Carers (Scotland) Bill

Third Sector position statement

The third sector generally welcomes the Carers (Scotland) Bill and is pleased the Government has brought forward legislation that improves the rights and entitlements of unpaid carers. However, some aspects of the Bill require strengthening and many carers have expressed strong views that in its current form it will not make a genuine difference to their lives or fully deliver the Government’s aims. The wider, challenging context in which the Bill is being progressed must also be acknowledged and will be reflected in submissions from a range of third sector organisations.

In addition, it must also be recognised that measures to improve the identification and provision of support to carers, including the introduction of a new duty on local authorities to support carers who meet eligibility criteria, will have a significant impact across the third sector.

The areas where we believe the Bill requires to be strengthened or amended are:

- **National eligibility criteria for carer support.** The introduction of local eligibility criteria 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 any justification for a variation in the levels of need which trigger an entitlement to support.

- **Emergency planning and future planning for carers.** It has been stated that this will be included in secondary legislation, but we think this is a missed opportunity and provision for emergency planning and future planning should be included as a key part of the Adult Carer Support Plan and Young Carers Statement.

- **The impact of the Bill on the wider third sector.** Increased identification of carers and a duty to provide support to carers will mean that the third sector will experience additional demand on their services. We do not feel that third sector services, particularly dedicated carers’ services, have been recognised sufficiently as part of the duty to provide support to carers.

- **Personal outcomes for carers.** The Bill defines personal outcomes for carers related to their caring role. We believe there should be recognition that carers are entitled to a life outside of caring, rather than just a life alongside caring.

- **A clear equality statement and action plan.** Despite commitments in Scotland’s Carers Strategy to ensure actions are taken forward to improve equality issues in carer support, there is substantial evidence of differential levels of access to services for carers from minority groups. We believe concerted action is now required to drive forward
the limited progress to date and argue strongly that an equalities statement and action plan should be part of the Bill. The fact that most carers are women ensures a gendered dimension is required in assessing the impact of the legislation. Commitments made by the First Minister in relation to gender equality apply in the context of this Bill

• **A duty on hospital discharge.** The Bill does not include a duty on health boards to inform and involve carers in hospital admission and discharge procedures for those they care for, and we believe this to be a significant oversight.

**National eligibility criteria for carer support**

The Bill makes provision for a duty on local authorities to provide support to adult carers who meet local eligibility criteria. Carers were clear in their response to the 2014 consultation on the legislation that they believe eligibility criteria must be **national** rather than **local**. They stated that this is the only way to avoid a postcode lottery and to ensure that carers have access to the same rights and entitlements across Scotland.

We support an amendment to the Carers (Scotland) Bill to replace the requirement on local authorities to develop **local** eligibility criteria with a requirement on local authorities to adhere to **national** eligibility criteria for carer support.

There is an additional briefing paper which outlines the CLEAR reasons why we feel this amendment needs to be made: [5 CLEAR Reasons for National Eligibility Criteria](#)

**Emergency planning**

We are concerned about the lack of emergency planning provision on the face of the Bill and believe the Bill would benefit significantly from the inclusion of a specific provision on emergency planning within **Section 8** and **Section 13**. We would also propose a duty on local authorities to provide information and advice on emergency and future planning within information and advice services for carers (**Section 31**).

We are clear that emergency and future planning is a health and wellbeing issue for carers and the individuals they care for. The omission of emergency and future planning from primary statute is a missed opportunity to have a profound and positive impact on outcomes for carers and the people they care for.

**ENABLE Scotland** are funded by the Scottish Government to deliver their ‘Picking up the Pieces’ project which is analysing the impact of emergency planning, focusing on carer health and wellbeing and the reduced pressure on services. This is guiding their evidence submissions throughout the Bill process. We support **ENABLE Scotland’s** position on emergency and future planning within the Carers (Scotland) Bill and direct the Committee to their evidence submission in this respect.
Impact on the third sector

There are many provisions within the Carers Bill which will have a direct impact on the third sector and will result in additional pressure being placed on third sector resources, particularly on local carer support organisations and condition specific organisations who support carers.

The additional duties on local authorities to provide carers with information and advice and to support carers who meet eligibility criteria will inevitably result in an increase in the number of carers identified and a corresponding increase in demand for services. Previously hidden carers will begin to seek early and preventative support and since the majority of these carers will not meet eligibility criteria it is likely that they will need to access universal support services, provided by the third sector. These services are already operating in a challenging environment, and the implications of the Bill on service provision, funding and capacity must be viewed in a wider policy context that takes this into consideration.

In addition, the Bill includes a provision requiring local authorities to involve and consult carers and carers’ services in the preparation of local carers’ strategies. Whilst we welcome this, carers require support and resources to enable them to participate meaningfully and carer organisations require dedicated resources to deliver this support. To date, the development process for Health and Social Care Partnerships’ integration schemes has not always recognised the capacity of carers and carers’ services to fully participate in shaping integration. Further capacity building will need to be undertaken to support carers and the third sector to engage in more effective ways when preparing local carers’ strategies.

Personal outcomes for carers and young carers

The definition of personal outcomes within Part 4 subsection 1 of the Bill is narrow and, in effect, relates to inputs rather than outcomes. These are defined in Measuring personal outcomes: Challenges and strategies as ‘all the resources a group needs to carry out its activities.’ We agree that identifying the needs (i.e. resources) a carer has for support and services to continue to care safely is vital and is an integral element of the Bill (recognised in 5 (2)).

However, we believe 4(1) should be amended to better define personal outcomes that recognise carers not solely for their caring role but as citizens with aspirations. Caring is a normal part of life but should not mean significant negative impacts on a person’s finances, ability to work and take part in learning, health and wellbeing, social and leisure opportunities. Without defining personal outcomes more fully we risk support to carers being focused solely on sustaining their caring role.

An amendment to address this should be included on the face of the Bill and further defined in regulation. It may be helpful to, for example, refer to Talking

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1 Measuring personal outcomes: Challenges and strategies, IRISS Insights, no.12 (January 2012)
2 Also referred to in policy memorandum “Wider Initiatives” para 15
Points, which is highlighted in the policy memorandum supporting the Bill but not translated into the definitions of personal outcomes within the Bill itself. Talking Points identifies a range of outcomes that are important to carers:

- **Quality of life for the carer:** maintaining health and wellbeing; a life of their own; a positive relationship with the person cared for; freedom from financial hardship

- **Managing the caring role:** choices in caring, including the limits of caring; feeling informed/skilled/equipped; satisfaction in caring; partnership with services

- **Process:** Valued/respected and expertise recognised; having a say in services; flexible and responsive to changing needs; positive relationship with practitioners

**Equalities statement**

Despite a legal obligation to ‘promote equality of opportunity’ for individuals with one or more of the protected characteristics, there is substantial evidence regarding different levels of access to services for carers from minority groups including carers from Black and Minority Ethnic communities, LGBT carers and disabled carers. Despite commitments within *Caring Together* 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.

With the number of BME carers more than doubling in the last decade, the National Carer Organisations believe that more concerted action needs to be taken and are calling for an Equal Opportunities Statement to be included on the face of the Bill. The Scotland Act (1998) allows for Parliament to legislate within parameters (as equality is a reserved matter) to ‘encourage’ equality of opportunity, through ‘the encouragement (other than by prohibition or regulation) of equal opportunities and in particular the observance of the equal opportunities requirements’ and ‘the imposition of duties on Scottish public authorities, and cross-border public authorities in relation to their Scottish functions.’

We suggest that the Bill utilises this mechanism supported by robust monitoring and reporting processes. Local authorities and health boards should be required to develop a statement setting out how they will encourage equality of opportunity for those with protected characteristics to access and benefit from carer support services. Equalities data should be collected and submitted annually to the Scottish Government for monitoring against the statement and publication. Evidence of the process followed in delivering against the Statement should also be included. The Scotland Act powers have

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3 Also referred to in policy memorandum “Key Definitions” para 60 - Talking Points: Personal Outcomes, Practical Guide, Ailsa Cook and Emma Miller, Joint Improvement Team (2012)  
4 Equality Act (2010)  
5 2011 Census
already been utilised within the Regulation of Care (Scotland) Act 2001 and the Mental Health (Care and Treatment) (Scotland) Act 2003 amongst others.

Lastly, we welcome the strong government focus on gender equality outlined by the First Minister – how the Bill will support women who are already experiencing a ‘carer penalty’ must be addressed, especially considering the barriers in relation to the women’s progress and status within the labour market.

A duty on hospital discharge

An admission to hospital often results in a person becoming a carer for the first time, or it can signify that their caring role is in transition as the condition of the person they care for deteriorates and there is an increase in their care needs. Despite these processes stating that ‘patients and their carers are involved and supported in the discharge process’ and that ‘the involvement of individuals, carers and family/representatives is an integral and essential part of admission, transfer and discharge management’ many carers continue to report that their experience of hospital admission and discharge is poor.

To create sustained and consistent improvement, which we believe would benefit both carers and those they care for, the National Carer Organisations believe hospital discharge planning must begin at the point of admission with the full and active involvement of carers. Discharge planning must take account of the level of care that carers are willing and able to provide (if at all) and should put in place additional support or replacement care where required.

This statement has been informed by carers and organisations who work with carers and the people they care for. It is supported by:

Age Scotland  
BEMIS  
Enable Scotland  
Engender  
Health and Social Care ALLIANCE Scotland  
Marie Curie  
MEAD (Minority Ethnic Access Development) Project  
SCVO  
Stroke Association  
Talking Mats