



Social Services and Well-being (Wales) Bill

Briefing for Professionals

Stage 1 Assembly Legislative Process

September 2013

Carers Wales very much welcomes the principles within the new Bill which offers a valuable opportunity to consolidate and strengthen legislation relating to carers in Wales.

The Bill as it stands will repeal all existing carers' legislation;

- the Carers (Recognition and Services) Act 1995,
- the Carers and Disabled Children Act 2000,
- the Carers (Equal Opportunities) Act 2004 and
- the Carers Strategies (Wales) Measure 2010.

Carers Wales welcomes the high profile of carers throughout the Bill, which puts carers on an equal footing with those they care for. We are pleased that the Bill relevantly transfers and builds on the provisions in the existing three Carers' Acts, broadening the definition of a carer and positively strengthening carers' rights to an assessment, care and support. We are particularly pleased to see;

- A single duty on local authorities to undertake carers' assessments and the removal of the requirement that a carer must be providing "a substantial amount of care on a regular basis" before they can be assessed. Although any services will be dependent on a carer meeting the eligibility criteria which has yet to be decided.
- A duty on local authorities to meet the assessed needs of carers and to provide and keep under review support plans for carers whose needs are 'eligible'.

We have however raised concerns about some aspects on the draft Bill in our initial consultation response, verbally in Committee and by following up with written evidence when other developments have come to our attention.

Proposed repeal of the Carers Strategies (Wales) Measure 2010:

Carers Wales does not support the proposed repeal of the Carers Measure, the provisions of which are not fully transferred into the Bill.

- the Measure has been widely acknowledged as a flagship piece of Welsh legislation, envied by other countries.
- the Measure is working well so far, with LHBs and LAs making a positive start on providing information and support to carers across Wales
- the local Carers Information and Consultation Strategies are currently at primary legislation level under the Measure, this will be lost under the proposed Bill
- for the first time, the Measure placed a specific statutory obligation on LHBs for carers, as the lead agency for the Carers Strategies. This will be lost under the proposed Bill, it is vital that this specific duty on LHBs is maintained.



We do not understand the rationale in repealing the Carers Strategies (Wales) Measure 2010 and see no legal reason why the Bill and the Measure cannot run alongside each other providing complementary legal duties on LHBs and LAs for carers. Welsh Government's own research states that for 4 out of 5 carers their first point of contact with any statutory agency is with a community based health service ⁽¹⁾. To repeal the Measure at this stage will remove an important legal duty on health bodies for carers and risk the positive progress being made so far across Wales.

We are also not convinced that the Carers Strategies (Wales) Measure will be wholly transferred into the new draft Bill and that carers' status will be reduced if the duty on health to provide Carers Information Strategies is transferred and incorporated into the wider local authority Health and Well-being Strategies.

In the Guidance issued with the Measure, the aims and objectives and the need to identify carers is explicit. It states that the Welsh Government's vision for carers is to:

- Facilitate early identification of carers by the Organisation(s). Thereby improving access by carers to the information and services that they need to help them to care, in order to protect their own physical and mental health. This needs to be done across adult and children's services.
- Ensure that carers receive earlier and more planned support, through local partnerships or joint commissioning involving the NHS, local authorities, the Third sector and the private sector
- Create a cultural change so that carers are empowered in decision making processes around care management and at a strategic level in service planning and delivery.

The duty the Measure places on the NHS is significant. Many more carers have contact with health staff at all levels in secondary care settings and on a more regular basis in primary and community care settings than with other bodies such as social services departments. The lack of a requirement on the NHS to inform and support carers was a major gap in earlier carers' legislation.

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Portability of care plans:

We are also concerned about the explicit exclusion of carers from the portability sections of the Bill. The introduction of a portable care plan was to make sure that when people move from one local authority area to another, they will still be entitled to similar services until the new authority can review their situation. Carers are currently exempt from this portability. One of the key features of the draft Bill is that it aims to provide "equivalent" rights for carers, putting them on a similar legal footing as those they look after and we have recommended that carers should also be afforded this portability of care plans (*Part 4:40*).

(1) Carers Strategies (Wales) Measure 2011 - Guidance to Local Health Board, NHS trusts and Local Authorities).



Other key issues:

Carers Wales has been an active member of the Advisory Group to the Health and Social Care Committee throughout Stage 1 scrutiny of the Bill and has highlighted a number of other key issues which we and other organisations are concerned about. A number of these have been reflected in the recommendations made in the Committee's Stage 1 report.

Eligibility criteria

We are concerned about the lack of details as to how national eligibility criteria for services will be set and on what level of need. It will be essential to have national criteria across all local authorities if we are to avoid a postcode lottery for services.

Wellbeing

The Bill should be more explicit about the link between a person's wellbeing and the need for care and support services. The Bill also needs more consistency about when it refers to 'people with needs' as a whole and 'persons with needs' as individuals. We also believe the wellbeing definition should include a safe home/accommodation.

Preventative services

Services and support such as aids and adaptations can be vital and prevent the need for more complex interventions at a later date. How an individual accesses these services needs to be much clearer in the Bill and specifically refer to preventative services enabling / reabling a person to live their life as independently as possible. There has been some ambiguity about whether preventative services are targeted or universal interventions, we favour targeted preventative services.

Involving the person

The Bill aims to increase voice and control for people, in regards to assessment, care planning and how their needs are met but for this to be realised we feel that there needs to be much clearer reference to how people are going to be actively involved at each stage of the process. This includes access to advocacy and accessible information.

Charges

We are anxious to ensure charges do not become a barrier to receiving care and support services that have a preventative effect or a positive effect on wellbeing. It is important that relevant checks and balances are in place to prevent a wide spread increase in charges.

Access to services

A person's access to services must be supported by a transparent framework that includes the assessment process, where their needs are understood by themselves and the assessor; the eligibility process, where the local authority decides what it will do to meet a person's needs; and any financial or charging thresholds to determine whether and how much a person will contribute to their care.

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