



Briefing: Carers (Scotland) Bill February 2016

Purpose: To provide MSPs with information on the context of amendments to the Carers (Scotland) Bill at Stage 3.

Background: The National Carer Organisations have supported the Carers (Scotland) Bill throughout its passage as a positive response to the need to improve and consolidate the rights and entitlements of unpaid carers, and are pleased to see that there is extensive support for its provisions.

The Minister for Sport, Health Improvement and Mental Health has tabled several amendments to the Bill, many of which have been developed in consultation with carers and carers' organisations. The National Carer Organisations will seek to contribute to the development of secondary legislation and statutory guidance accompanying the Bill in order to strengthen many of these amendments.

Government amendments to the Bill

Some of the government amendments to the Bill are small technical changes: consequential or tidying-up amendments, or corrections of minor errors. Exceptions are:

- **Amendments 2 and 6**, which strengthens the need for timescales on delivering adult carer support plans and young carer statements when the cared for person is terminally ill
- **Amendment 10**, which ensures that local carers' strategies outline the processes for supporting carers with emergency planning
- **Amendments 16, 17, 18** which modify Section 32A of the Bill (the carers' charter) to clarify the scope and reach of the charter.

These amendments will help to strengthen the Bill and improve its provisions for carers. **We ask you to vote in favour of these amendments.**

Other amendments to the Bill

There are amendments to the Bill in the name of Rhoda Grant (1, 3, 4, 5, 7, 8, 11, 14, 15, 21 – 32 inclusive, 35, 37, 38, 41, 42, 43, and 44), Nanette Milne (33, 34, 39, 40 and 45) and Jackson Carlaw (36 and 47).

Amendments 1, 3, 5, 7 and 15 – Equal opportunities

Despite commitments within *Caring Together – the Carers Strategy for Scotland* to ensure actions are taken forward with due regard to ‘fully address the equalities perspective’, this has not been evident across local authorities and health boards in Scotland. Amendments 1, 3, 5, 7 and 15 address this oversight by ensuring that equal opportunity requirements in existing legislation are adhered to, and that the impact on a carer who has one or more protected characteristics (as defined in the Equality Act 2010) is taken into account when planning or providing support, information or advice to them.

Amendments 4 and 8 – Future planning

We support these amendments which relate to future planning for a person’s caring role and the care of the person they look after. They require local authorities to include future planning as part of Adult Carer Support Plans and Young Carers Statements. We are clear that emergency and future planning is a health and wellbeing issue for carers and the individuals they care for. Thinking about the future can be very daunting but enabling carers to consider and plan for the future can give peace of mind.

Amendment 11 - Preventative support

This amendment requires local carers’ strategies to include an assessment of how their plans for supporting carers will address carers’ health and wellbeing. In other words, local carer strategies must include preventative support for carers. While the Bill sets out a duty on local authorities to support carers who meet eligibility, it is essential that there is also support in place to protect carers’ health and wellbeing in a preventative way. For example, the services provided through local carers centres ensure that carers are supported in a practical and emotional way, often preventing them from reaching crisis.

Amendments 14 and 24 – Bereavement support

We support these amendments which require local authorities to include bereavement support as part of Adult Carer Support Plans and Young Carers Statements, where appropriate. And to provide information on bereavement support services to carers in the event of the death of the person they care for. Losing someone close to you is devastating, and if you have been caring for that person, the loss can seem even greater. Carers will have many practical things to deal with, including financial issues and navigating the complex benefit system, alongside the emotional impact of losing a loved one. Discussing and having readily available information may make this journey smoother for carers. However, we have a slight concern over the wording in amendment 40: Section 3 (a), where the provisions only apply where a health board can identify “without delay” that a person is the carer, may have unintended consequences. With research showing that three quarters of carers saying that they did not receive the information they needed on admission, diagnosis or discharge, it is important to clarify what this amendment means by ‘delay’, and that carers will be involved as soon as they are identified.

Amendments 21, 41 and 42 – definition and inclusion of young carers and young adult carers

Amendment 21 ensures that young carers who are over the age of 18 and still in education at institutions other than schools are included in the scope of the legislation. Amendments 41 and 42 will ensure that young and young adult carers’ needs will be explicitly taken into consideration when local carers’ strategies are being developed; without these amendments, Section 28 (4)(a) would allow a loophole where post-16 education bodies would not necessarily be consulted.

Amendments 22 and 25 - Preparation of Adult Carer Support Plans and Young Carer Statements

These amendments ensure that planning for carer and young carer support can be carried out by

agencies working in partnership with the local authority, such as carers' centres. As carer support services provide practical and emotional support to carers, and will be key partners in delivering the provisions outlined in Section 31 of the Bill, it is important that these organisations are involved in support planning. Many carers' services in Scotland are delivering carers' assessments successfully, and these amendments will enshrine this structure in law.

Amendments 23 and 26 - Timescales for carer and young carer support planning

These amendments build on those introduced at Stage 2 by the Minister for Sport, Health Improvement and Mental Health to introduce regulations to place timescales on delivering of carer support plans for carers who are looking after someone who has a terminal illness. Amendments 23 and 26 extend this provision by allowing for regulations to place timescales on the delivery of carer support plans for all carers.

Amendments 28, 29, 30 and 31 - Eligibility criteria for carer support

The introduction of local eligibility criteria (as currently provided for in the Bill) will lead to a postcode lottery of support for carers. We fully support the concept of best local practice and scope for local variation to meet varying needs and caring trends. However, we do not believe there is justification for a variation in the levels of need which trigger an entitlement to support.

We support amendments 28 to 31 which would require local authorities to adhere to nationally-set criteria in relation to setting out eligibility for carer support and/or other national matters as required by regulations. Amendment 28 would bring forward regulations to specify the eligible needs relating to carers' eligibility for support. Amendments 29 to 31 strengthens the role of national matters in relation to eligibility criteria, from something local authorities must have regard to, to matters which they must comply with.

Amendments 32, 33 and 34 - Short breaks

Local authorities, in determining what support to provide to an eligible carer, will be required to consider whether the support should be in the form of a break from caring. Providing short break opportunities for carers and cared for people is now widely accepted as vital to sustaining the caring relationship and the health and wellbeing of carers. However government data and other research shows that the availability and choice of short breaks across Scotland varies considerably and there is growing evidence of significant cutbacks to existing levels of service provision.

- **Amendment 32** establishes that the short break's primary purpose must be for the 'benefit of the carer'. This will end the practice of local authorities counting services as a short break when they are primarily for the benefit of the cared-for person. Or in some cases where there is no carer identified.
- **Amendment 33** sets out the need for short breaks to be provided on 'a planned basis', recognising that access to regular, dependable breaks assists carers in reducing stress and sustaining their caring role.
- **Amendment 34** refers to the provision in the Social Care (Self-directed Support) (Scotland) Act 2013 which sets out a local authorities duty in relation to promoting a 'wide range of support' to 'the supported person' This amendment applies the same duty on local authorities to promote a wide range of breaks for carers. At the moment many carers are not able to access a short break because there is no suitable or appropriate provision available in their area to meet their needs. This amendment seeks to address this situation by ensuring there is market sufficiency.

Amendments 35 and 36 – Right of review and/or appeal

Carers currently have the right to complain about services and support offered through existing complaints procedures. The process for this is being considered through amendments to the duties of the Scottish Public Services Ombudsman and through streamlining complaints to integrated services. However, where a carer is told they do not meet eligibility for support it is important that they have a right to appeal this decision. Carers deserve a method of appeal that is easily accessible and delivers real outcomes.

Carers' lives are complex and there are many factors that must be considered in deciding if they have an eligible need for support. For example, they may be older, or have their own health problems. They may have other dependents, such as young children. Or they may be in employment, or have to travel a long distance to fulfil their caring responsibilities. Therefore we support the amendment that local authorities should have a duty and process where a carer is told they are not eligible for support and they wish to challenge this decision.

Amendment 37 – Monitoring and evaluation

We support this amendment. Effective monitoring and evaluation, including establishing a baseline, is vital to ensuring that the Bill achieves its policy objectives and delivers a positive and measurable impact on the quality of carers' lives. This includes monitoring:

- quantity of support provided, e.g. the number of ACSP, YCS and breaks from caring
- quality and impact e.g. carer outcomes achieved
- spend i.e. clearly identifying spend on support to carers
- unmet need.

Amendment 38 - Scrutiny of support services provided to carers

This amendment brings powers to Scottish Ministers to modify the Public Services Reform (Scotland) Act 2010 to include carer support services in definitions of services that are subject to scrutiny (or to make a statement setting out why making an order is not necessary.) We would caution that amendment 38 may be difficult to implement; whilst we appreciate that services provided to carers should be appropriate and suitable, the nature of the services provided (such as emotional support, peer support and counselling) make it difficult to objectively scrutinise the service. In addition, there is wider scrutiny of local authority services through the Care Inspectorate which includes seeking the views of carers on services and outcomes. Similarly, the Public Bodies (Joint Working) Act 2014 has led to development of joint inspections of integrated services, meaning there are multiple existing channels to monitor carers' experiences of services without adding an extra layer of inspection.

Amendments 39, 40 and 45 – Hospital Discharge

In a survey of carers as part of the development of a Carers Rights Charter, the level of dissatisfaction in being treated as a partner in hospital admission and discharge was high. At these key points carers knowledge and experience of the person they care for is vital in helping to achieve the best outcomes for individuals nearly 40% said their experience of involvement on admission was poor or very poor and 45% said the same for hospital discharge. 40% of carers said they felt the person they cared for was discharged too early, with half of those saying this was the case because services were not in place to support them at home. We therefore warmly welcome the inclusion of amendments to ensure that carers are informed and involved in the process of hospital discharge.

Amendment 43 – Register of carers

This amendment places a duty on health boards to develop and maintain a carers' register in their area and to offer carers on the register an annual health check. Identification of carers remains a challenge despite a wide range of initiatives designed to improve this. GPs are in a unique position to

be able to identify carers who may be attending the practice to support the person they look after as well as attending for their own health needs. The carers' register should lead to improved carer identification and trigger an annual health check to determine if the caring situation has changed and whether additional support is required in terms of the carer's own health and wellbeing.

Amendment 44 - Advocacy services

This amendment places a duty on local authorities to ensure carers have access to independent advocacy services, in relation to their caring role. This recognises that caring can involve complex and challenging issues and some carers would benefit from advocacy support to assist them with making informed choices and ensuring that their views are listened to and taken into account when decisions are made about their lives.

We ask you to vote in favour of these amendments.

We are happy to provide further information on any of the above points if required

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