



**THE LAW SOCIETY
of SCOTLAND**
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Consultation- Response

Carers Legislation – Consultation on Proposals

The Law Society of Scotland's response

April 2014

Introduction

The Law Society of Scotland aims to lead and support a successful and respected Scottish legal profession. Not only do we act in the interest of solicitor members but we also have a clear responsibility to work in the public interest. That is why we actively engage and seek to assist in the legislative and public policy decision making processes.

To help us do this, we use our various Society committees which are made up of solicitors and non-solicitors and ensure we benefit from knowledge and expertise from both within and outwith the solicitor profession.

The Mental Health and Disability Sub-Committee of the Law Society of Scotland welcomes the opportunity to consider and respond to the Scottish Government's Carers Legislation, Consultation on Proposals.

Comments:

We are supportive of the Scottish Government's proposals to introduce legislation which will seek to provide greater support to Scotland's carers and young carers. We welcome that the Scottish Government recognises the need to identify young carers and also their needs at an early stage. We also support the Scottish Government's recognition that many carers, including young carers, currently experience considerable stress and anxiety and that their wellbeing is often adversely affected by the situation of the person they care for. In particular, we consider it important for the proposals to take steps to address the adverse impact that being a young carer can have on that person's educational, social and emotional development. We look forward to commenting fully on the draft Bill in due course. In the meantime, we have the following comments to put forward on the proposals as contained within the current consultation document:

Reader Friendly Guide. We would suggest that a reader friendly guide be published to provide carers and young carers with information of their rights under any introduced legislation and provide information on support services.

List of Issues. We note that the proposed legislation will not include a requirement to include a list of issues in the support plan (paragraph 15, page 10). We would suggest that

if no list of issues is to be included then it is important to have a clear definition of the 'Support Plan'.

Timescales. We note that there are to be no timescales for the undertaking of the carers Support Plan (paragraph 16, page 11). We would suggest that if there are to be no timescales, then it is important to set a clear maximum time limit by which time the carers Support Plan should be received.

Information Services. We note that there is a proposal to introduce a duty on Local Authorities to establish a service for the provision of information relating to the Support Plan (paragraph 15, page 18). We are supportive of this proposal but would suggest that a duty be placed on all support services to provide this information to carers and young carers who are in receipt of the Support Plan.

Discretionary Power to Support Carers. We note the proposal provides two options (paragraph 1, page 20) relating to the local authority's power to support carers. Our view is that option two is the preferred option (to introduce a duty for local authorities to support carers according to an eligibility framework etc.). Please also refer to our response to question 9 below.

Eligibility Framework. Question 9, page 23. 'Should we introduce a duty to support carers and young carers, linked to an eligibility framework' We have concerns that an eligibility framework may result in those falling outside of this being overlooked and not given the support needed. We would suggest that there should be a duty to provide support to all carers and young carers where a need has been identified or support requested.

Planning of Delivery of Services for Young Carers. We believe that the planning process should include the planning for all support and not be limited to the support provided by the Local Authority. We also believe, and suggest, that in the planning process input from those with past experience of caring, and the problems and issues associated with this, is of fundamental importance in delivering a Support Plan which meets the young carer's needs.

Carer and Cared for Persons in Different Local Authority Areas. We note the proposals briefly mention cross-border situations (paragraph 12 page 43) but does not expand on these, other than to state ‘we will explore these issues further’. We suggest that these have to be identified and considered fully before any proposed legislation is published to ensure clarity and certainty for the end user.

We believe and suggest that a duty should be placed on Local Authorities to ‘sign post’ services to ensure that carers are directed to the appropriate support and resources where more than one Local Authority may be involved as it is not always appropriate for one local authority to take sole responsibility for the provision of support.

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