

Carers (Scotland) Bill

Information for network partners and carers

In January 2014 the Scottish Government consulted on new legislation for carers. The proposals set out a range of measures to improve the identification and provision of support to carers, including the introduction of a new duty on local authorities to support carers who are assessed as needing support and who meet locally-set eligibility criteria. This is a change from the current system where local authorities have a power to support unpaid carers if they choose to, but not a duty (which means they have to support carers who meet eligibility criteria.)

The Scottish Government published their response to the consultation in March 2015, and the **Carers (Scotland) Bill** was introduced to the Scottish Parliament shortly after this. This briefing paper summarises the key points of the Bill in relation to adult carers. Most of the Bill is good news and reflects the view of carers, carers' services and other services that were consulted. However there are some areas where improvements could be made and a few areas where significant changes need to be made to ensure the new legislation delivers new rights and real change for carers. We will be campaigning to make these changes as the Bill makes its way through Parliament.

The Bill also makes provisions for young carers, and a separate briefing will be produced with colleagues from the Scottish Young Carers Services Alliance.

Green – proposals that carers are happy with

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| | Carers' Assessments will be called Adult Carer Support Plans. |
| | The 'regular and substantial' test will be removed so that all carers can access an Adult Carer Support Plan. |
| | The requirement that the person being cared for must receive a community care service will be removed. |
| | There will be two routes to assessment – a carer can request one and the local authority can offer one. |
| | The reference to a carer's ability to provide care will be removed. Instead it will refer to a carer being 'willing and able' to provide care. |

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| | Local authorities will have a duty to prepare and publish a Short Breaks Statement. |
| | Local authorities will have a duty to support carers who meet eligibility criteria and also a power to support carers in a preventative manner where they do not meet eligibility criteria. |
| | Guidance will be issued on Adult Carer Support Plans, which will include information on the different stages of caring and the need for a review to address periods of transition for the carer and for the cared for person. |
| | There will be a duty on Local authorities and health boards to involve adult carers, young carers, carer organisations and other relevant organisations in the planning, shaping, delivery and review of services. |
| | Local authorities will be required to take into account the views of the carer when determining the needs of the person being assessed and deciding what services to provide and how to provide them. |
| | There will be a duty on Local authorities to develop and publish local carer strategies and to involve carers in the development of review of strategies. Carer strategies must be reviewed every 3 years. |
| | Where the carer and the cared-for person live in a different local authority area, the local authority in which the carer resides should prepare the Adult Carer Support Plan and they will be responsible for the cost of providing any agreed support. |
| | Local authorities will be required to take into account the care provided by an unpaid carer when conducting an assessment of the cared-for person. Where there is an Adult Carer Support Plan in place they must take account of this. Where there is not they must still take account of the care provided and ascertain that this is what the carer is 'willing and able' to provide. |

Amber – proposals that could be strengthened, and how this could be done

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| Instead of specifying a maximum waiting time for Local Authorities to carry out an Adult Carers Support Plan, they will be required to set out intended timescales in their local carer strategy. | If Local Authorities are required to set out timescales in their local carer strategy, they must be required to set out reasonable timescales so that carers can access a Support Plan in a prompt and reasonable timescale. |
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| <p>Local authorities will have a duty to establish and maintain an information and advice service.</p> | <p>We think that emphasis should be placed on supporting and resourcing existing local carer support organisations and the wording should be changed to <i>'the local authority will have a responsibility to maintain an information, advice and service for carers and young carers, or establish a service where required.'</i></p> |
| <p>The requirement for Health Boards to submit a Carer Information Strategy will be repealed.</p> | <p>With the withdrawal of Carer Information Strategies there is no longer any requirements on Health Boards to identify and signpost carers to support. This will form part of the devolved function of integrated health and social care partnerships, but this does not fully replace the good practice established by Carer Information Strategies.</p> |
| <p>The Government has said they will cover emergency planning in regulations, but that this planning would take place on an individual basis.</p> | <p>We believe that anticipatory and emergency planning is an important issue for carers and should always be part of the Adult Carer Support Plan. While a carer may choose not to put arrangements in place, they should always have the option to do so.</p> |
| <p>There will be a requirement on local authorities to consider if the support provided should take the form of or include a break from caring</p> | <p>The government has decided not to introduce a specific duty on local authorities to provide short breaks. This duty was almost unanimously supported by carers</p> |

Red – The proposals that were missing or that require some changes

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| <p>Local authorities must set local eligibility criteria which will determine whether a carer is eligible for support.</p> | <p>National eligibility criteria is the only way to avoid a postcode lottery and to ensure that carers have access to the same rights and entitlements across Scotland. Locally-set criteria might mean that carers across Scotland are not able to access the same kinds of support depending on where they live.</p> |
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| | There is some provision in the legislation to establish national criteria through regulations, but this is not the default position. |
| Carer involvement in hospital admission and discharge procedures. | The proposals do not include a duty which carers requested which would place a responsibility on health boards to inform and involve carers in hospital admission and discharge procedures. |

What happens next?

The Carers (Scotland) Bill was introduced to the Scottish Parliament on 10 March 2015. Like all Scottish legislation it will go through a 3-stage process, allowing for debate, additional evidence to be gathered and amendments to be made. This allows opportunities for the Carers Bill to be further strengthened and we will be working closely with the Scottish Government, MSPs and other decision-makers, carers and carers' services to ensure this happens. We are already working with MSPs to plan and secure amendments to the 'red' points detailed above.

The Bill will be allocated to a lead committee – probably the Health and Sport Committee – and this committee will scrutinise the Bill, taking evidence from organisations and individuals. It will be important at this stage for carers' organisations to provide evidence in support of the positive aspects of the Bill and also to provide information about where the Bill needs to be strengthened. The National Carer Organisations are working together to ensure that the needs and wants of carers and carer support organisations are represented during this scrutiny process.

For more information about the parliamentary process and how you can be involved in influencing the Carers Bill you can download [Understanding how law is made – A guide for carers](#).

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