



National Carer Organisations

A Briefing on the Carers (Scotland) Act 2016 Carers' Charter August 2017

This Briefing Paper has been prepared by the National Carer Organisations (NCOs) to support the wider consultation on the Carers' Charter. The requirement to develop and publish the Charter is a key element of the new legislation which will come into force on 1 April 2018. It is important to note that the Charter sets out only the new rights afforded to carers' under the Act and not wider rights which they may enjoy either under existing legislation or as citizens.

The Charter is presented in six sections plus a glossary of terms:

- ❖ Chapter 1 provides definitions of an adult carer, young carer and kinship carer as a means of determining entitlements under the new Act;
- ❖ Chapters 2 & 3 set out the respective rights to an Adult Carer Support Plan (ACSP) and Young Carer Statement (YCS) and gives an indication of what information they should contain;
- ❖ Chapter 4 sets out the right of adult and young carers to support if they meet eligible needs but also, and crucially, what should happen if the threshold for eligible needs is not met;
- ❖ Chapter 5 sets out the right of carers to be involved in planning services whether this is planning at a more strategic level, planning their own support or support for the cared-for person; and,
- ❖ Chapter 6 sets out the right of carers to be involved in the hospital discharge process of the person they are caring for or are going to be caring for.

Importantly, each Chapter contains a section clearly identifying who is responsible for ensuring that this right is not ignored but is met.

There is a separate, related consultation on the draft regulations to support the implementation of the Carers (Scotland) Act 2016 which is open to written submissions until 24 September. More details can be found here <https://consult.scotland.gov.uk/health-and-social-care/draft-regulations-under-the-carers-act-2016/> The National Carer Organisations have also developed an online survey where you can respond to the questions here: <https://www.surveymonkey.co.uk/r/K3B8XSY>. This will include questions on the content of the Charter also.

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NCO position

The National Carer Organisations, in principle, welcome the publication of the Carers' Charter but note the following concerns

In Chapter 1, definitions of a 'carer', 'young carer' and 'kinship carers' are set out. The NCOs believe that the definitions provided are clumsy and have the potential to create confusion, particularly if one of the intentions of the Charter is to support the ongoing identification of carers as yet unidentified and unsupported. From an equalities perspective, a simplified and more straightforward definition would assist in the accurate translation of terminology.

Chapter 2 on the right to an Adult Carer Support Plan (ACSP) could be strengthened by the inclusion of a statement to the effect that the 'regular and substantial' threshold previously in operation by local authorities has been removed. We believe that this will provide additional clarity not only for carers but also for practitioners responsible for undertaking ACSPs. The Chapter also does not make clear what will happen if the carer resides in a different local authority area from the person they are caring for and if local authorities are required to have cross-border arrangements in place. We also believe this Chapter could be strengthened by the inclusion of a statement to the effect that the cared-for person does not have to have a community care assessment in order for the carer to have an entitlement to an ACSP.

In the section, 'what is an adult carer support plan' we would argue for the inclusion of an additional bullet point on arrangements for emergency and anticipatory care planning.

We are also unclear as to the reasons why a local authority would not choose to provide a carer with a copy of their own ACSP and suggest a link or footnote to 'signpost' individuals to the appropriate information.

Chapter 3 is intended for young carers and, as such, needs to be written, or at least made available in child friendly and age appropriate language.

We believe that the wording on when a local authority needs to prepare a young carer statement should be revisited. As currently stands, it would exclude any young carer who did not 'appear' to be a young carer. This is at odds with our view that a child's caring role is not always apparent to a professional outwith the family situation.

We are also of the view that list of suggested inclusions for the statement should be further extended to ensure that information about what actions can be taken to reduce the caring role are considered.

In terms of who receives a copy of the statement, it should also be made clear that the young carer has the right to request that the statement is not passed on to the Named Person if they wish, unless there is a wellbeing concern of the magnitude which would trigger a Child's Plan.

In **Chapter 5**, we would strongly argue that the requirement for local authorities to involve carers in planning carer services must include a statement reminding them of their responsibilities under equalities legislation. We believe this is necessary as a subsequent statement for local authorities and health boards to 'take such steps as they consider appropriate' could be used to circumvent this requirement.

We also note that the legislation uses the terminology of 'willing and able to provide' as opposed to the Charters' 'willing or intend to provide'. We would argue that the language of the Charter be brought into line with the legislation, not only for consistency but also because it is more robust. More clarification is also required about the responsibility of local authorities to provide care and support if the carer is unable or unwilling to take on some or all aspects of this role. Choice is implicit in the terminology of 'willing and able' and this needs to be both understood and respected.

Chapter 6 sets out a new duty on health boards to involve carers in the hospital discharge process and this is a key development warmly welcomed by the NCOs. However, we believe this Chapter could be strengthened by an additional statement that planning for a safe and effective discharge should begin at the point of hospital admission. We would also argue that the Chapter needs to include information on who will be responsible for undertaking an ACSP within the hospital setting, e.g. hospital social work units, and if the ACSP will be offered as an integral part of the discharge process.

Omissions

The NCOs would argue that the Charter can be further strengthened by a stand-alone Chapter on short breaks. Whilst it is briefly included in Chapter 4, the NCOs believe it merits more prominence particularly in relation to the waiving of charges for carers and the requirement on local authorities to have regard to the desirability of planned breaks as a key provision of support for carers.