Carers (Scotland) Bill

Dumfries and Galloway Council

1. Background

On receipt of this call for views on the Carers (Scotland) Bill – Stage 1 consideration by the Scottish Parliament Health and Sport Committee, a mini consultation was held between the 7th – 17th April. The 83 key consultees included our Carers Reference Group, Carers Interest Network (a group of service providers commissioned to deliver Carer support services) and other stakeholders (NHS and Social Work). We acknowledge this was a very tight timescale and over the Easter break. There was a 9.6% return rate. We have used comments from our colleagues within this paper, but many key concerns are from the Council’s viewpoint.

2. Do you support the Bill?

There is overwhelming support for the Bill from across respondents from all sectors, however, within social work there is an awareness that this is a bringing together of legislation – much of which already exists (although as ‘powers’ rather than ‘a duty’ - “Duty is a great improvement from powers when looking at Carer issues”).

The Carers (Scotland) Bill leaves this Council in a real dilemma. We recognise the current and increasing demand on Carers and the need to support them to want to take on, and continue in, the role of caring. Indeed, there is a real desire to support Carers as fully as possible as reflected in the joint Carers Strategy for this region. However, we are not alone in that as a Council and a social work department we are under severe fiscal restraints: managing budgets to support people with increasing complexity of need, impact of a growing older population and increased expectations by Carers themselves and Carer support organisations.

The introduction of a universal entitlement by removing the current eligibility criteria to assessment (support planning) for Carers (substantial and regular) without fully understanding the resource implications is of great concern to us at a time when we are under enormous fiscal pressure and despite the promise of funding to support implementation of the legislation. We do not know how many Carers may come forward for a support plan. In fact, we are not fully aware of how many Carers live in this region – we only know the number of Carers who self-identified themselves in the 2011 Census (14,000). We are not confident the predictions for numbers of Carers in future years will accurately reflect the reality, nor of the Scottish Government’s predictions in uptake of the ACSP over the coming years. This could mean that social work will have to direct scarce resources because of legislation rather than to the cared-for person through assessed need.

This Council expects support planning to be an iterative process that reflects the ‘Carer journey’. We expect this may take longer than the previous Carers Assessment. At the moment we do not have any idea what timescales we will
be working to with Carers to ensure a meaningful support plan is co-developed with them, nor the uptake of developing ACSPs through self-developed planning (ie e-ACSPs).

At a time when co-production of plans under SDS are fully expected, we are disappointed that the ACSP in particular is not held by the Carer themselves (as with many hand held medical records) and also subject by legislation to review.

Comments from respondents include:

- “In times of austerity this bill does raise some major challenges how we plan and support an increasing number of carers and young carers over the next 10-20 years and beyond”

- “With regard to Carers having protected characteristics and consideration being made of their needs because of this - is this not encompassed for everyone under the Equality Act 2010?”

While we welcome the potential to raise the profile of Young Carers within the legislation, and the value of planning through transition from Young Carer to adult Carer, we wonder whether this has not already been addressed within GIRFEC with the potential for two support plans to be developed for a Young Carer and the risk of not seeing the whole picture for that young person. Furthermore, the word ‘Statement’ feels judgemental and not as helpful as ‘support plan’.

We know that many Carers refuse a Carer Assessment because of concerns on the overall impact on the family (often a joint) budget. The proposed Bill does not necessarily remove this fear. The duty on local authorities to provide support to Carers where local eligibility criteria (to be set by local authorities) are met, implies that this is not already in place and available to the public. It may also create confusion to Carers who will understand that an ACSP will be free, but not that support services may require them meeting eligibility criteria.

Concerns have been raised among Councils over section 3 of the SDS Act (Waiving of Charges to Carers) which would include the provision of short breaks. The main concern, shared by this Council, is determining who is the main beneficiary of the short break, although there is complexity around this issue with many Carers being unable to take advantage of the short break due to poverty due to being in the caring situation (ie having to give up work) or because the cost would come from a joint family budget that would barely stretch for the respite bed, let alone the Carer having a short break too. The cost of providing even a minimal fund to a limited number Carers (ie all those caring for more than 50 hours a week) for short breaks would cost over £1m in this Council area.

This Council has sympathy with CoSLA’s views on the Carers (Scotland) Bill and question the need for the high level of detail on what would be considered operational matters within the Bill.
3. What do you feel would be the benefits of the provisions set out in the Bill?

We had a number of responses from the consultation – comments that sum up the general repose:

- “The Bill goes a considerable way to ensuring that Carers are supported by rights, within a comprehensive piece of legislation, as individuals in the same way as other groups”

- “The Bill sets out to ensure an improved and consistent approach to support Adult and Young Carers, should they wish to continue, in their role as a Carer”

While we see the potential benefits of Carers legislation as expressed above, this Council remains concerned about overall impact of the introduction of this legislation on workforce capacity and financial cost.

4. How do you feel the Bill could be amended or strengthened?

A number of interesting and valid points were raised by respondents:

- The recognition that Carers legislation requires to link with wider policy review and reform was supported, with recognition that the needs of, and support for, carers cannot be addressed solely through health and social care policy - requiring a holistic approach which takes in consideration wider social and economic determinants e.g. employment, education, welfare and social security and poverty. It was noted that “The requirement to appropriately fund and resource the implementation of the Bill will be key in achieving its outcomes”.

- Most of the duties within the Act are focused on Councils. Some disappointment was expressed with regard to the lack of duty to involve Carers in hospital admission and discharge processes. While Integration might address some of this, this duty may have rested with the NHS and may have given more weight to involving Carers - particularly where Carers are expected to provide a level of care at discharge and those Carers who otherwise might not come into contact with social work services.

- Disappointment was expressed on the lack of reference to Advocacy for Carers. This is particularly of concern for those Carers who are caring for someone who is subject to legislation – and has been missed within the Mental Health (Care and Treatment) (Scotland) Act 2003. This is equally true of the few ‘forensic Carers’ who may also have the above and Criminal Justice proceedings to contend with too. Therefore Carers in these circumstances feel that they would benefit from Advocacy to support their own needs. Currently under Mental Health legislation – advocacy is a right as standard to the ‘Named Person’ while the Carer has no rights and this highlights the inequity of the participants within a mental health tribunal setting for instance.
As a local authority that borders with England and Northern Ireland, clarification of those who are caring for someone across a national border and who will provide the support is required. It is very common to have people providing care from this area to family members who are not within Scotland – sometimes they are just in the next village – but if this is across a border different legislation will apply and different criteria for the provision of care.

5. Is there anything that you would add to the Bill?

No – although many aspects of what is currently within the Bill, perhaps could become Guidance?

6. Is there anything that you would remove from the Bill?

This Council reiterates genuine support for Carers and recognises the valuable role they currently have in the delivery of care – currently and into the future. Various pieces of legislation have been pulled together into a full and comprehensive piece of legislation directed solely at Carers and this brings into focus the vital role that they have, with other providers, in the delivery of care.

As a rural Council we have particular challenges in supporting Carers across the region – particularly those in the more remote parts of the region. We, with our partners within the statutory and other sectors, are working toward changing the culture within our workforces. We recognise that we all at some time in our lives will take on the rewarding, but often challenging, mantle of caring for family or friends and we ourselves would expect to be included and respected as equal partners in care – behaviours that Carers should expect.

A specific outcome related to Carers is included within the Public Bodies (Joint Working) (Scotland) Bill and at strategic and Locality levels we are working to achieve this across the region.

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