

# THE CARERS BILL

## Improving the identification and provision of support to carers

**The Carers (Scotland) Bill** was introduced to the Scottish Parliament on 9<sup>th</sup> March 2015. This was a necessary and key step towards introducing new legislation to improve the identification and provision of support to carers. This new legislation was promised by the then First Minister, Alex Salmond MSP, at the 2<sup>nd</sup> Carers Parliament in Edinburgh in 2013 (reference: *Carers and Young Carers: Statement of Intent: 1<sup>st</sup> October 2013: The Scottish Government: Edinburgh 2013*)

The Proposals set out a range of measures including the introduction of a new **duty** on local authorities to support carers who are assessed as needing support and who meet eligibility criteria.

As things currently stand, councils have a power to support unpaid carers, but not a duty. This is a very important issue for carers because powers and duties are not the same. A **power** means the council can choose to either do or not do something, whereas a **duty** requires the council to do something by law.

For example, as things currently stand, carers have a right to a carers assessment, but no right to the services they are assessed as needing. Local authorities instead have a **power** to support carers. Given that there are 32 local authorities across Scotland, this means there are 32 different systems operating across Scotland - a real Postcode Lottery. The Carers Bill intends to change this by introducing a **duty** on councils to support carers, where they are assessed as needing support through an Adult **Carer Support Plan** and where they meet **eligibility criteria**.

North Lanarkshire Carers Together accepts that many carers already get excellent support from North Lanarkshire Council or from local carer organisations and other third (voluntary) sector organisations. This is what we aspire towards through our partnership working. But while there is no statutory responsibility to support carers, the system will always lack equity and require people to fight for support. Therefore North Lanarkshire Carers Together welcomes the proposals to introduce a duty on councils to support carers, and the introduction of Carer Support Plans where carers meet eligibility criteria.

However, North Lanarkshire Carers Together is very concerned that local authorities, as represented by COSLA, were insistent that eligibility criteria should be set at a local rather than national level, i.e. by each local authority, and that this has found its way into the Carers Bill. Carer organisations, both local and national, want a national framework of eligibility criteria to ensure equity, fairness and consistency with respect to rights and entitlements across Scotland, and the avoidance of the aforesaid Postcode Lottery. A national framework (note: this is in place in England and Wales) would also

help to ensure that a Carer Support Plan developed and agreed by one local authority, would be transferrable by another local authority should the carer choose to relocate there, thus avoiding the need for reassessment.

North Lanarkshire Carers Together has consulted with carers and worked closely with other carer organisations to respond to the proposals in the Carers Bill. We welcome the excellent and comprehensive response from the national carers organisations (including the Coalition of Carers) that identifies those proposals contained in the Carers Bill that we support, those we would like to see amended and/or strengthened, and those we do not support or those that are missing and now need to be included. These are listed here for your information.

### The Proposals in the Carers Bill we support

1. Carers Assessments will change their name to Adult Carer Support Plans
2. At the moment only carers providing care on a 'regular and substantial' basis are legally entitled to a carers assessment. This test will be removed so that all carers can access an Adult Carer Support Plan
3. The requirement that the person being cared for must be someone to whom the local authority provides a community care service will be removed
4. there will be two routes to assessment – a carer can request one and the Local Authority can offer one
5. Emergency, anticipatory or future planning will be covered in regulations about other information that an Adult Carer Support Plan must contain.
6. The reference to a carer's ability to provide care will be removed. Instead it will refer to a carer being 'able and willing' to provide care
7. Local Authorities will have a duty to prepare and publish a Short Breaks Statement
8. 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
9. 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

### The Proposals in the Carers Bill we want strengthened

1. If Local Authorities are required to set out timescales in their local carers' strategy, they must be required to set out reasonable timescales so that carers can access a Carer Support Plan in timely fashion.
2. Making provision for emergency planning within subsequent guidance does not go far enough. Emergency and anticipatory planning should be included as an explicit requirement within Adult Carer Support Plans.
3. Emphasis should be placed on supporting and resourcing existing local carer support organisations and the wording in the Carers Bill should be changed to

- ‘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.’
4. We are concerned that with the withdrawal of NHS Carer Information Strategies there is no longer any requirements on Health Boards to identify and signpost carers to support. We recognise that this will form part of the devolved function of Integrated Health and Social Care Partnerships. However, the section on identification could be strengthened and reference should be made to the crucial role of all health professionals to identify and signpost carers, to continue the good practice established by NHS Carer Information Strategies.
  5. 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.

### **The Proposals in the Carers Bill we don't support or feel are currently missing**

1. The Carers Bill includes the proposal that Local Authorities must set local eligibility criteria which will determine whether a carer is eligible for support. We believe the eligibility criteria must be national rather than local.
2. The proposals do not include the duty that carers campaigned for, 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 9<sup>th</sup> March 2015. Like all new legislation it will go through a three-stage process, allowing for debate, additional evidence to be gathered and amendments to be made. This allows opportunities for the Bill to be further strengthened. We will continue to work closely with carers and local and national carer organisations to ensure this happens.

For more information about the parliamentary process and how you can be involved in influencing The Carers Bill you can download the Guide: ‘Understanding how law is made: A guide for carers’ at:

<http://www.carersnet.org/briefings/>



