

CONSULTATION QUESTIONS

The Carer's Assessment: Carer's Support Plan

Question 1: Should we change the name of the carer's assessment to the Carer's Support Plan?

Yes

No

Comments:

We recognise that the terminology of carer's assessment has in itself caused particular difficulties, in the main for carers, and that carers have often seen this to be an interpretation of their ability to provide care when this was clearly not the intention. However in trying to address an issue which has arisen through misinterpretation of language there is potential to repeat this in renaming to a Carer's Support Plan. Whilst generally this is more positive in terms of language for carers, there is concern that this implies that provision will follow. This could raise expectations from carers and is potentially contradictory with the proposed legislation which describes lower level or preventative intervention and the application of eligibility criteria. In addition, to develop a support plan in itself implies a requirement to complete an assessment of need to get to a carers support plan.

We have some concerns at the introduction of yet another mechanism for child planning. Both Getting It Right For Every Child and the Children and Young People's Bill make the case for 'One Child, One Plan', and this procedure (alongside remaining Children's Act and Additional Support for Learning Act legislation) adds another complication to the process of multi-agency planning. There is provision, within the definition of the Children's Plan in the Children and Young People's Bill, for a wide ranging set of responses to need to be identified and actioned.

There are issues about the carer's ability to care, and the need for all agencies and carers to acknowledge that there will be times when it is appropriate for agencies to take this into account if there are potential risks to the service user. This should be done as part of the risk assessment and it is misleading carers if we are not explicit about the needs to address risk within assessments and the circumstances in which we may do this. It would clearly be of benefit to have discussion about how this can be done in a supportive manner to carers.

In relation to internal process that would need to be put in place in response to the proposal, there are also concerns about the ICT development requirements that will be a natural consequence of introducing carers support plans in statute. There are also concerns about how these will be recorded and stored where the consultation has indicated these can be completed by either the external agencies or the Local Authority. There is the potential then for issues of information sharing that would need to be taken into consideration.

Question 2: Should we remove the substantial and regular test so that all carers will be eligible for the Carer's Support Plan?

Yes

No

Comments:

There has been considerable discussion regarding the proposal to remove the substantial and regular test so that all carers will be eligible for the Carer's Support Plan.

It is recognised that in local practice we are not applying the test to identify carers, however we do then either incorporate their needs into the care plan for the cared-for person or complete a carer's assessment. There are concerns that with the introduction of the proposals to identify carers and provide Carer's Support Plans there will be a significant increase in volume of requests received, without a proportionate increase in resources to respond. There is a further query that this approach would be in contradiction of national eligibility criteria for service users and legislation for other groups who are in need. In addition, the proposal to introduce eligibility in some ways replaces the substantial and regular test, yet sits outwith the intention to introduce waiving of charges for carers, and therefore lacks clarity in how local authorities will respond.

Locally we have in place a range of provision and access to services across the area that we recognise are of benefit to carers. For example we operate a summer play scheme which is accessible to children and young people with a disability on a self-referral basis and which provides short breaks to their parent/carer. This is a preventative/early intervention provision. The challenge will be to maintain such a service, with ease of access, if there is the potential for an increase in demand from carers to access. An increase in demand could result in a need to assess for eligibility to access.

There is also some concern in relation to the consultation that needs to be taken into account. For example the guidance needs to be clear that this is about supporting people to alleviate pressure as opposed to a general entitlement to services and/or funding and needs to be linked to an identified need. There are already some concerns that this will provide carers opportunities to access funding or service they deem to be beneficial to them without linking back to clearly defined outcomes that are intended to be achieved.

There is also the potential tension of what the carer's role is within a family albeit we clearly accept that carers may require a level of additional support to assist them to continue in their caring role, if this is what they want.

In summary, it is therefore unclear that the legislation proposals will actually benefit carers in the longer term.

Question 3: Should we remove that part of the existing carer assessment process whereby the cared-for person is a person for whom the local authority must or may provide community care services/children's services?

Yes

No

Comments:

It is considered a potential benefit to remove the cared for person's entitlement to services, therefore not creating a barrier to carer's assessments, e.g. in situations where the cared-for person may have dementia and is refusing services. However where the cared for person receives support from family and friends, and is therefore not requiring Local Authority support, consideration still needs to be given to an assessment of the carer's needs in relation to the outcomes to be achieved.

There are concerns that we have a duty to assess service users but not a duty to provide and if we do provide services there is a duty to consider these under the eligible needs. There does not seem to be the same clarity given to carers in this regard and we have and we have difficulties in reconciling this apparent inconsistency in treatment.

Question 4: Should we introduce two routes through to the Carer's Support Plan – at the carer's request and by the local authority making an offer?

Yes

No

Comments:

Whilst we think there are benefits from introducing two routes into Carer's Support Plans, we consider that there is no requirement to introduce this through legislative change.

We would reiterate early concerns around the replacement and substitution of words such as "assessment" with "support plan" and that these plans should be based on an assessment and threshold for services.

Question 5: Should we remove from statute the wording about the carer's ability to provide care?

Yes

No

Comments:

There would be concern about removing the wording about carer's ability to provide care as this does not take into account circumstances where this would be the correct action for Local Authorities, either in consideration to the carer's own needs or in relation to potential risks to the service user. This would be in line with an outcome based approach and is considered contradictory to other proposals being taken forward through other legislative routes.

Taking into account such circumstances, could some rewording of 'ability to provide care' be introduced which sets this in the context of other commitments a carer might have and therefore support which might be helpful to enable them to continue with their caring role?

Question 6: Should we introduce a duty for local authorities to inform the carer of the length of time it is likely to take to receive the Carer's Support Plan and if it exceeds this time, to be advised of the reasons?

Yes

No

Comments:

It is unclear why there is an intention to introduce this duty for Local Authorities, particularly where this is not consistent across other care groups or other service areas.

We recognise that it is clearly good practice to keep people informed of waiting times for services and we consider it would be more appropriate to reflect this in guidance and to leave timescales for Local Authorities to develop locally as service standards.

In addition, there is the potential to create unnecessary bureaucratic processes around monitoring compliance should this become a duty. Monitoring compliance would also have additional resource implications and consideration would require to be given to the resource requirements necessary to implement such a duty, should it become law. There is also the question of the mechanism for enforcement of the duty in situations where there is a failure to comply, the proposals for policing this and the sanctions for failure to comply.

Question 7: How significant an issue is portability of assessment for service users and carers?

Comments:

We recognise the potential benefits that would come from the portability of

assessments, including the good practice not to reassess people needlessly for services. There are already unresolved issues arising from the Ordinary Residence guidance and the potential sources of conflict between Local Authority areas that in turn can have a detrimental impact on service users and carers and welcome that consideration is being given to address this issue for both carers and local authorities.

We would be concerned that portability of assessment requires consistency in provision and it is noted within the consultation papers that there is acknowledgement that there will be difference in provisions across Local Authority boundary areas for a variety of reasons. It is also the case that the individual's circumstances may change as a result of the move i.e. the new property may resolve or create issues around independent living and support from family/friends may change depending whether the person is moving closer to or further away from support of that nature. Other issues such as rurality etc could also be an issue. It is therefore reasonable to assume that in recognising these differences, there cannot be a guarantee that the assessment or Carer Support Plan will be honoured or even be appropriate across local authority areas, yet this seems to be the stated intention by introducing portability of assessment. It is not clear that the issue that needs to be addressed has been adequately resolved with this proposal.

It is also noted in the proposed legislation that no guidance will be issued by the Scottish Government which further creates problems across all local authority areas in terms of differences in approaches. It should also be noted that not only will there be differences in provision across local authorities, but within them too for example differences in terms of Community Care and Children and Family charging arrangements.

It is recognised that there is already work being done under the Independent Living in Scotland work stream where issues of portability for service users have been discussed. Whilst it is understood this can be agreed in principle the difficulties are in the detail and guidance on how to implement in practice. Given this work in itself has been ongoing for sometime without clear resolution there would be concerns that this would replicate across to carers.

Whilst it is recognised the intentions of a portability of assessment are positive, the reality could be a challenge for carers without clarity and guidance.

Question 8: Should the Scottish Government and COSLA with relevant interests work together to take forward improvements to the portability of assessment?

Yes

No

Comments:

We would strongly support an approach where Scottish Government and COSLA work together to address the issues outlined in relation to a portability of

assessment. This should be a precursor to any proposed changes under the legislation and not how to implement once the legislation has been approved. This would ensure a positive working relationship with the Scottish Government and Local Authorities to work together on shared interests in supporting carers, including consideration of the resource requirements to implement the proposed legislation.

Information and Advice

Question 7: Should we introduce a duty for local authorities to establish and maintain a service for providing people with information and advice relating to the Carer's Support Plan and support for carers and young carers?

Yes

No

Comments:

We support the principle of ensuring that people have information and advice at the time that they require this in an accessible format however do not consider that there is a need to impose this as a duty on Local Authorities.

There are significant resource implications in developing and resourcing an information system.

We already have a duty in terms of S.12 of the Social Work (Scotland) Act 1968 to promote social welfare by making available advice, guidance and assistance on such a scale as is appropriate to our area and in Section 12 AB a duty to provide information to a carer about an assessment. This would be an additional duty and would inevitably have resource implications. If such a duty were to be imposed, is there an intention to make provision in secondary legislation or in guidance, describing the information and advice which it is envisaged should be provided, to whom and in what circumstances?

Question 8: Should we repeal section 12 of the Community Care and Health (Scotland) Act 2002 about the submission of Carer Information Strategies to Scottish Ministers, subject to reassurances, which are subject in turn to Spending Review decisions, about the continuation of funding to Health Boards for support to carers and young carers?

Yes

No

Comments:

We would be supportive of the proposal to repeal the submission of Carer Information Strategies, provided there were clear reassurances on continuation of

funding. At a local level, much work has been done to develop an integrated carers strategy, and we are mindful of the additional resources required to produce and report on duplicate carer strategies, in particular for our Third sector partners. There is also the potential for confusion between both carer plans that partners would want to minimise, although it is accepted that there needs to be appropriate linkages to other planning documents eg the Joint Strategic Commissioning Plan for Older People, for carers.

Support to Carers (other than information and advice)

Question 9: Should we introduce a duty to support carers and young carers, linked to an eligibility framework?

Yes

No

Comments:

Any duty to provide support would have to reflect the context of the support i.e. the accompanying support plan for the person with support needs. There are anticipated problems in how this could be enforced if the person with support needs is refusing support and the carer is insisting that they want the support. Some of the national debates around independent living have included a clear message from people within the IL movement that they want their assessments to be kept completely independent of their unpaid carers and there could be some tensions developing here.

Any such duty would need to be in the context of accompanying duties for the person with support needs and local authorities currently do not have a duty to provide for them. There are concerns that this would over complicate things and could lead to some tricky situations.

If this is to be introduced as a duty to offer support this could only be done based on an eligibility framework – and this could include some of the low-level support and signposting to other agencies/organisations.

In relation to young carers, clarity would be required to ensure this would not generate unnecessary complexity given the duties and powers contained in other pieces of legislation applicable to this group.

Generally, 'eligibility criteria', if applied nationally and nationally funded, are a good idea eg bus passes in Scotland. However, without these two essential features (a national standard and a government fund), this could perpetuate a postcode lottery of provision and a culture of blame between local authorities (and NHS boards) and the national government.

Question 10: Alternatively, should we retain the existing discretionary power to support carers and young carers?

Yes

No

Comments:

The option to retain the existing discretionary powers would be preferable.

Question 11: Should we introduce a duty to provide short breaks?

Yes

No

Comments:

In considering this proposal there was concern that the definition was not sufficiently clear as it could be interpreted to be a wide range of provision from e.g. 2 hours per week sitter service to regular periods of overnight (might not be residential) respite over a year, and therefore concerns that carers may expect a minimum entitlement to short breaks.

Whilst we acknowledge a Carers Support Plan should reflect the needs of the carer and be linked to outcomes to be achieved, there was concern linked to the proposed duty to remove the substantial and regular test, the waiving of charges for carers, and the duty to provide respite could combine to create expectations on services that may not be feasible or sustainable. For example what level of short breaks look like if a carer only provided 2 hours of care per week as opposed to someone providing 50+ care hours per week.

There is also concern that these combined duties will make it difficult to rationalise scarce services.

The legislation would also benefit from further consideration of how this duty would align with Self Directed Support and the power to support carers and whether there is a contradiction in these legislations. In providing personal budgets to carers and the people they support they will be able to spend their budget in flexible ways to meet agreed outcomes, including carer outcomes. Any attempt to quantify short break provision could undermine the flexibility and creativity around SDS and could lead to an hours/days/nights based approach to support rather than focussing on innovation and improved outcomes.

Local consideration now needs to be given to the Scottish Government intention to bring forward legislation in relation to waiving of charges for carers, effective from 1 April 2014. There is concern that local authorities have not been given sufficient notice to forward plan into this with many authorities having already set their budgets. In Falkirk Council it is anticipated that the implications of waiving of charges will have an impact on budgets and therefore available services.

With the introduction of these proposals, it has not so far been suggested additional monies will be brought forward to enable implementation.

Stages and Transitions

Question 12: Should we issue statutory guidance on the Carer's Support Plan which will include guidance for those undertaking the Carer's Support Plan on managing stages of caring? This would apply to adult carers only. (For young carers, practice guidance will be developed to support management of a Child's Plan through the stages of caring).

Yes

No

Comments:

We would welcome statutory guidance on the carer's support plan; however this needs to take into consideration the earlier comments provided about the need to undertake some form of assessment to develop a plan, and the issues of portability of assessment and lead authority to complete a plan, where the cared-for person and carer reside in different authorities.

Question 13: Should new carers' legislation provide for young carers to have a Carer's Support Plan if they seem likely to become an adult carer? Any agreed support recorded in the Carer's Support Plan would be put in place after the young carer becomes a (young) adult carer.

Yes

No

Comments:

As noted in our response at Question 1, we would have concerns at the introduction of yet another mechanism for child planning. Therefore it might be better to make reference to transitions for young carers in the guidance for the Children and Young People's Bill and the carers' legislation.

The legislation for adult carers would cover the need for a carer's support plan.

Carer Involvement

Question 14: Should there be carer involvement in the planning, shaping and delivery of services for the people they care for and support for carers in areas outwith the scope of integration?

Yes

No

Comments:

We would support carer's involvement in the planning, shaping and delivery of services for the people they care for and can demonstrate at a local level how this is currently being achieved.

There should be carer involvement in relation to what they are able to provide and the support required to enable them to do this. However, the independence of the person they care for should not be compromised in the process. Therefore, while this could be appropriately addressed within guidance, it could present a challenge to write into legislation and could lead to conflict both in terms of legislation and family/carer relationships.

Question 15: Should we make provision for the involvement of carers' organisations in the planning, shaping and delivery of services and support falling outwith the scope of integration?

Yes

No

Comments:

This is in line with good practice and we would support carer organisations involvement in the planning, shaping and delivery of services, and can demonstrate at a local level how this is currently being achieved.

Question 16: Should we establish a principle about carer and young carer involvement in care planning for service users (subject to consent) and support for themselves in areas not covered in existing legislation?

Yes

No

Comments:

Please refer to Q14 response. This needs to be carefully thought through. While this will be fairly straight forward for most situations it may not always be the case. There are situations where pressure is exerted either on the carer or the person they care for. These situations are delicate and need to be carefully worked through with the individuals concerned

Question 17: What are your views on making provision for young carer involvement in the planning, shaping and delivery of services for cared-for people and support for young carers?

Comments:

Please refer to Q14 and Q16 responses. Young carers are children and young people first and any involvement should reflect their right to their childhood. It would be good practice to involve young carers in shaping support for themselves but care must be taken that they are not then being asked to become involved at a level beyond their understanding and appropriate level of responsibility in terms of decisions being made.

If this question refers to involving young carers in the planning and shaping of services through a participation and engagement process then, yes. However if it refers to their involvement specifically in relation to the cared for person then this is a more complex proposal which would need to address the balance of rights of the young carer and cared for person. This could also generate a significant increase in workload with no additional resources.

Planning and Delivery

Question 18: Should we introduce statutory provision to the effect that a local authority and each relevant Health Board must collaborate and involve relevant organisations and carers in the development of local carers strategies which must be kept under review and updated every three years?

Yes

No

Comments:

This is well developed at a local level, and the partners would continue to look at ways to improve this, but would not consider there to be a need for this to be in legislation and would be more appropriate to include in statutory Guidance.

Question 19: Should we introduce statutory provision to the effect that local authorities with Health Boards must take steps to ensure, in so far as is reasonably practicable, that a sufficient range of services is available for meeting the needs for support to carers and young carers in the area?

Yes

No

Comments:

This is consistent with the SDS Guidance, therefore would consider that this

should be Guidance.

Identification

Question 20: Should there be no legislative provision for GPs or local authorities to maintain a Carers Register in order to support the identification of carers?

Yes

No

Comments:

There was significant discussion on the benefits of registers, whether carers themselves would find this helpful and co-operate with being placed on one, and the resource implications of maintaining such a register.

Registers can be good as they identify people and enable them to be offered an assessment. There is an additional benefit of stopping people from falling through the gap. This can be evidenced through the BP1 register (people registered as blind or partially sighted) and the plans to introduce a register across Deaf services through the implementation of the See Hear strategy. However there are associated resource requirements around the setting up and maintenance of registers that would require consideration.

There were concerns that potentially the register could be more beneficial or be perceived to have benefits around future service planning rather than clear benefits to carers and would further discussion would be welcomed on the purposes of a register.

As the Government will be aware there was a requirement for GP's to maintain carer's registers, with experience suggesting that these were only successful where this was included in the core GP contract, and therefore being part of a contractual agreement. There seems to be less clarity about what benefits there were to carers as a result of this.

We would concur with the reservations expressed in the consultation guidance that a register may not in itself identify more carers.

Question 21: Should the Scottish Government ensure that good practice is widely spread amongst Health Boards about the proactive use of Registers of Carers within GP practices?

Yes

No

Comments:

The partners welcome opportunities to share good practice.

Question 22: Should the Scottish Government ask Health Boards to monitor compliance with the core contractual elements of the GP contract?

Yes

No

Comments:

Yes, monitoring arrangements should be in place to ensure compliance.

Carer and Cared-for Person(s) in Different Local Authority Areas

Question 23: What are the views of respondents on the lead local authority for undertaking the Carer's Support Plan and agreeing support to the carer where the carer lives in a different local authority area to the cared-for person(s)?

Comments:

There was significant reflection and discussion on this proposal. The starting point was that it was recognised that carers needs are invariably and intrinsically linked with service user needs and therefore there are clear benefits in the lead authority where the cared for person resides completing the carer's support plan.

We also consider this to be set in a context of the issues already raised under Ordinary Residence rules which are already difficult to apply across Local Authority areas.

We therefore would support that the lead for the Carer Support Plan would be the Local Authority where the cared for person resides.

We see this as having a number of benefits in that the assessment and provision will follow and there will be no potential cross boundary discussions on issues such as differences in thresholds either for assessment or charging, which could delay decision-making and service provision. There would be a less bureaucratic process in terms of negotiating the support to be provided and this being received by the carer, as well as arrangements for recharges across Local Authority areas.

We welcome the intentions to address what has been a difficult issue for carers and local authorities over a number of years.

Question 24: What are the views of respondents on which local authority should cover the costs of support to the carer in these circumstances?

Comments:

Please refer to Q23 response. The lead authority where the cared for person resides should cover the costs of support to the carer.

Question 25: Should the Scottish Government with COSLA produce guidance for local authorities?

Yes

No

Comments:

We would strongly support an approach where Scottish Government and COSLA work together to produce guidance and this should be a precursor to any proposed changes under the legislation and not how to implement once the legislation has been approved.

This would ensure a positive working relationship with the Scottish Government and local authorities to work together on shared interests in supporting carers, including consideration of the resource requirements to implement the proposed legislation.