

Carers Legislation – Consultation on Proposals – January 2014 - April 2014

Background Summary

The First Minister announced at the Carers Parliament 2013 that there is a Need for carers' legislation to support Scotland's carers and young carers. This would strengthen and extend the rights of carers and young carers.

The principle is to view Carers as providers of a service and to focus on how we can effectively, on a preventative basis support carers and young carers efficiently and, but also to be able to flexibly respond properly to crises situations.

The legislation is seen as a way to build on progress to date ensures greater consistency in support for carers and help achieve better and sustained outcomes.

The consultation on proposed carers' legislation has a number of proposals and suggestions as to what could be included in a Carers' Bill.

North Ayrshire Carers Strategy

North Ayrshire has a strategy that has taken account of many of the proposals in the proposed legislation.

The Carers Assessment (Carer Support Plan)

- To change the name of the Carers Assessment to Carer Support Plan.
- To remove the eligibility criteria that carers require to provide substantial and regular level of support to the cared for person..
- To remove the criteria that the cared for person has to be in receipt of a service from the local authority.
- To retain the requirement that the carer can request the local authority to carry out an assessment (carer support plan) combined with the introduction of a requirement that local authority staff must offer an assessment.
- To remove the wording in existing law that the carers ability to provide care is being assessed.

Information and Advice

Carers have been consistent in stating that access to relevant, accessible, current information and advice is the key to supporting them and the individuals they care for. This was identified as a key priority by carers in North Ayrshire.

- To introduce a duty for local authorities to establish and maintain a service for providing information and advice relating to the carer support plan and support for carers. (CareNA)

Support to Carers (Other than Information and Advice)

The draft legislation raises the question whether to maintain status quo and retain the discretionary power within the SDS Act 2013 to provide a service to carers or to introduce a duty on local authorities to provide direct support to carers dependent upon an eligibility framework. The type of support offered will be left to the decision of the local authority but could include a duty to provide short-break for carers.

Stages and Transitions

The legislation identifies the need for a provision in law for early planning and preparation of a carer support plan for crucial developmental stages such as transitions to adult care.

Carer Involvement

The draft legislation proposes to establish a statutory provision on partnership working whereby each local authority and neighbouring health board must collaborate and involve carers and relevant organisations in the development of local strategies to be kept under review and updated every 3 years. There is a similar proposal to make a provision for carer involvement in the planning, shaping and delivery of support for the people they care for and for carer's out with the scope of integration. This included s young carers.

North Ayrshire fully involved carers in the development of the North Ayrshire Strategy and as a result has established a Carers Strategy Advisory panel to support this approach

Carer Identification

The draft legislation identifies the challenges faced in recognising hidden carers, it proposes a statutory requirement on GP practices to maintain a carer's register with Health boards monitoring this and reporting to Scottish Government and for Local authorities to maintain a similar register.

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

The draft legislation suggests that the carer is assessed/supported by the local authority area in which they live with collaboration from the cared-for person's local authority, with the potential for cross-boundary charging for support provided to carers i.e. short breaks

Summary

The Carers Legislation is a key part of the Scottish Government legislative programme. It links to Integration of Health and social care as well as the SDS Act 2013.

It looks to standardise support to carers in Scotland and establish new duties and powers on local authorities. These are explicit in the List of Questions for Consultation and response (attached)

Key Implications

- Potential duty on Local Authorities to provide support including short breaks to Carers.
- Potential duty on Local Authorities to provide information and advice to carers. This is already a priority in the carer's strategy and will be part of the tender for the Carers Support Service.

- Potential duty for LA to offer carers assessments to carers and for carers to make a request for an assessment.
- Lack of a Financial Framework to fund these developments

Consultation

A draft response has been circulated to SMT, Education and Skills and Carers Advisory Group and feedback has been included in the attached response.

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Carers Assessment (Carer Support Plan)

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

Yes this change in terminology will increase understanding of the assessment process and have an emphasis on outcomes for carers. This is in line with SDS regulations around the supported person's pathway.

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

Only if this is clearly linked to eligibility criteria. It should also acknowledge that advice and support as a preventative measure can be viewed as part of a support plan.

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?

Only if this is clearly linked to the eligibility criteria. Does this refer to service users whose needs do not meet the Councils eligibility criteria, the question is what are the caring tasks being undertaken by the 'carer' in these circumstances?

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?

It is practice and expectation that carers are offered an assessment, clarity that Carers can request an assessment would be beneficial in increasing uptake.

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

We would support the removal of this wording as it has negative implications and the emphasis should be on supporting the Carer to provide care and meeting their outcomes.

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?

This is around service standards and would be supportive

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

This is a principle that is supported and NAC accept the assessments of other authorities. This is an issue and is considered by SDS regulations around portability of support plans. The Ordinary Residence guidelines impacts on this and needs further discussion and clarification.

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

Yes, this is essential if carers are to be fully supported.

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?

This should be linked to the SDS regulations around provision of independent advice. Most councils link to a Carers Centre to provide this. Such a service requires to be costed but in principal is a positive step.

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?

The establishment of CHSCP will support the establishment and promotion of carer information strategies

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?

This would be positive step in particular linked to eligibility criteria

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

See answer to question 9.

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

No short breaks and respite are widely provided. In light of SDS individual support packages should allow individuals to determine what supports would meet their outcomes including short breaks.

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).

Statutory Guidance is welcome if it is not inflexible. Carers should be at liberty to determine their own support under the SDS choice and control principle.

Any guidance should identify stages of care and not be prescriptive in how to support carers through these stages

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 supporting carers through transitions should be a priority

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?

This does depend on individual circumstances, the principle should be that the supported persons should determine planning and shaping their care plan Carers would be an important part of the circle of support.

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

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

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?

Young carers need to be involved in this aspect with appropriate support.

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?

We do involve partners and carers in developing carers strategy if this is introduced then there requires to be guidance to meaning of collaboration and who are the relevant organisations taking account of any procurement issues.

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?

This provision requires further consultation and revision. How does it relate to the councils duties and powers to provide services to vulnerable people under 1968 Act.

Identification

Question 20: Should there be a legislative provision for GPs or local authorities to maintain a Carers Register in order to support the identification of carers?

It would be a suggestion that this is devolved to the new integrated CHSCP to work alongside GP's.

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 monitoring of the use of registers would be positive to ensure support is provided at an early stage to carers.

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

The monitoring and use of carers registers should have some degree of performance management linked to outcomes.

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)?

This is linked to question 7. This is an issue and is considered by SDS regulations around portability of support plans. The Ordinary Residence guidelines impacts on this and needs further discussion and clarification.

It is also linked to Question 8: The Scottish Government and COSLA with relevant interests work together to take forward discussions' around cross boundary support. This is an issue that also relates to Health Boards.

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

See answer to question23. In terms of continuity of care the home authority of the supported person should cover the costs of the carer.

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

Yes this is important in order to standardise responses to carers across Scotland, in particular with cross boundary issues.