

Timeline taken from Claimants' pleadings regarding measures undertaken in relation to care homes

31/12/2019	World Health Organisation informed by China of patients suffering from pneumonia of an unknown microbial aetiology.
07/01/2019	Covid-19 detected in patient samples in Wuhan, China.
24/01/2020	First reported case in France, first reported case in Germany four days later.
28/01/2020	Scientific Advisory Group for Emergencies (SAGE) noted early indications were that some asymptomatic transmission was occurring. Public Health England (PHE) prepared paper - 'Are asymptomatic people with 2019nCoV infectious?'
30/01/2020	World Health Organisation Emergency Committee declared outbreak met criteria for 'Public Health Emergency of International Concern' stating " <i>The Committee believes that it is still possible to interrupt virus spread, provided that countries put in place strong measures to detect disease early, isolate and treat cases, trace contacts, and promote social distancing measures commensurate with the risk...</i> "
30/01/2020	NHS England (NHSE) declared Level 4 national emergency
04/02/2020	SAGE met to consider appropriate measures to delay Covid-19 spread in UK. The next meeting included consideration of measures to delay the spread among vulnerable groups.
04/02/2020	SAGE document stated " <i>Asymptomatic transmission cannot be ruled out and transmission from mildly symptomatic individuals is likely</i> ".
10/02/2020	Scientific Pandemic Influenza Group on Modelling (SPI-M) - reporting to SAGE) circulated document which stated " <i>It is a realistic probability that there is already sustained transmission in the UK, or that it will be become established in the coming weeks.</i> "
11/02/2020	SAGE meeting minutes record: " <i>ACTION: Neil Ferguson to share summary paper on vulnerable groups with SAGE</i> "

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secretariat". (The Claimants seek disclosure of this).

13/02/2020	SAGE meeting minutes record discussion about limiting Covid-19 spread in prisons but no comparable discussion re care homes. Noted that restricting the transfer of individuals between prisons is most effective way to limit spread.
17/02/2020	SPI-M circulated document stating some of the group believed sustained transmission in the UK would become a realistic possibility in the coming weeks. Others believed the likelihood higher and there may already be sustained transmission.
18/02/2020 & 20/02/2020	SAGE met. No discussion of care homes at either meeting.
24/02/2020	PHE's National Infection Service strategy document stated in the event of a community outbreak PHE would consider " <i>closure of ... a residential setting depending on the level of exposure</i> " and if there was a hospital outbreak there should be " <i>[n]o discharges to care or residential homes</i> ".
25/02/2020	No discussion of care homes at SAGE meeting.
25/02/2020	PHE published ' <i>Guidance for social or community care and residential settings on Covid-19</i> '. It stated there was currently no transmission of Covid-19 in the UK and it was " <i>therefore very unlikely that anyone receiving care in a care home or the community will become infected.</i> " Also: " <i>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 these settings.</i> "

The Defendants' instruction to care homes was that there was no need to "do anything differently in any care setting at present."

This policy was not withdrawn until 13 March 2020.

25/02/2020	SPI-M prepared paper stating it is a political decision to
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consider whether it is preferable to enact stricter measures at first and lift them gradually or start with fewer measures and add if required. It also stated an additional strategy would be to apply more intense measures on those most at risk e.g. – special measures around care homes.

- 26/02/2020 CMO and CSA prepared document 'Sage's priorities'. There was no reference to care homes.
- 02/03/2020 SPI-M noted it was highly likely there was sustained transmission of Covid-19 in the UK and that without stringent measures 80% of the population would become infected. The infection fatality rate being 0.01% for under 20s but 8% for over 80s.
- 03/03/2020 The PM states the vast majority of people should go about business as usual.
- 03/03/2020 D1 produced March Action Plan which noted current data suggested the risk of severe disease and death increases among the elderly and in those with underlying health conditions, and there could well be an increase in deaths from the outbreak, particularly among vulnerable and elderly groups. Despite the recognition no protective measures relating to vulnerable care home residents were announced.
- 03/03/2020 SAGE met. It was noted it would be challenging to implement social distancing in care homes.
- 05/03/2020 SAGE met. Noted the Covid-19 cases suggest sustained community transmission in the UK as not all cases have been overseas or had contact with an overseas traveller.
- 10/03/2020 SAGE met and advised special policy consideration be given to care homes and retirement communities. (Indicating no special policy consideration had been given to care homes prior to this date.)

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12/03/2020 hospital	Govt announced it would end Covid-19 testing outside settings
13/03/2020	<p>PHE published March PHE policy. The document:</p> <ul style="list-style-type: none"> • Advised care homes should review visitor policies but also consider wellbeing of residents and the impact of seeing family and friends; • Recognised care homes would not have dedicated isolation facilities for people living in the home; • Stated a resident displaying symptoms should be isolated in their own room; • Advised staff to use PPE with residents displaying Covid-19 symptoms. None required if neither the care worker nor the person receiving care is symptomatic • Promised a single, one-off free issue of PPE for adult social care providers; • Advised care homes to share workforce with local authorities
15/03/2020	D1 announced on BBC that over 70s would be asked to self-isolate within weeks
17/03/2020	<p>NHSE issued the March NHSE Instruction to the NHS and providers of community health services. NHS bodies were directed to discharge all hospital in-patients who were medically fit to leave. The term medically fit did not mean free of Covid-19 infection or symptoms, and no conditions were set regarding testing or isolation of patients before discharge. The aim was to free up 30,000+ NHS general and acute beds.</p>
18/03/2020	<p>US Government's Centre for Disease Control and Management published a report highlighting a Covid-19 outbreak in a care home in Washington which resulted in 23 deaths and many more infections. The report provided further evidence regarding pre-symptomatic and asymptomatic infection.</p>

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19/03/2020 D1 published March Discharge Requirements. Unless required to be in hospital patients must not remain in an NHS bed and patients must be discharged as soon as clinically safe to do so. For patients whose needs are too great to return to their own home a suitable rehab bed or care home will be arranged. The Claimants note at this time the Defendants had failed to implement any significant Covid-19 testing programme (limited testing was prioritised to NHS staff).

The Claimants allege the mandatory discharge policy:

- Did not provide patients should be tested and established negative before transferred to a care home
- Did not provide for isolation before patient was transferred in. Or isolation on arrival.
- Did not provide requirements or guidance for care homes on how Covid-19 related risks from transferring patients should be addressed

The Claimants believe none of the contemporaneous decision making documents on which the mandatory discharge policy was based have been made public. The Claimants have been refused disclosure of these documents and continue to seek this.

21/03/2020 WHO guidance published for long-term care facilities. UK Government also released shielding guidance for those considered extremely vulnerable to Covid-19 based on medical grounds. No special provision for those in care homes who did not fall into other categories of extreme vulnerability.

23/03/2020 National lockdown commenced

31/03/2020 SAGE met. Minutes record an action point for NHS to create a sub-group to consider "the risk to care homes".

Claimants submit that during March 2020 the Defendants did not implement any adequate protective measures to protect vulnerable care home residents against the risk of infection or death.

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It is alleged they implemented positive measures and policies that significantly increased the risks to vulnerable care home residents (1) the mandatory discharge policy (2) advising care homes to encourage staff to work in multiple care homes.

02/04/2020

April Admissions Guidance issued. This reiterated the policy to discharge as many NHS patients into care homes as possible. It expressly provided those discharged would include Covid-19 positive patients as well as those who had not been tested.

- Care home staff who came into contact with Covid-19 patient while not wearing PPE were told they can remain at work (because in most instances this would be a short-lived exposure). Care should be provided as normal if a discharge patient had no Covid-19 symptoms.
- As the NHS needed beds to treat an increasing number of Covid-19 cases this meant the NHS would seek to discharge more patients into care homes for the recovery period.
- External visits were to be limited to exceptional circumstances.

The Claimants continue to seek the decision-making documents which preceded the April Admissions Guidance.

Following the April guidance, it is alleged that Care England highlighted a number of flaws within it including: how were care homes to assure themselves Covid-19 wasn't entering the home? And that the guidance failed to take into account staffing pressures, lack of PPE, lack of testing and the ability to isolate effectively, and the potential impact on existing residents.

Care England also stated that exposure in care homes would not necessarily be short-lived and it would depend upon the sort of contact. Care England noted this was "*a very unhelpful assumption and gives the guidance a real lack of credibility.*"

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There was also alleged inconsistencies and non-compliance with the WHO guidance.

April Admissions guidance	WHO guidance
Recommended that each care home appoint a focal point for infection prevention and Control	Silent
Advised meals be staggered and social distancing be observed in any group events not Cancelled	Silent
Advised isolation for two weeks after the resolution of symptoms	Recommended isolation for two weeks after the onset of symptoms, not their resolution
Recommended the use of full PPE by staff dealing with patients suspected or confirmed to have Covid-19	Staff did not need to wear eye protection, and could decide themselves whether to use PPE

Alleged consequences of the mandatory discharge policy

Reports of widespread pressure placed upon care homes to accept discharge patients. The Association of Directors of Adult Social Services in England investigated the policy and concluded it has had "*tragic consequences*." The absence of testing those leaving hospital "*could have accelerated the spread of coronavirus in care settings*."

First week of April – number of new infections in care homes reaches its peak

08/04/2020	London School of Economics published paper that noted the April Admissions Guidance did not address the risk of asymptomatic and/or pre-symptomatic infection and/or transmission. Also a failure to ensure transferring patients completed isolation outside the care home before being transferred in.
10/04/2020	NHSE issued guidance stating care home residents should not be taken to A&E unless it had first been approved by a clinical advisor. After complaints this was discriminatory against the elderly it was withdrawn on 14/04/2020 and an amended version reissued.

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- 14/04/2020 SAGE met, noted care homes remain a concern.
- 15/04/2020 D1 published April Action Plan. Due to concerns re isolation there would be a move toward a policy of testing patients pre-care home transfer. The local authority would be asked to source appropriate accommodation and care for the isolation period if the care home could not facilitate this.

The Claimants note that it was after the peak of new infections in care homes (first week of April) that there would be a move towards testing transferring patients as opposed to the policy to transfer without testing that took place between 17 March 2020 and 15 April 2020. Measures relating to patient isolation/testing could, and should, have been implemented earlier, at the same time mandatory discharge came into force.

- 16/04/2020 SPI-M prepared paper which noted Covid-19 is likely to spread quickly and easily in nursing and care homes and all efforts should be made to prevent the virus entering.
- 16/04/2020 SAGE met. Noted that implementing proper testing arrangements was important to protect care homes.
- 20/04/2020 SPI-M prepared paper that referred to ways in which vulnerable groups' exposure could be reduced. E.g – shielding, minimising visits to care homes, preventing staff working in multiple care homes, daily mass testing of staff.

The Claimants note that shielding and mass testing had not previously been implemented by the Defendants at this stage

- 24/04/2020 **New and Emerging Respiratory Virus Threats Advisory Group (NERVTAG)** meeting (a body responsible for scientific risk assessment and mitigation advice on the threat posed by new and emerging respiratory virus threats and on options for their management). Noted that NERVTAG had (to date) not been asked re care home measures.
- 27/04/2020 SPI-M issued a consensus statement stating it remained concerned that "*not enough is being done to protect those who are known to be at high risk of death if infected with*

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Covid-19."

28/04/2020	According to media reports PHE recommended an eleven-point plan for the introduction of protective measures in relation to care homes. Including using NHS facilities to isolate patients pre-transfer.
30/04/2020	SAGE met, and minutes refer to existence of SAGE sub-group on care homes.
05/05/2020	SAGE noted importance of reducing Covid-19 transmission in care homes.
07/05/2020	SAGE repeated its concern re testing in care homes.
13/05/2020	PM stated lockdown in care homes was brought in ahead of general lockdown. Claimants seek clarity on this statement.
13/05/2020	funding announced for care homes to help reduce care staff working across multiple homes.
14/05/2020	Defendants issued 'Support for care homes' policy document noting there was asymptomatic transmission in care home residents and staff, and agency staff are likely a cause. Care home providers should take all possible steps to minimise staff movement between care homes.

The Claimants allege that prior to this May policy the Defendants had published guidance to say care homes should share staff.

19/06/2020	After the judicial review pre-action letter the Defendants allegedly substantially revised guidance. June Admissions Guidance provides all patients transferring into a care home should be subject to a compulsory 14 day isolation. It also stated no care home would be forced to admit an existing or new resident if unable to cope impact of the person's Covid-19 illness for the duration of the isolation period.
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