

P-05-1068 Allow socially distanced meets in private gardens to follow science and avoid isolation, Correspondence – Petitioner to Committee, 25.01.21

I am sorry for the delay in responding. Hopefully these views can still be considered.

Views to support petition.

For a large section of the population, not being isolated and protecting their physical and mental health was only possible by allowing garden visits at distance, in an environment that could be completely controlled. This was what a very vulnerable section of the population were enjoying until this was stopped. I wish for this right, which is still an absolute right under Article 8 of the human rights act, to be reinstated as soon as deemed possible.

Whilst support and guidance has been given to care homes, this has not been without issue, with many care homes restricting unnecessarily or not doing all they can to creatively and safely support residents. Sadly it might always be the case that not every care home will or can do their best, which might explain the stories seen in the news of relatives kidnapping care home residents. At least care homes however had a spotlight shone on them under Covid, so that help and support was given. All care homes received written advice.

However, what of the plight of the forgotten vulnerable? Those being cared for in their own homes, and the unpaid carers who cannot leave. As a nation we owe so much to unpaid carers, nearly 400,000 of them. Without guidelines to protect this group, and regulations to ensure companies caring for private individuals in their own homes are instructed to do all they can for this group and allow a safe way to stay connected, the potential for abuse of power, further restriction or deprivation of liberty is very real. There are now more Deprivation of Liberty applications to the Court of Protection than ever before due to unlawful restrictions in Covid, and many more that are simply not raised to the courts. In private homes, care companies can get away with not doing anything to help, restricting beyond guidelines because it is easier for them to do nothing. When garden visits were banned entirely, any hope of getting a company to comply, fell away.

What of those with mental health issues, shielding, or those too anxious to leave even when we were allowed to do so?

A large proportion of these same people will also not bubble, as they cannot or do not want to be too close to others indoors.

These sections of society exemplified above, by sad virtue of their circumstances already suffer elevated levels of isolation in any case. It is well documented that those with more severe disabilities for example go very quickly downhill when cut off

from loved ones. Figures show much higher morbidity rates when this is the case. The potential for abuse is also well documented.

It is estimated there could be as much as 40% of the population in Wales who currently will not be bubbling and will not, or cannot leave their homes. The rules on no garden visits at distance forget some of the most vulnerable people in our society. This paves way for a legacy of health and human rights issues that might surface, and this may even allow for a culture of authoritarianism to reimmerge in the private care sector.

Having requested various freedoms of information and analysing the ONS data at the time, there is simply no data that exists that indicates that Covid was being spread more rapidly or at least with equal momentum in gardens at distance than when compared to public places, such as pubs and cafes, or lately supermarkets. Indeed the analytics all suggest that when we do not go to public places transmission falls, whether indoor or outdoor. The analytics also suggests that this is still the case when people continue to meet in private gardens.

The argument for it being the case that because we are now in Winter and people in private gardens may want or need to come inside, e.g. to use the loo, was largely a redundant argument at the time. In public spaces we were still meeting indoors whilst the garden visits restriction was still in place. We were using toilets that are in shared facilities, shared by far greater numbers than in a private home. The banning of garden visits subsequently forced other swathes of society out into public spaces, when they might of chosen to be more cautious and meet or have the potential of passing nearby less people when conducting garden visits.

To use the argument that pubs and cafes are regulated was about as valid as saying private homes are not. There are pubs that have been awful at maintaining any of the guidelines. I am sure there are private residences that are not great. The point is either can be good or bad, there is not a precedent that public businesses are or will be better than private homes, or once again, any data that supports this.

Taking away the right for people to accept into their gardens visitors at distance is clearly problematic and potentially unlawful in multiple regards to the Human Rights Act, and the Article 8 right.

1. It is our article 8 right to enjoy our home and private life without restriction. Imposing a ban on garden visits breaches that right.
2. Imposing a ban on visits to private homes but not imposing a ban to public spaces for the intention of the same purpose (reducing transmission) therefore places a priority of human rights on those wishing or able to frequent public places, and enforces lessor rights on those that do not. This is also a potential breach of the act,

where it cannot be accepted that one person has lessor rights over another because of personal choice or risk assessments, unless the actions are criminal. The restrictions in place at any time must be consistent and not in favour of any sector of society.

3. Allowing meeting in public places but not private without the absolute reassurance, monitoring and enforcement of safety and risk reduction means that any person going into a public space that is not adequately protected by the body enforcing the constraints, potentially means this is a breach of human rights of all citizens going into public spaces who feel their choice to do otherwise was removed, but the risk in public spaces was not removed to the degree they could have removed the risk in their own environments.

In conclusion, there needs to be support and guidance to allow for garden visits, for at least the vulnerable groups of our society not yet protected, but most also include care homes in addition, as before. The government should instruct care organisations providing care in private homes to do all they can to safely achieve garden visits and minimise total isolation.

I should like the government in reintroducing garden visits to consider wider regulation to place definitive and clear boundaries on what constitutes unlawful restriction in the Covid context, with exemplar pointers for good and bad practise.