

**RESPONSE FROM EAST AYRSHIRE COMMUNITY HEALTH PARTNERSHIP  
OFFICER LOCALITY GROUP CHILDREN & YOUNG PEOPLE TO THE  
CONSULTATION QUESTIONS ON THE SCOTTISH GOVERNMENT  
PROPOSALS TO INTRODUCE CARER'S LEGISLATION**

**CONSULTATION QUESTIONS**

This is the response to the questions as they appear, in sequence, in the Consultation Document from the Scottish Government on Carer's Legislation with the response from East Ayrshire CHP Officer Locality Group Children & Young People below:

1. Should we change the name of the carer's assessment to the Carers Support Plan?

**Response:**

The uptake of assessments for carers has been very low and it has been long recognised that the process is not working effectively enough. Some groups believe that the notion of "assessment" with its negative connotations has been a barrier to carers taking up possible services via the assessment process. If by changing the name to something which is more representative of the "provision of support" as opposed to the "provision of assessment", then this should be supported. The consideration of assessed need can arguably be achieved by reducing barriers and taking an outcomes approach in line with the introduction of The Social Care (Self-directed Support) (Scotland) Act 2013, (SDS Act) which came into force on 1 April 2014. It provides a power for local authorities to support carers and means that local authorities can support carers at their discretion. The nature of the conversation with carers will fundamentally change. In East Ayrshire, the Carers Assessment was changed to Carer's Support Plan a number of years ago.

It is correct that young carers should have their wellbeing needs assessed under the *Getting it Right for Every Child* approach. For young carers, there will still have to be an assessment of need under section 23(3) of the Children (Scotland) Act 1995 of children or other persons if asked to do so by the parent or guardian, related to disability.

2. Should we remove the substantial and regular test so that all carers will be eligible for the Carers Support Plan?

**Response:**

In view of the tight financial envelope in which local authorities are having to operate, the Council would need to consider the financial implications of removing the substantial and regular test, as services to adult carers will not be subject to charging from 1<sup>st</sup> April 2014 due to the implementation of the Waiving of Charges for Support (Scotland) Regulations as part of the

introduction of the Social Care (Self-directed Support) (Scotland) Act 2013. It may be more appropriate for a national definition of substantial and regular care to be agreed.

For young carers though the approach has to be in line with section 22 of the Children (Scotland) Act 1995 where Local Authorities have a duty to promote and safeguard the welfare of children in need “because he or she is adversely affected by the disability of any other person in his or her family”. We agree that the approach for young carers should be by means of having their wellbeing assessed, where required, as part of the Child’s Plan under the Children and Young People (Scotland) Act 2014.

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?

**Response:**

Yes. This also appears to be a reasonable approach as the main issue is about providing support to the carer and in many ways the question of whether or not the person they are caring for is receiving community care services/ children’s services is not relevant.

4. Should we introduce two routes through to the Carers Support Plan – at the carers request and by the local authority making an offer?

**Response:**

Yes. This makes sense and is in line with how local authorities should operate in relation to section 22 of the Social Work (Scotland) Act 1968 and their general duty to promote and safeguard the welfare of children in need as per section 22 of the Children (Scotland) Act 1995. Again, this is the existing practice in East Ayrshire.

5. Should we remove from statute the wording about the carers ability to provide care?

**Response:**

Yes. The use of the term “the carer’s ability to provide care” has negative connotations and should be removed from statute. The question should focus on what the carer, including young carer, needs by way of support and assistance to continue in their caring role.

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 Carers Support Plan and if it exceeds this time, to be advised of the reasons?

**Response:**

We would support the proposal for a duty to inform the carer of the length of time it is likely to take to receive the Carers Support Plan provided it does not prescribe what this timescale should be. Again in considering young carers, this should be in line with *Getting it Right for Young Carers – The Young Carer’s Strategy for Scotland 2010 – 15* states that the Scottish Government will continue to support the full implementation of the *GIRFEC* programme and practice model. For example, “In carrying out assessments and reviews and in providing care and support, social work practitioners can look beyond the social or functional needs of the person with the disability, illness or addiction. They can take a more holistic view of how this impacts on their quality of life and their opportunities, and that of other family members. They can involve any young carer in the assessment and review the process, and can ensure that the care package does not rely on any young person carrying out detrimental caring roles. A thorough, timely, individualised assessment is the key to identifying need and to accessing appropriate support”.

It follows from the above therefore, that if the carer does not receive the Carers Support Plan within a reasonable time or if it exceeds the time they were advised it could take, they should be advised of the reasons for the delay. Carers and young carers should be able to access timely information and advice and other forms of early intervention to enable them to care as long as they wish in good health and to have a balanced life alongside their caring responsibilities.

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

**Response:**

We support the principle of having portability of assessments for service user and carers as this is a very important area regarding the need for continuity of service and confidence for carers who may have to move from one Local Authority area to another. However, it depends on the details related to the issues about improved co-operation, communication and protocols between Local Authorities, and access to appropriate information - before any move takes place - about the availability of services and support in the new Local Authority area.

The Consultation Paper states that for young carers the transfer of their Child’s Plan will be governed by the Children and Young People (Scotland) Act and guidance relating to the management and transfer of Child’s Plans. The Child’s Plan will also support the statutory provisions and duties in relation to other children’s plans such as looked after children’s plans and co-ordinated support plans that may include planning to address the wellbeing needs of a young carer. Again, it depends on the details.

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

**Response:**

Yes.

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 Carers Support Plan and support for carers and young carers?

**Response:**

We would support this proposal in principle but much will depend on the details. It is correct that this information should be available to all carers not just those with a Carer's Support Plan or young carers with a Child's Plan. Such a duty on Local Authorities to provide information and advice, if introduced in the legislation, will ensure that young carers and their families are well informed of the range of supports available including short breaks. Health Boards are key agencies in identifying adult carers often at the point of diagnosis and Education Services are the key to identifying young carers which is worth considering in relation to which agencies should have a duty to provide information and advice. These services also provide direct services to carers and young carers in some areas. Community Planning Partners also have an important wider role and while legally they cannot be subject of powers and duties, community planning arrangements should seek to ensure that all community planning partners are playing a role in providing people with information and advice.

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?

**Response:**

Yes.

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

**Response:**

No.

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

**Response:**

Yes. We should retain the existing discretionary power to support carers and young carers. The Consultation Paper states that as from 1 April 2014, Local Authorities will have a *discretionary power* to support carers when the Social Care (Self-directed Support) (Scotland) Act 2013 comes into force. The local authority must carry out a carer's assessment, consider the assessment and then decide whether the carer has needs in relation to the care provided to the cared-for person. If the Local Authority decides that the carer has needs, the Authority then has to consider whether the needs could be satisfied (wholly or partly) by the provision of support and decide whether to provide such support. The support is then provided to the carer by one of the four options for self-directed support set out in the legislation. Young carers too are eligible for support in similar fashion. We believe this is the best option. There are always challenges with the interpretation of eligibility criteria and we believe this allows the best opportunities for providing support with flexibility and can be all inclusive of carers and young carers who do not have a Carer's Support Plan or Child's Plan.

**13. Should we introduce a duty to provide short breaks?**

**Response:**

We would not support a "duty" to provide short breaks. Short breaks are very important for carers and families but they are only one aspect of different supports which can be provided to help carers. We fully agree that short breaks should be made available and offered to carers. However, the Consultation Paper provides a compelling argument against making it a duty which is that – apart from the important issue of cost – any power or duty to support carers already takes account of short breaks provision. Moreover, it could be argued that short breaks provision is an input to produce an outcome of improved carer health and wellbeing, so why concentrate on one input. Also, not all carers want a short break. If we are to ensure all carers receive support proportionate to their needs there could be a risk in introducing a duty that the focus would fall too narrowly on those carers with significant need. A number of Local Authorities delegate the delivery of their carer's service provision to the Third Sector, with retention of substantive and significant cases of need - there could be a funding issue with some Authorities having to balance the funding of for example, Carer's Centres, and funding short breaks directly. Carers can also seek a Direct Payment under current legislation and they also have 4 options to choose from under the provisions of the Social Care (Self-directed Support) (Scotland) Act 2013 which can include short breaks for those carers who favour them as part of their support package.

**14. Should we issue statutory guidance on the Carers Support Plan which will include guidance for those undertaking the Carers 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 Childs Plan through the stages of caring).**

**Response:**

We support the development of practice guidance to support the management of a Child's Plan through the stages of caring with the introduction of an adult Carer's Support Plan, where required, when the young carer becomes 18.

15. Should new carer's 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.

**Response:**

We would support this provision as it can, if carried out properly, ensure a better transition for the young carer from working with child care services to working with adult care services. Careful consideration would have to be given to the needs and stage of readiness of the young carer and whether or not they are already receiving support services. The siblings of young carers often provide varying levels of additional support to the cared-for person and it is the frequency and degree of responsibility the individual young carer may hold which is significantly impacting on or affecting their own development. It should be recognised that transition from child to adult services can take place after a young person becomes 16 but as stated above, we agree that the best age to introduce an adult Carer's Support Plan is when they become 18.

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?

**Response:**

Yes. Carers have a unique role in the life of the person they care for and when we are planning and delivering care for that person, it is important that we involve their carer. As per *Equal Partners in Care – Core Principles for Working with Carers and Young Carers*, NHS Education for Scotland 2013, equality is about having rights and choices. Carers have valuable knowledge to contribute and any decision will have an impact on their caring role. Carers, the cared-for person, and members of staff from health and social services should work together as partners to achieve better outcomes for all involved. Carers, including young carers, have the right to play an equal and active role in care planning and decisions. This does not mean that all carers are the same or that the caring is shared equally. Every carer has a different role but they have the same right to have the support and information they need and to be as involved as they choose to be. Approaches to how we involve carers and young carers have been outlined in various models including: In-Control; Personalisation; and Co-production, which provide sound guidance on how we should seek to work with carers and young carers.

17. Should we make provision for the involvement of carer's organisations in the planning, shaping and delivery of services and support falling outwith the scope of integration?

**Response:**

Yes. Most Third Sector agencies involved in service provision relevant to the roles of carers have very close connections with carer's organisations and this should not pose a major challenge for them. There may be local issues to be addressed across the country related to the relationships between specific carer's organisations and statutory agencies over which the key to resolution would be the presentation of evidence based information on the needs of carers and young carers. From a young carer's perspective, we have very positive working relationships here in East Ayrshire with the providers of services to young carers. The establishment of open and trusting relationships between the partners working in the field is crucial to the success of providing effective carer's services.

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?

**Response:**

Yes. This would be consistent with other strands of policy and legislation such as *Getting it Right for Every Child* and the Social Care (Self-directed Support) (Scotland) Act 2013.

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?

**Response:**

We are in agreement with the proposal for introducing provision for young carer involvement in the planning, shaping and delivery of services for cared-for people and support for young carers. They have not always been treated as equal partners in care. Young carers are providing a valuable support role for their cared-for, loved ones and they should not be excluded from involvement in the provision of services for them all of which can impact on the lives of young carers. The way in which we support young carers to be involved in service provision for their cared-for and for themselves is crucial to how successfully they will be able to participate. This is centrally about establishing trusting working relationships where young carers feel valued, supported and listened to.

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 carer's strategies which must be kept under review and updated every three years?

**Response:**

We agree that the best way forward for local young carer's strategies is within the provisions of the Children and Young People (Scotland) Act 2014 which recognises that the local arrangements for Children's Services Plans already have actions associated with the provision of services for young carers and there is therefore, no need to have a separate statutory provision.

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?

**Response:**

We are not convinced that the best way to stimulate the market is by legislation in the way proposed in chapter 6 of the Consultation Document. Joint Strategic Commissioning of services will be part of Health and Social Care Partnerships and this is the best way to take this forward. In our view, the Third Sector is largely well aware of the opportunities associated with the need for a range of services to support carers and young carers and many of them have taken advantage of this by way of the provision of high quality services, for example, the Carer's Centre in East Ayrshire. We accept that services may not be consistent across the country and suggest that the best way forward is to ensure there is sufficient attention paid to this under the provisions of the Children and Young People (Scotland) Act 2014 with specific focus on services for young carers.

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?

**Response:**

The Consultation Document recognises that GPs already have a register of carers and the example given of proactive working in Lanarkshire highlights that much can be done to identify carers and promote their needs out-with a more focused legislative requirement. We are in favour of rolling out the NHS Lanarkshire example with proper leadership through health and social care integration. GPs play an important role as do other primary care services such as post-diagnostic teams and children's nurses all of whom have a role in identifying carers and young carers, and ensuring they receive the support they require in fulfilling their caring roles. The identification of young carers should also come through Named Persons in universal services as per the Children and Young People (Scotland) Act 2014. Activity in this area could be subject in turn to Spending Review decisions, about the continuation of funding to Health Boards for support to carers and young carers.

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?

**Response:**

As above, this is the favoured approach to this question and we support this proposal.

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

**Response:**

Yes.

25. What are the views of respondents on which local authority should take the lead in undertaking the Carers Support Plan, and agreeing support to the carer where the carer lives in a different local authority area to the cared-for person(s)?

**Response:**

This is not a significant issue for young carers but in general we believe the Authority in which the carer resides should be the lead in undertaking the Child's Plan, and agreeing support to the carer. This is where the Named Person would be situated in terms of the Children and Young People (Scotland) Act 2014 as well as the GIRFEC team around the child. This leaves flexibility for local authorities to work closely together and to have reciprocal arrangements where required.

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

**Response:**

We believe it should be the Authority in which the carer resides.

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

**Response:**

Yes. Guidance would be necessary but there is a need for clarity in law as guidance is subject of interpretation which in deliberation may cause delays. This could be addressed in the legislation to ensure services are provided at the point they are required.

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