Briefing: Carers (Scotland) Bill
Stage 3 report
February 2016

Carers Trust Scotland has supported the Carers (Scotland) Bill throughout its passage as a positive response to the need to improve and consolidate the rights and entitlements of unpaid carers.

The Bill was debated at Stage 3 on 4 February 2016. It will become an Act of Parliament 4 weeks after being passed. This briefing provides a short summary of the final provisions of the legislation, and details of some key amendments that were not passed at Stage 3.

What the legislation will do

- There are specific definitions of ‘carer’, ‘young carer’ and ‘adult carer’ in the legislation. Rather than focusing on the amount of care someone is providing (whether it is substantial and regular) the legislation ensures that the impact of the caring role on the carer is assessed when deciding whether to provide support.
- There will be a duty on local authorities to prepare an Adult Carer Support Plan or Young Carers Statement for people who identify as carers. Carers and young carers can also request an ACSP or YCS from the local authority. There are certain things which must be included in support planning, such as emergency and future planning, information about the carer’s ability and willingness to provide care, and what the carer’s personal outcomes for support are.
- When the person who is being cared for has a terminal illness, there will be a specific timescale within which to prepare an ACSP or YCS.
- Local authorities must set local eligibility criteria to determine which carers are eligible for support.
- When carers are assessed as meeting these criteria for support, the local authority must provide support to them to meet the eligible needs.
- There must be consideration of whether support to carers should take the form of a short break, and there must be a wide range of breaks available to carers (the same as provided for in the Social Care (Self-directed support) Act 2013.)
- Carers must be involved in planning and development of carers’ services, and in planning of care services for the person they care for.
- Carers must be involved in hospital discharge planning for the person they care for.
- Local authorities and health boards must jointly prepare local carers’ strategies.

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- Local authorities must establish (if required) or maintain an information and advice service for carers that provides information and advice about carers’ rights, income maximisation, education and training, advocacy for carers, health and wellbeing, bereavement support, and emergency planning and future care planning.
- The Scottish Government must prepare a carers’ charter that sets out the rights of carers.
- The impact on a carer who has one or more protected characteristics must be taken into account when planning or providing support, information or advice to them.

Amendments that were not passed

There were several amendments debated at Stage 3 which were not passed into legislation. Sometimes this was because the Scottish Government felt that regulations and guidance would be a better place for some specific issues. Amendments which will be covered in regulations and guidance are:

- The role of third sector organisations in undertaking Adult Carer Support Plans and Young Carers Statements
- Clarifying the definition of short breaks
- Ensuring there is a robust system of monitoring and evaluation to measure the impact of the legislation
- Alongside the current review of social work complaints system, the potential for a review process to be built into the complaints process

There are provisions in the legislation for local authorities to adhere to national eligibility criteria to determine which carers would be entitled to support, if the Scottish Government choose to do this. There was an amendment that would have made national eligibility criteria supersede local eligibility criteria, but this amendment was narrowly defeated in a vote.

There were amendments tabled that would have extended the Scottish Government’s power to scrutinise and inspect carers’ services, but concerns were raised about the desirability and practicality of this, and the amendments were not moved.

An amendment designed to place a duty on health boards to develop and maintain a carers register in their area via GPs and to offer carers on the register an annual health check was withdrawn, as the development of local carers’ strategies would outline how health boards can plan and develop services that meet carers’ needs. There were assurances that health checks would be available to carers who asked for them, and that a blanket requirement would not be appropriate for all carers.
An amendment to require local authorities to provide carers with access to independent advocacy was withdrawn. This is disappointing as access to carer advocacy is very limited across Scotland, and as new rights for carers have increased following the legislation, there may be an increase in demand for carer advocacy in the future. As information has to be provided to carers about the availability of advocacy services for them, this may have

The next stage

The next stage of the legislative process will be the development of parliamentary regulations and statutory guidance to provide a more practical and applied guide to how services will operate under the new legislation. Carers and carers’ organisations will have opportunities to feed in to how this is developed.

The legislation is likely to be implemented in 2017.