no ban on visits.<br><br>The guidance states "to minimise the risk of transmission, care home providers are advised to review their visiting policy by asking no one to visit who has suspected COVID-9 or is generally unwell, and by emphasising good hand hygiene for visitors" |

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| | | To balance these restrictions, care home policies are advised that they "should consider the wellbeing of residents, and the positive impact of seeing friends and family". |
| 17 March | Patients are discharged from hospitals to care homes without mandatory testing. | NHS England and NHS Improvement wrote to trusts telling them to "expand critical care capacity to the maximum" by freeing up beds. This was to ensure the NHS had the capacity it needed to treat Covid-19 patients in the coming weeks and months.<br>To that end, trusts were told to postpone all non-urgent operations and to "urgently discharge all hospital inpatients who are medically fit to leave." This included some inpatients who would then be discharged to a care home.<br>Discharge requirements published in greater detail on 19 March. |
| 19 March | £2.9 billion additional funding allocated "to strengthen care for the vulnerable" in England. | Of this, £1.6 billion was for local authorities including adult social care (the remaining £1.3 billion was for the NHS to enhance discharge from hospitals). |

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| | Department for Health and Social Care (DHSC) and NHS England and Improvement published the discharge requirements for patients going to care homes. | There was no requirement to test everyone who was discharged to see if they were infected. The document said that, where applicable, Covid-19 test results should be included in the documentation that accompanied people who were discharged. |
| 20 March | The first death in a care home attributed to COVID-19 reported | |
| 23 – 25 March | General lockdown issued by the UK Government, introductions of Coronavirus Act 2020 | Persons were advised to go outside only to buy food, exercise once a day, or go to work if working at home was not possible.<br><br>Police were granted additional powers to use 'reasonable force' if necessary to implement the lockdown measures.<br><br>The Coronavirus Act amended existing legislation, allowing local authorities significant easements of their social care duties, effectively cutting back on their obligations to meet care-related needs to cases where not doing so would be in breach of someone's human rights (in the case of England). The duty to meet care and support needs was substituted by ' a power to met needs', substantially reducing |

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| | | local authorities duties and responsibilities in social care. The legislation did nothing to enable or encourage care homes to reduce capacity. |
| 02 April | New guidance issued jointly be the Department of Health and Social Care and other agencies on procedures for the admission and care of residents in care homes | The government reiterated in new guidance that "any [care home] resident presenting with symptoms of COVID-19 should be promptly isolated" but specified that "negative tests are not required prior to transfers / admissions into the care home.".<br><br>Visits should only be made in exceptional circumstances, such as when residents are dying.<br><br>"Family and friends should be advised not to visit care homes, except next of kin in exceptional situations such as end of life". |
| | Guidance issued on procedures for admissions and care of residents in care homes. | This introduced what might be called a 'light touch monitoring regime' of in-house measures. Care homes were advised to assess each resident twice a day by checking for symptoms. Only if they had 2+ symptomatic residents were they obliged to report it to the Health Protection Team. This did not guarantee a test would be forthcoming. |

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| 06 April | Moves to direct PPE to care homes | This did not prioritise care homes, they were included alongside other providers such as hospices, residential rehab, and community care organisations. |
| 10 April | Cross-government plan for the delivery of PPE to frontline workers | Care homes were mentioned here as among the 58,000 relevant providers, alongside GP surgeries, hospices, and other community providers. |
| | England's Care Quality Commission requires care homes to state in daily death notifications whether the death was a result of confirmed or suspected COVID-19 | The CQC has not previously published statistics; the data will in future be included in weekly reports from the Office of National Statistics. |
| 14 April | Several UK charities, including Age UK and the Alzheimer's Society, express their concern that older people are being "airbrushed" out of official figures because they focus on hospital deaths and do not include those in care homes or a person's own home | |
| 15 April | Action plan for adult social care announced, including bespoke supply routes and specific guidance for care homes regarding PPE.<br><br>UK Government finally introduces a requirement to patients to be tested before being discharged from hospital into a care home. | This is the first specific action plan for adult social care issued for England. Prior to this the sector came to official attention mainly as places to which recovering COVID-19 patients could (and would) be discharged. (A core element of government response was freeing up NHS capacity through rapid discharge into the community. whilst a wide range of actions are mentioned in |

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| | | the action plan, there was limited targeting of care homes as particularly vulnerable.<br><br>The action plan was directed at all settings in which adults receive social care, and announced a four four-pillar approach: controlling the spread of infection; supporting the workforce; supporting independence, supporting people at the end of their lives, and responding to individual needs; supporting local authorities and the providers of care. Reading the action plan suggests that at that stage the UK policy was in control mode rather than prevention mode, raising question if there was ever a prevention phase for care homes in the UK.<br><br>Staffing levels were given attention in the action plan, including a capacity tracker to monitor workforce absences (as well as other resources like bed capacity, PPE levels, and overall risks). Goals were set out to attract 20,000 persons into social care employment in the next 3 months. |

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| | | The plan announced that testing would be offered to everyone in social care settings eligible for it. This was the first specific targeting of testing on social care settings, even though testing plans had already been launched on 17 March for NHS staff. There was no requirement to test all patients being discharged from hospital into a care home until this, though some trusts were testing patients before that date.<br><br>It is estimated that some 25,000 patients were discharged from hospitals to care homes in England in this period (National Audit Office, 2020), although it is unknown how many had COVID-19. |
| | Data released on deaths in care homes | This included evidence which the Care Quality Commission (CQC) was receiving directly from care homes in compliance with statutory notification procedures (Office for National Statistics, **2020**).<br><br>It was only from the week beginning 20th April that mortality statistics began to include deaths in care homes. The inclusion came as media attention |

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| | | on the situation in care homes grew.<br><br>Released retrospectively, the statistics show exponential increases in COVID-19 deaths in care homes and excess mortality, especially in early April.<br><br>Note that many questions have been raised about data inconsistencies and omissions. |
| | England's Health Secretary Matt Hancock announces new guidelines to allow close family members to see dying relatives in order to say goodbye to them | Hancock also launches a new network to provide PPE to care home staff |
| | NHS England and the CQC begin rolling out tests for care home staff and residents as it is reported the number of care home deaths are rising | This is linked with concerns that official figures, which rely on death certificates, do not reflect the full extent of the problem, as stated by Helen Whately the Minister for Social Care in England. |
| 18 April | A further £1.6 billion funding was announced to help English local authorities to respond to the pandemic | The total £3.2 billion was to be shared widely among the services offered by the local authorities.<br><br>This would also see moneys to the other nations of the UK. |
| | Care England the UK's largest care homes representative body, estimates that as many as 7,500 care home residents may have died because of | |

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| | COVID-19, compared to the official figure of 1,400 released a few days earlier. | |
| 20 April | Statistical information focusing on deaths in care homes released | |
| 21 April | Figures released by the Office for National Statistics | These indicate deaths in England and Wales have reached a twenty year high, with 18,500 deaths from all causes in the week up to 10 April, about 8,000 more than the average for that time of year.<br><br>The deaths include those in care homes, where the 1,043 year-to-date deaths related to COVID-19 is a jump from the 217 reported a week ago. |
| 22 April | The National Records of Scotland (NRS) releases data up to 19 April. | The number of deaths in Scotland was up 80% above the 5-year average. 537 deaths had been recorded in care homes, double the number of the previous week.<br><br>Public Health Scotland's daily figures were under-counting deaths by up to 40%, as it was reporting deaths in hospitals only |
| 28 April | Testing extended from care home residents to all care home staff | The Department of Health and Social Care capped the daily amount of care home tests at 30,000, to be shared between staff and residents. |

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| | | Testing capacity is at 73,000 per day at this stage. |
| | ONS report indicates a third of coronavirus deaths in England and Wales are occurring in care homes | 2,000 were recorded in the week ending 17 April, and the number of deaths from all causes in care homes is almost three times the number recorded three weeks ago |
| | Matt Hancock announces that care home figures will be included in the daily death toll from the following day; official figures have previously included only hospital data.<br><br>It is also announced that testing will be expanded from the following day to include all care home workers, and people (and their family members) with symptoms who must leave home for their job or are aged over 65 | |
| 29 April | Official figures begin including deaths in care homes and the community, resulting in the number of recorded deaths increasing by 4,419 to 26,097 | |
| 10 May | UK Prime Minister announces plans for the easing of lockdown | |
| 11 May | New digital portal for care home specific testing announced, with priority catering for people aged 65 and over | This was one of the first measures targeting the over 65s and can be taken as recognition that the testing policy was failing. |
| 12 May | Figures released by the Office for National Statistics and the devolved administrations indicate the death toll from COVID-19 exceeds 40,000 – | |

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| | including almost 11,000 care home residents | |
| 14 May | The Office for National Statistics published results of the early phase of a survey programme in England, failing to include care homes. | The survey does not include people in hospital or care homes, where rates of infection are likely to be higher still. |
| 15 May | Report on deaths in care homes in England and Wales published by the Office of National Statistics | This found 9,039 deaths between 2 March and 1 May, and a further 3,444 deaths of residents in hospital. In this period, COVID-19 was involved in 27% of all deaths of care home residents. |
| | Matt Hancock announces that every resident and staff member in care homes in England will be tested for COVID-19 by early June. | |
| 13-15 May | Care home support package of £600 million – a month after the action plan for social care – as part of a new infection control fund and a 'care home support package' (announced on 15th May). | The funds are intended especially to allow care homes to employ additional staff and pay for restrictions/constraints on staff movement and deployment (in order to reduce the risk of transmission).<br><br>By contrast to the lack of action for care homes, much had been done for the NHS including: an appeal for retired staff to return to the service (on 20th March); a deal with private health care providers for extra beds, ventilators and staff (21st March); writing off of £13.4 billion of NHS providers' debt (1st April); |

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| | | first NHS Nightingale Hospital (of 7) opened in London (3rd April) |
| 19 May | As figures show there have been 11,600 deaths in care homes as a result of COVID-19, Professor Martin Green, chair of Care England, criticises the government for the way it handled the outbreak in care homes, and tells MPs they should have been prioritised from the start | |
| 30 May | UK to allow vulnerable people who fall under the 'shielded' category to go outside and meet one person from another family whilst maintaining social distancing. | |
| 8 June | The Department of Health and Social Care for England extends availability of tests to all adult care homes | Prior to this, it was only for those over 65. The Department of Health and Social Care stated that there is capacity to send homes over 50,000 test kits a day. |
| 12 June | A report by the National Audit Office states that the government does not know how many NHS or care workers were tested in total during the pandemic to that date | Suggests that the four main opportunities for prevention of transmission to care homes (early lockdown of care homes, non-transferral of patients from hospitals, monitoring and testing measures, and measures to prevent staff spreading the virus) were too late or missed altogether. |
| 13 June | Parts of the Health Protection (Coronavirus, Restrictions) (England) | Among other rules, this permits some visits to people in hospital, hospices, and care homes. |

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| | (Amendment No. 4) Regulations 2020 (SI 588) come into effect. | |
| 19 June | UK Ministers accused of playing down the pandemic after it was revealed the UK death count exceeded 1000 for 22 consecutive days, significantly higher than the figures given to the public during the government's daily briefings. | |
| 22 June | The UK government permits visits to care homes to resume in England, but recommends one constant visitor per resident. | Local authorities and public health directors are given responsibility for giving the go-ahead to individual homes |
| 22 July | The UK government permits visits to care homes to resume in England, but recommends one constant visitor per resident. | Local authorities and public health directors retain responsibility for giving the go-ahead to individual homes |
| 25 July | SAGE professor admits the UK will never know the true scale of how many died from coronavirus due to a lack of testing in the early stages of the pandemic. | |
| 16 August | UK Government plans to scrap Public Health England (PHE) and replace it with a specialist pandemic unit due to dissatisfaction with the performance of PHE. | |
| | A Sunday Post investigation reveals that at least 37 COVID patients have been transferred to care homes following a diagnosis in hospital in Scotland | |
| 19 August | Birmingham's Director of Public Health bans "non-essential" visits to care homes following a rise of COVID-19 cases in the city | |

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| 09 September | Solihull Metropolitan Borough Council suspends care home visits in Solihull as COVID-19 cases in the town reach 50 per 100,000 | |
| 13 September | The UK government writes to care home providers in England to warn them of a rise in COVID-19 cases in the sector | Increasing cases are predominantly among staff, but there are concerns they could spread to residents |
| 16 September | Secretary of State for Justice Robert Buckland says that resolving delays with testing is "the number one issue", with plans to publish a strategy within days that will prioritise NHS facilities and care homes, as well as schools | Care home guidelines only issues in November. |
| 12 October | UK announces a new three-tier system for covid restrictions in England, with many regions in the North of England immediately entering the higher tiers of restrictions. | |
| 04 November | New guidelines are issued for care homes allowing visitors. | |
| 01 December | The UK government announces that relatives of people in care homes in England can visit if they receive a negative COVID-19 test | |
| 04 December | Councils in Greater Manchester pause rapid COVID testing for care home visitors amid concerns they do not detect enough cases | |
| 31 December | It is reported that GPs will be paid £10 for each care home patient who is vaccinated against COVID-19. | |

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| 13 January | Britain allows hospitals to discharge COVID-19 patients into care homes without re-testing | |
| 17 January | UK announces it will begin vaccinating over 70s and the clinically vulnerable people this week. | |
| 21 January | It is reported that a special Crown Office unit established in May 2020 to investigate COVID-related deaths is probing deaths at 474 care homes in Scotland | |
| 01 February | NHS confirms COVID vaccination now offered at every eligible care home in England | |
| 18 February | Data from NHS England suggests that 3 in 10 care home staff are yet to be vaccinated against COVID-19 despite being in one of the top priority groups | |
| 20 February | As part of plans to ease lockdown restrictions, care home residents will be allowed one visitor indoors from 8 March. | |
| 08 March | English care home visits allowed | Care home residents in England will be allowed one regular visitor from March 8, the government said, as it starts to ease COVID-19 lockdown measures, underpinned by the rollout of vaccines to older and clinically vulnerable people. |
| 25 March | UK's emergency Covid regulations extended for another six months | |
| 02 April | Campaigners launch legal action against the UK government over guidelines that | |

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| | ban care home residents over the age of 65 from taking trips outside the home | |
| 03 April | The UK government announces that care home residents will be allowed two regular visitors indoors from 12 April, while babies and children will also be allowed. | |
| 12 April | UK to ease restrictions to allow care home residents two visitors | This follows from measures in the previous month which allowed each care home resident one visitor. From 12 April 2021, they may now have two. |
| 14 April | Care home staff in England may be required to have a COVID vaccine under new plans being considered by the UK government | |
| 04 May | Care home residents are permitted to leave their residence for low-risk trips such as walks or garden visits without the need to self-isolate for 14 days afterwards | |
| 05 May | UK Parliament, Joint Select Committee on Human Rights, Publication of Report: Care Homes: Visiting Restrictions during the Covid-19 pandemic, Fifteenth Report of Session 2019–21 | The Report is critical about the UK Government's approach to managing the risks posed to residents in care homes during the Covid-19 pandemic, including whether guidance issued fully took account of balancing residents' Art 2 and Art 8 ECHR rights |
| 06 June | Matt Hancock rejects claims made by Dominic Cummings that care home patients were being tested for COVID before being discharged from hospital | |

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| | and returned to residential homes, but that they "would" be tested once adequate capacity was in place | |
| 16 June | Department of Health Social Care issues a press release that everyone working in care homes is now to be fully vaccinated under new laws to protect residents | From October, subject to Parliamentary approval and a subsequent 16-week grace period – anyone working in a CQC-registered care home in England for residents requiring care or personal care must have 2 doses of a COVID-19 vaccine unless they have a medical exemption.<br><br>This is subsequently confirmed by Health Secretary Matt Hancock. |
| 13 July | The House of Commons votes 319–246 to approve legislation requiring the compulsory vaccination of care home staff in England from October 2021 | |
| 15 July | UK Parliament, Joint Select Committee on Human Rights Report: Care homes: Visiting restrictions during the covid-19 pandemic: Government Response to the Committee's Fifteenth Report of Session 2019–21 | |
| 21 July | Data from the Care Quality Commission shows that 39,000 of the people who died after testing positive for COVID-19 in England between 10 April 2020 and 31 March 2021 were care home residents | |
| 21 September | UK Parliament, Joint Select Committee on Human Rights launches inquiry into | |

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| | Protecting Human Rights in Care Settings | |
| 12 October | UK Parliament, House of Commons Health and Social Care and Science and Technology Committees Report: Coronavirus: lessons learned to date Sixth Report of the Health and Social Care Committee and Third Report of the Science and Technology Committee of Session 2021–22 | See Chapter 5 of this Report which focuses on the lessons to be learned in the provision of social care arising from the Covid-19 pandemic; Chapter 6 which examines At Risk Communities; and Chapter 7 which examines the Covid-19 vaccination programme and the approach taken to 'priority groups' |
| 29 October | The clinical guidelines regarding the booster vaccine are to be changed for some people, such as care home workers, to mean they can have the jab five months after their second vaccine rather than six months. | |
| **2022** | | |
| 31 January | Restrictions for care homes in England are relaxed. | There is no limit on the number of visitors residents can receive, while the period of self-isolation following a positive COVID test is cut from fourteen to ten days, and the protocol following an outbreak is now required for fourteen rather than twenty-eight days |

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| 01 March | The UK government confirms the lifting of compulsory vaccines for care home workers in England from 15 March | |
| 15 March | Compulsory vaccination for care home workers lifted. | |
| 21 March | NHS England launches its Spring Booster Programme, offering a booster vaccine to 600,000 people aged over 75, who are residents in a care home, and those aged over 12 considered to be medically vulnerable | |