

To: [CarersandYoungCarersPolicy@scotland.gsi.gov.uk](mailto:CarersandYoungCarersPolicy@scotland.gsi.gov.uk)

## **Carers Legislation - Consultation on Proposals – January 2014**

My response concerns Chapter 6 - Carer Involvement (questions 14 to 18)

The reason for this response is that my wife was treated under the Mental Health (Care And Treatment) (Scotland) Act 2003 for 15 months against my consent. She received no benefit from her detention or treatment and was ill-treated by dishonest professionals. Despite nearly eight years of campaigning we are still waiting for answers from the various bodies that police this legislation.

There is a conflict of interest between the proposed carers legislation and the Mental Health (Care And Treatment) (Scotland) Act 2003.

This carers legislation states that

“ we propose to make provision for involvement by carers and carers’ organisations in planning, shaping and delivery of services and support in relation to services outwith the scope of integration where carers have an interest.”

“ We also propose to establish a principle about carer and young carer involvement in care planning for the people they care for and support for themselves.

“ The full involvement of carers in this way helps to deliver better quality services and support which are much more personalised and outcome-focussed.

“ the expertise and knowledge of the carer should be used effectively by health and social care professionals”

“Caring Together makes clear that carers are equal partners in care.”

”Carers have a unique role in the life of the person they care for.”

“ They have valuable knowledge to contribute and any decision will have an impact on their caring role. Carers, the person they care for and workers from health and social services should work together as partners to achieve better outcomes for all involved.”

The Mental Health (Care And Treatment) (Scotland) Act 2003 has different views on the carer role e.g.

Section 44 – Short-term detention certificate

s 44(10) Before granting the short-term detention certificate, the approved medical practitioner shall, subject to subsection (11) below, consult the patient’s named person about the proposed grant of the certificate; and the approved medical practitioner shall have regard to any views expressed by the named person.

(11)The approved medical practitioner need not consult a named person as mentioned in subsection (10) above in any case where it is impracticable to do so.

Section 62 – care plan

62 Mental health officer’s duty to prepare proposed care plan

(2)The mental health officer shall, before the date on which, by virtue of section 57(7) of this Act, the application is to be made, prepare a plan (a “proposed care plan”) relating to the patient. .

(3)Before preparing the proposed care plan, the mental health officer shall consult— .

(a)the medical practitioners who provided the mental health reports relating to the patient; .

(b)subject to subsection (7) below, the persons mentioned in subsection (4) below; and .

(c)such other persons as the mental health officer considers appropriate. .

(4)The persons referred to in subsection (3)(b) above are persons who appear to the mental health officer to provide— .

(a)medical treatment of the kind that it is proposed to specify, by virtue of paragraph (d) of subsection (5) below, in the proposed care plan; .

(b)community care services, or relevant services, of the kind that it is proposed to specify, by virtue of paragraph (e) of that subsection, in that plan; or .

(c)other treatment, care or services of the kind that it is proposed to specify, by virtue of paragraph (f) of that subsection, in that plan.

The Mental Health (Care And Treatment) (Scotland) Act 2003 does not work in practice in many cases as can be seen from the views of patients and carers in the closed petition PE01494:

<http://www.scottish.parliament.uk/GettingInvolved/Petitions/mentalhealthlegislation>

Unfortunately this legislation has led to unnecessary deaths, abuse of patients and great stress for many carers.

I strongly feel that the Mental Health (Care And Treatment) (Scotland) Act 2003 needs amended to give the carer more enforceable rights. Under this Act the role of the carer has effectively been replaced by a mental health officer. The simplest way of amending this legislation is for the carer to be able to veto any compulsory treatment e.g. the carer's signature is required on any short-term detention certificate, compulsory treatment order or care plan.