

ADSW welcomes the opportunity to respond to this consultation on the proposed Carers legislation. ADSW has, over many years, acknowledged the crucial role that carers play in enabling quality of life for many thousands of people; assisting continued community living; providing many hours of skilled support- without which the more formal services, as they stand, could not possibly meet the need within communities.

We suggest, however, that any change is founded on the following principles:

- the role of carers is not considered in isolation from other sources of support
- it is important that a balance is achieved between recognising and supporting carer entitlement and the interest and views of the person being supported (service user).

- the definition of a 'carer' remains as coherent and practicable as possible - understandable to carers, service users and practitioners - in order to avoid confusion around eligibility and entitlement and inappropriate 'net widening' with subsequent implications for council's abilities to make best use of limited resources.

## 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:

ADSW acknowledges the invaluable and skilled contribution that unpaid carers make to society and welcomes the opportunity to contribute to this consultation.

ADSW acknowledges that some carers may interpret 'assessment' as an inquiry into their ability to care (or at least will incorporate this) as opposed to an inquiry into need. However, we are of the view that this issue cannot best be addressed through changing the name of the assessment to the 'Carer's Plan' for the following reasons-

- 'assessment' and 'support plan' are not interchangeable terms and represent very different activities that take place at different stages in the process. 'Assessment' for example, considers need whereas 'plan' assumes need is present. This has implications for raising expectations unrealistically and for the appropriate use of limited resources.
- It would be misleading to suggest to the public that no assessment takes place. In addition, there is insufficient emphasis on the changing needs of carers overtime and the importance of review. This issue may be best dealt with through guidance developed to support the legislation.
- ADSW acknowledges the concern that the term 'carer's assessment' raises for some carers and this can be stigmatising. ADSW would be willing to discuss with partners, including the Scottish Government,

more appropriate terminology (such as 'Carer's Outcome Plan' as suggested by one council) but we do not believe that legislation is necessary or appropriate.

- The proposal to issue guidance on Carer's Support Plans is out of sync in time and focus with the national and local developments to progress an outcome based approach at the planning stage- as part of the 'Self Directed Support' agenda.

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:

ADSW agrees that more carers should have access to support and this is important for their own well being and that of the person they care for. Furthermore, we need to invest in this area if future demand from demographic change is to be managed. ADSW acknowledges that there is sometimes a lack of clarity about what constitutes 'substantial and regular' and that this may lead to differences across the country. We are not of the view, however, that there should be no test of the level of care provided as-

- this would result in an assessment being offered to all carers irrespective of the support they provide. Rather than widen the support to carers it would actually widen the definition of a 'carer'. We suggest that it is more appropriate to re-define the description of 'eligibility' to ensure carers who need support, but fall under the current point of entitlement, are assessed.
- we agree that carers should have the same rights as service users in terms of access to an assessment but this necessitates having clear criteria upon which both to make an assessment and fairly allocate resources.
- there is insufficient focus at the initial stage of this process (as proposed) on the carers role and contribution to the cared for person and too much focus on the personal circumstances of the person who considered themselves to be a carer. There needs to be a balance.
- the proposal to extend existing duties on assessment to situations where the cared-for person is not eligible for community care services –for example if their needs result from health issues- is unnecessary as this is currently possible within existing legislation.

The emphasis has to remain on the needs of the cared-for person and the impact of caring for that particular person not just the personal situation of someone who regards themselves as a carer.

Notwithstanding the difficulties arising from defining 'substantial and regular' caring if this test is abandoned along with any focus on the cared-for person then the implications for practitioner workloads and service budgets would be unpredictable.

As dealt with later the notion of 'eligibility criteria' for allocating resources to carers based on critical or substantial priority and risk would only be practicable if a carer had a significant input to a cared-for person who also met the same eligibility criteria.

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:

(see point above)

Carers should be able to request support at any time they feel they require this and this position needs to be supported through effective information and communication systems.

ADSW acknowledges that many people would be considered to be carers even if the person supported does not receive formal services. However, the existing carer assessment process does not require the cared-for person to receive services, rather that they 'may' receive them – that is they are eligible in their own right. This is appropriate and sufficient.

The exception to this should be where there are young carers providing support to parents/others who have medical needs only and do not require local authority services at that point.

There is a need for better recording at local level of discussions that do not result in a request for an assessment/ in assessment being declined; need for increased awareness of carers assessments amongst staff and carers. The agreement of the 'Carer's Rights Charter' will also progress this issue and further duties are not required to be introduced.

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:

Yes, on the basis that the request from the carer or the offer from the practitioner is for an assessment (or agreed equivalent) not for a Carer Support Plan).

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

Yes

No

Comments:

ADSW welcomes the removal of the term 'ability' from statute on carers assessment. Emphasis, rightly, should be on engagement with the carer and the cared for person on assessing and planning to meet identified outcomes.

Any assessment preceding the support plan has necessarily to consider the 'capacity' of the carer in its widest sense in order both to measure the impact of caring activity, the likelihood of its continuation and the potential impact on the cared-for person. Social workers have a statutory responsibility to protect and safeguard and part of their assessment will rightly include a consideration of these factors. It is, quite simply, not possible or desirable to silo off part of the social workers role. However, social workers are skilled in balancing such issues and working to enable autonomy whenever possible.

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:

Communication with carers and transparency of organisational operations are both essential and good practice. Many local areas already provide such information.

Imposing such a duty, however, detracts from local discretion to manage conflicting demands with limited resources and would result in a refocusing of resources towards managing the resulting bureaucracy. Furthermore, we should consider, flexibly, the carer's 'journey' in terms of achieving wider outcomes. Over-bureaucratising will not aid best practice. The exercise of professional judgement

is an essential factor.

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

Comments:

ADSW is of the view that it is important that carers assessments are 'portable' and indeed these are often undertaken by other authorities on behalf of the host local authority. However this does not necessarily mean that identified needs and outcomes will be met in the same way as each local authority will allocate resources according to availability and priorities and may also have different services available to meet need.

Currently, an agreement is required between authorities on a carer's services and payment of costs. This should continue as best practice rather than as a statutory duty, maintaining the importance of local democracy and the importance of allocating resources according to local need.

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

xYes

No

Comments:

### Information and Advice

Question 9: 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:

ADSW agrees that services providing information and advice for carers are crucial but do not agree that legislation is required in this respect. Local authorities are required under Self Directed Support legislation to provide independent information and advice and best practice guidance could include the importance of the inclusion of carer issues.

It is essential that local determination is maintained as this flexibility allows for a sensitive consideration of local need and available resources.

It is important that changes for carers do not take place in isolation from wider developments.

Question 10: 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:

ADSW is of the view that this is sensible in the context of health and social care integration. Partnerships will be in the best position to develop joint local approaches to carer information. Such arrangements in the wider sense are locally and nationally accountable.

### Support to Carers (other than information and advice)

Question 11: Should we introduce a duty to support carers and young carers, linked to an eligibility framework?

Yes

No

Comments:

It is not clear whether the proposal here is for a national eligibility framework with nationally set thresholds for services or for a duty on refers to locally designed and managed frameworks. ADSW has concern about both possibilities. Eligibility frameworks are already in operation in local authorities and local discretion is required in the setting of thresholds, taking account of local circumstances. Such a duty would give carers rights not currently allocated to cared –for people but would also undermine local democracy.

In relation to young carers we do not consider such a change to be necessary or helpful. In our view the discretionary powers available should be maintained meaning that the young carer may be assessed as a ‘child in need’ with unmet needs requiring intervention from the local authority. This power - together with the new provisions of the Children & Young People (Scotland) Act 2014- will require us to respond to wellbeing needs of the young person.

This proposal suggests that carers are to be treated as ‘recipients’ of care rather than as equal partners fully involved in planning.

Question 12: Alternatively, should we retain the existing discretionary power to support carers and young carers?

xYes

No

Comments:

Question 13: Should we introduce a duty to provide short breaks?

Yes

No

Comments:

ADSW is of the view that this would lead to a service –led approach and undermine actions to shift professional thinking towards an outcomes –led approach.

There is no evidence that short breaks are the best option for all people therefore this ‘one solution fits all’ proposal fails to acknowledge the individuality of carers and their wishes.

This proposal will place significant financial burden on local authorities that fails to consider the conflicting demands, nationally and locally, that must be met fairly.

## Stages and Transitions

Question 14: 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 are not comfortable with the term ‘stages of caring’ as each individual will present in different ways and needs cannot be predicted- or to occur in a predictable order. Reviews and, most importantly, good professional/ individual/ carer relationships should result in sensitivity to changing circumstances. The value of good relationships in achieving outcomes is well documented in research literature. Statutory guidance is not an adequate replacement for this and is not required.

Question 15: 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:

ADSW agrees that a young carer should be as entitled to a Carer Support Plan if they seem likely to become an adult carer **and** if this is what they would choose. This may be particularly important for young people who have not benefitted from a Child's Plan. Assessment and the provision of information on more formal support services will allow options to be considered by the young adult.

Information provided by young people, however, suggests that they want to be listened to when they may need support and for this to be provided promptly and in a way that suits them. The method used (eg 'plan' used) is of less importance to them.

Of particular importance is to consider the type and relevance of the support that is available to young adults from the time they leave school (where their needs may have been considered through GIRFEC).

The term 'carer support plan' should be replaced. The proposal is that this would not directly result in support prior to the young person's 18<sup>th</sup> birthday. However, a young person assessed as being in need and under duress, regardless of the reason, would and should result in the allocation of appropriate resources and support at whatever time this information becomes apparent.

As in other cases of transition of support between children's and adult services, effective practice and protocols are required within and across organisations.

## Carer Involvement

Question 16: 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: This is consistent with the values and principles that underpin this work, SDS and the integration agenda.

Question 17: 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: as above.

Question 18: 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:

ADSW fully supports this approach.

We also are of the view that further consideration is required around the potential implications of 'undue influence' being exerted by carers- particularly if the 'substantial and regular' test is removed, as proposed. However, this is an area of work that is familiar to social work staff and we suggest that awareness raising and training will support best practice and safeguarding of the individual.

Question 19: 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:

The principle of involving young people in matters that affect them, taking into account their age and stage of development, is well established in law and policy. ADSW supports this approach. It not only recognises their expertise but also opens up pathways to consideration of their own quality of life and support.

## Planning and Delivery

Question 20: 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:

ADSW supports this approach. However, we would question whether it is necessary to legislate in this area and ask what evidence exists to suggest that this practice is not already established/ can be driven forward without recourse to legislation.

Question 21: 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:

ADSW agrees with this in principle but is not of the view that this requires to be within statute. The SDS legislation is sufficient to cover this area and, more importantly, emphasises the meeting of individual outcomes as opposed to the development of services.

## Identification

Question 22: Should there be no legislative provision for GPs or local authorities to maintain a Carers Register in order to support the identification of carers?

xYes

No

Comments:

ADSW is not convinced that legislation over maintaining a Carer's register will result in better outcomes and agrees that there should be no legislative provision in this respect. We are also of the view that it may result in anxiety for carers. Increased partnership approaches and collaboration resulting from health and social care integration and GIRFEC approaches will be more effective in identifying carers who may need support.

Question 23: 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:

Yes. Discussions around the impact of caring the availability of resources and support/ issues of confidentiality/ information sharing and recording/ referral of young people in need etc would be useful.

Question 24: Should the Scottish Government ask Health Boards to monitor compliance with the core contractual elements of the GP contract?

Yes

No

Comments:

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

Question 25: 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:

Should such situations occur it would seem preferable for the authority where the cared-for person is resident to assist a carer in their role rather than the carer's home authority to do so. It is important to retain flexibility so that individual circumstances and outcomes direct actions rather than over bureaucratising matters. Guidance would be helpful.

Question 26: What are the views of respondents on which local authority should cover the costs of support to the carer in these circumstances?

Comments:

We would view it as logical for the authority where the cared-for person is resident to bear the cost of resources which will allow the carer to support their client.

However, if the current requirement that the 'cared-for person is in receipt of services' is removed, then this would not be appropriate and the carer would need to be assessed for support by their own local authority who would meet any costs agreed.

Question 27: Should the Scottish Government with COSLA produce guidance for local authorities?

xYes

No

Comments:

This would be useful. ADSW would hope to be involved in this work.