

Unpaid carers and the Coronavirus Bill – Overview (23 March 2020)



The situation regarding COVID-19 is developing rapidly. We will continue to update this briefing to ensure that you have the most up to date information.

Summary

Millions of unpaid carers and the people they care for across the UK will be affected by COVID-19 and the [Coronavirus Bill 2019-21](#). This includes at least 6.5 million people caring for disabled, older and ill relatives, and many more who may become ill as a result of coronavirus, or other conditions that cannot be treated.

Carers UK fully recognises that emergency measures will potentially be used at a time of extreme need.

We have welcomed some of the measures introduced by the Government to tackle the crisis such as the changes to Statutory Sick Pay and changes to Employment and Support Allowance. We have also welcomed the information and recognition of carers within the [Government's guidance](#).

In this briefing we set out an overview of the Bill, what it currently does, as well as areas we will be raising with MPs and Peers as the Bill goes through Parliament. We have also added some areas not covered by the Bill, but which are important.

Whilst we recognise that different measures may be needed, we need to see a number of key assurances in the Bill to protect and enhance carers' rights and those of the people we care for as well as their financial wellbeing at a time of crisis. This is vital.

Carers UK will continue to work with Governments across the nations, local authorities and health bodies, and carers to ensure that carers are able to access the best information and advice possible to stay safe and well during this difficult time.

Quick points about the emergency Coronavirus Bill:

- The Bill is expected to pass very quickly, it has most stages in Commons and Lords this week.
- It is emergency legislation that can be "switched on" and "switched off".
- It can be used by Government at any point over the next 2 years, but will be reviewed if still in operation after 6 months.
- Government has said that for the health and care sections, they will only be used if local authorities/health bodies are in danger of not fulfilling their statutory duties.
- If it is used, Government expects local authorities to continue to meet as many needs as possible.
- It removes the duty of local authorities (or similar in the Nations) to carry out assessments, and replaces this with a power to do so, and to meet needs, but they must not breach human rights.
- Northern Ireland has different more flexible legislation and is considering effective alignments but may not need to change legislation, This would affect Health and Social Care Trusts.

Key points

- Unpaid carers are under great stress currently, taking extra precautions and going above and beyond what they normally do to ensure their loved ones are safely cared for. At this time of crisis, more is being asked of families and close friends providing unpaid care than ever before. If this

emergency legislation has to be used, then their needs must be considered in the short and longer term.

- If carers are not properly recognised and supported during this emergency then more people will become unwell and need support. We know that this crisis unfortunately comes at a time when social care was extremely stretched. Pre-Coronavirus, 6 in 10 carers already said they had been pushed to 'breaking point', with nearly half (46%) saying they had fallen ill but just had to continue caring¹. This must be taken into account, and emergency measures need to be implemented to provide additional support.
- We recognise some temporary measures will be needed to help local services better deal with Coronavirus, but it is essential that councils (Health and Social Care Trusts (HSCTs) in Northern Ireland) continue to assess the risks and vulnerabilities affecting carers and the people they support, particularly when reprioritising services.
- There are no measures currently in the Bill which protect carers' incomes when they have to give up work in order to care. At a time when Government is needing families to step in where they can, no financial provision has been made for them which needs to be addressed urgently.
- Carers UK also wants to see Carer's Allowance increased in England, Wales and Northern Ireland, to the same level as Scotland (and associated premia), so that carers are better able to deal with this crisis.
- It is essential that carers know when and how emergency provisions will be switched off. Government has stated that they wish this to be used only for the shortest periods of time, but this matters to carers, who are understandably very concerned about how long they may have to manage for. Carers also want to know how services will be restored if they are reduced temporarily. We realise that this is almost impossible to judge at this stage.

Unpaid carers and the Coronavirus Bill

The following are key issues in the Bill which will affect unpaid carers, and those they care for:

- 1. Removing/reducing Local Authorities statutory duties to undertake needs assessments replacing them with powers to meet need – it is essential that the needs of carers are properly considered:**
 - The Emergency Bill guidance proposes amending duties in the Care Act 2014, the Social Services and Wellbeing (Wales) Act 2014, and various legislation in Scotland including the Carers (Scotland) Act 2016. These changes remove the requirement for Local Authorities (LAs) across the UK to carry out needs assessments (of either the person needing care, or the carer), and also remove the need to provide carer support plans / care and support plans. It removes the need to meet eligibility criteria, but LAs must comply with a duty to ensure that the Human Rights Act is not breached, including carer's human rights.
 - Carers UK will be producing a detailed briefing on the health and care aspects of the legislation.
 - We recognise that at a time of extreme crisis, social services may have to slim down assessment processes at a time of emergency.
 - Carers need to see assurances that carers' needs/risks will continue be considered and that processes are robust enough to ensure that blanket assumptions will not be made about family/friends ability to provide support. This is critical to ensure that carers' own vulnerability and health conditions are rightly risk assessed. This is also necessary to ensure the level of care any given carer ends up providing is not in breach of their human rights.
 - We recognise that this emergency legislation comes at a time when the social care system was under extreme pressure and carers and their families were already going without vital services.

Further detail:

¹ [Carers UK \(2014\) Carers at breaking point](#) (accessed 20/03/20)

- **Clauses 14 and 15, and the detail in Schedule 11, Part 1 (England) and Part 2 (Wales) allow local authorities not to carry out full needs assessments for people needing care or for carers.** This affects the relevant legislation for carers under the Care Act 2014, the Social Services and Wellbeing (Wales) Act 2014 and relevant legislation in Scotland e.g. The Carers (Scotland) Act 2016 and regulations from 2018.
 - Carers UK needs to see that there are sufficient safeguards put in that:
 - Ensure that family input is not assumed in case it cannot be provided placing vulnerable adults at additional risk.
 - Ensure that there is sufficient risk assessment of carers' health, wellbeing and ability to care are made. This is to avoid the situation of 2 people needing care in the short and longer term. 970,000 carers are over 80 years old (15% of all unpaid carers)². 390,000 carers are already in poorer health already (6% of all carers)³.
 - That the needs of children who are caring, must be taken account of in risk measures. The legislation does not amend young carers rights under the Children Act 1989.

- **Schedule 11, section 14 allows hospital discharge rules to be suspended.** This is a critical time for carers. 58% of carers already say that the person they care for was discharged too soon without the right social care support resulting in readmission to hospital.⁴ Government has issued new guidance on hospital discharge. Carers UK will be including a more detailed briefing on this later.
 - Including carers well at this stage will be critical to ensure that here is not a revolving door of patients and carers through NHS services. Because existing shortages of social care services, widespread issues with 30-day emergency readmissions to hospital already existed pre-crisis. Nuffield Trust analysis⁵ shows that between 2010/11 and 2016/17 the total number of 30-day emergency readmissions to hospital in England increased by 19.2%, from 1,157,570 to 1,379,790. This will only be exacerbated by the current crisis.
 - Carers UK has asked for assurances that carers will be given the right information, advice, guidance and necessary support to care safely and well for someone. Even though local authorities might be operating under emergency situations, this could have lasting consequences if not regularly provided.

Prioritisation of services: impact on carers and safeguards – Clauses 14, 15 and Schedule 11 allow prioritisation of services by local authorities: There is a very necessary inclusion in the Bill that reducing services should not be in breach of carers' human rights under Schedule 11, section 6, a vital minimum to ensure that carers' human rights are also considered. Carers UK will be looking at what this means in detail and will provide more information shortly.

- **Schedule 11, sections 10 and 25 – Financial assessment** allows local authorities (HSCTs in Northern Ireland) not to carry out a financial assessment. Whilst we agree that this is expeditious at a time of emergency, the provisions allow a financial assessment to be carried out later. The Explanatory Note suggest that costs can be retrospectively applied. Carers UK has urged the Government to consider making care provided during emergency times free of charge.

What will be changing with NHS Continuing Healthcare Assessments?

The Bill allows for these to be “switched off”. Government has issued new hospital discharge guidance in England which states that the NHS will fund care after hospital discharge, in the

² [Age UK \(2019\)](#) (accessed 20/03/20)

³ Census 2011

⁴ [Carers UK \(2016\) Pressure Points, carers and the NHS](#) (accessed 20/03/20)

⁵ [Nuffield Trust \(2018\)](#) (accessed 18/03/2020)

cases where an assessment would have been done, as these complex assessments will not be used. Making sure this care is funded free at the point of delivery is critical.

Switching the provisions under Clauses 14, 15 and Schedule 11 back “off” again:

Carers UK is seeking clarification on the following:

- How a decision be made about how the legislation will be “switched back off” again and the full provisions of the Care Act (and relevant legislation in Devolved Administrations) returned to?
- The conditions that will be sufficient for this to happen? How will nation Governments determine this?
- Carers are obviously asking how long this will be, and how long they have to manage without the right or enough support – which is an extremely difficult question to answer at this time – but becomes increasingly challenging, the longer this situation lasts.

Other issues relating to the Bill:

- 2. The Government should consider a new statutory payment/pay protection for all workers who have to give up work / are unable to work during the Coronavirus crisis, because they have to care full time for people who are ill or disabled:**
 - Carers UK has welcomed some of the measures to support volunteers and the already announced improvements around Statutory Sick Pay, we make an urgent plea to Government to consider family/friends who may not have any choice to give up work to care for someone.
 - The Bill provides for welcome payments, for Statutory Sick Pay, for Employment and Support Allowance and a new payment for volunteers – providing compensation for up to 4 weeks leave.
 - As Government is asking family and friends to step in when services fall short in order to support the health and social care services, we wish to make sure that carers are not financially penalised for doing the very thing that Government needs them to do.
 - Carers UK wants Government to consider creating a new payment to support people who provide unpaid care to a family member or close friend because there is no alternative care available and they have no choice but to give up work to care. These people could face life-changing financial loss of income and need to be supported.
 - Carers UK also wants to see Carer’s Allowance increased (and associated premia) in England, Wales and Northern Ireland to match the provisions in Scotland (our Fairer for Carers campaign calls).
- 3. It is vital that any short-term action taken by Government in tackling Coronavirus that affects existing rights for carers enshrined in the Care Act 2014, and other legislation, are reinstated in full afterwards at the earliest opportunity:** These are fundamental rights that currently exist for carers across England, Wales, Scotland and Northern Ireland, which crucially give them essential support. Carers, many of whom have contacted us already, are extremely concerned about how they will manage, and need every assurance that if services they depend on are cut/removed/not delivered due to the outbreak of Coronavirus, that they will be reinstated in full afterwards.
- 4. Ensuring carers benefits relate to the changed situation around Coronavirus:** Carers have been raising concerns with Carers UK that the changed situation means that Carer’s Allowance rules need to be considered in terms of the types of care being provided and times when the carer is unable to care. Carers UK has asked Government to look urgently at the measures regarding having to provide at least 35 hours of care to be eligible; many carers who do not live with the person are understandably avoiding contact currently, but are still providing care through other measures (e.g. shopping, picking up medication, and emotional support).
 - There may also be opportunity for Devolved Administrations to look at additional payments e.g. Carers Allowance Supplement and Young Carer Grant in Scotland.
- 5. Unpaid carers need to be treated as a priority group to tackle COVID-19:**
 - **Coronavirus testing:** Health and care professionals and key workers should be treated as a priority when it comes to Coronavirus testing. Unpaid carers are also concerned about being able

to take the right course of action, as well as having peace of mind in terms of testing and have asked to be added to a list for testing.

- **Access to Equipment:** there needs to be a clear route for ensuring that where equipment would normally be provided through care companies e.g. sanitary products such as wipes, incontinence products, and disinfectant as well as key medical supplies that unpaid carers have access to supplies of these. In addition, we have said that carers need to have a clear route for getting Personal Protective Equipment if this is necessary.

6. Clear public health guidance for carers being made quickly available: Carers UK is providing guidance for carers on dealing with Coronavirus on a regular basis at www.carersuk.org. Government has started to regularly include advice for unpaid carers in various communications which Carers UK has welcomed. Standalone guidance that brings these elements and addresses the really challenging questions of following contact and self-isolation rules when living with someone or providing essential care, which Government has said they would provide, will be welcome.

7. Planning for emergencies: Provisions should be made to ensure that emergency plans are put in place in advance to support vulnerable people, should a carer become too unwell to care (including if they contract COVID) and have to self-isolate, meaning they can no longer provide care. Additional support needs to be provided to Local Authorities (and HSCTs in Northern Ireland) to assist with this emergency planning.

Get in contact

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