



For the attention of the Scottish Parliament, Health and Sport Committee

Shared Care Scotland's views on the Carers (Scotland) Bill – Stage 1

I am pleased to attach Shared Care Scotland's response to the consultation on the Carers (Scotland) Bill.

Thank you for the opportunity to contribute to this important legislation. Clearly a great deal of effort has been expended to reach this point and the Bill team at Scottish Government is to be commended for this work.

Shared Care Scotland is a national charity that works collaboratively with a wide range of organisations and individuals, including carers and service providers, to improve the quality and availability of short breaks (respite care) across Scotland.

Our comments on the bill are aimed particularly at those parts that relate to the provision of breaks from caring. We have also contributed our views to the National Carer Organisations' (NCO) response which is being sent separately. The NCO response will cover the wider provisions in the bill, as well as breaks from caring.

Don Williamson

Chief Executive

Shared Care Scotland

22 April 2015

THE CARERS (SCOTLAND) BILL

SHARED CARE SCOTLAND RESPONSE

1. The Carers (Scotland) Bill

1.1 On the 9th of March 2015 The Carers (Scotland) Bill was introduced to Parliament. For the first time, the Scottish Government has introduced legislation specifically for unpaid carers.

1.2 We welcome the development of this vitally important legislation which aims to improve the levels and consistency of support to Scotland's estimated 745,000 adult and 44,000 young carers. The legislation will make a significant contribution to improving the lives of carers and those they care for. However we believe there is scope to strengthen and improve key aspects of the Bill. The changes we would like to see made are explained in the following sections.

2. The Carers (Scotland) Bill and Short Breaks

2.1 Providing opportunities to have breaks from caring responsibilities is now widely accepted to be vitally important in helping to protect carers health and well-being, and to sustaining caring relationships. For this reason we agree with government that breaks from caring deserve some prominence within the bill.

2.2 Government data and other research shows that the availability and choice of short breaks across Scotland varies considerably. Furthermore, we know from our own studies¹ that carers often struggle to obtain information about the different short break services available in their area, and how these are accessed.

2.3 These are not recent problems, the Care 21 Report into the future of unpaid care in Scotland highlighted these concerns and consequently promoted the vision, *'By 2014, carers will feel well supported and have a statutory entitlement to regular breaks from caring, with the cared for person, and have ready access to local practical support.'*²

2.4 Given the above, and considering the gulf between the rights of the paid workforce and the unpaid carer workforce (which Scotland increasingly relies on to meet demographic change), we believe there remains a strong case to establish at least some minimum entitlements for breaks, as part of a national framework of eligibility criteria.

¹ Rest Assured? A study of unpaid carers experiences of short breaks, IRISS, Shared Care Scotland, COCIS, MECOPP, 2012

² Care 21: The future of unpaid care in Scotland, Scottish Executive, 2006

2.5 In relation to short breaks the bill includes:

- as part of a general duty to support (referred to above), the Bill requires local authorities to give consideration to whether this support should take the form of a break from caring;
- a requirement on local authorities to prepare and publish a short breaks services statement which sets out the short breaks services available, which are relevant to the persons who live in that area;
- a regulation making power for Scottish Ministers to make further provisions about the preparation, publication and review of short breaks services statements;
- a power on Scottish Ministers to make regulations about the forms of support that would constitute a break from caring. These regulations may make specific provision to deal with cases where the support is delivered through the provision of replacement care, or other services to the cared-for person.

In detail:

3. Duty to Support Carers

3.1 During the initial consultation phase Shared Care Scotland argued that the bill should contain a specific duty on local authorities to provide and promote a range of short breaks to benefit carers and the people they care for. Such a duty would require local authorities to plan and commission provision to ensure there is sufficient supply, choice and flexibility of short break opportunities to meet the needs of eligible families. We proposed that those not reaching the eligibility threshold would be helped with advice, guidance and information to access a range of mainstream services such as accessible recreational and holiday provision, as well as other inclusive community-based leisure activities. We also proposed the establishment of local support funds to help those carers that don't meet eligibility criteria to receive financial help with a break, where they don't have the means to pay for these themselves.

3.2 The Scottish Government has decided not to include a Short Breaks Duty in the bill. Instead the bill contains a general duty (Part 3, Section 22), to provide support to carers. In meeting this duty local authorities must give 'consideration' to whether support should be in the form of a break from caring.

"A local authority, in determining which support to provide to a carer under section 22 (4), must consider in particular whether the support should take the form of or include a break from caring."

3.3 We welcome the general duty to Support carers in the bill but we are disappointed that government has decided not to take this opportunity to introduce an additional specific duty around Short Breaks. In our view, the general support duty, as it stands, does not tackle directly the need for local authorities to actively plan to improve the availability,

choice and flexibility of short break provision. Such a duty exists in England for families caring for disabled children (*a requirement on local authorities to provide services to assist individuals who provide care for disabled children to continue to do so, or to do so more effectively, by giving them breaks from caring*³) and there is evidence⁴ this is having a positive impact. At the very least we would propose that a further addition is made to Section 28 on the preparation of local carer strategies to include specifically plans for developing short breaks provision. This should take account of current provision, an assessment of unmet need, and the demand for different types of break. The aim of a short breaks strategy should be to deliver a range of short break opportunities that better meet people's needs, so that families and people who use services are happier with those services, and consequently that short breaks will be more effective and improve personal outcomes.

3.4 With reference to the duty to 'consider' whether support should take the form of a break from caring, we are concerned how this might be interpreted. In what circumstances might a local authority decide not to provide this support after consideration? Does a duty to 'consider' provide sufficient legal clarity to enable carers to challenge a local authority decision if they feel their short break needs have not been properly addressed?

3.5 We believe that those eligible for support, who have an identified need for a break(s), should be given a clear commitment about the short breaks that will be made available to them. We therefore propose that carers should be offered a quantified, minimum level of short breaks, which would be clearly stated in their Support Plan or Young Carers Statement, and which would be made available through the different self-directed support options.

3.6 Consequently, we also propose that Section 8, 1(h), which specifies that the Adult Carer Support plan should contain, '*information about whether support should be provided in the form of a break from caring*' (this seems a rather ambiguous statement in our view) should be amended to, or at least include the additional statement, '*information about the support which the responsible local authority provides or intends to provide to the adult carer to enable a break(s) from caring*', and similarly for the Young Carer Statement (Section 13, 1(i)).

3.7 The government has already stated that adult and young carers should not be charged for the support they receive⁵ - including any charges related to enabling breaks from caring - and we would expect this position to continue.

³ Regulation four of the Breaks for Carers of Disabled Children Regulations 2011

⁴ http://www.edcm.org.uk/media/31295/commitment_and_transparency.pdf

⁵ Statutory guidance to accompany section 3 of the Social Care (Self-directed Support) (Scotland) Act 2013 and the Carers (Waiving of Charges for Support) (Scotland) Regulations 2014

4. Eligibility

4.1 Part 3, Section 19 of the bill requires local authorities to set their own eligibility criteria and this must be done in consultation with carers and carers' bodies. The bill also states that local authorities must have regard, in setting their eligibility criteria, to any regulations that may be developed by Scottish Ministers. We would expect such regulations to emphasise the importance of policies which promote early intervention and prevention.

4.2 The duty to support will be triggered when a carer's identified needs meet an eligibility threshold which is determined locally. This means that carers in different areas with similar levels of need, and facing similar circumstances, may receive different levels of support as the threshold may be set at different levels. This will include access to breaks from caring too.

4.3 For this reason we fully endorse the National Carer Organisations' position that a National Eligibility Framework be developed - from the beginning - with clearly defined processes for determining individuals' needs, and how these are translated into outcomes and resource allocations. We believe this would achieve greater consistency and equity of support across Scotland than the proposed local approach. We are unconvinced that further regulations to steer the development of local eligibility criteria will produce the desired shift from crisis support to prevention, one of the stated policy aims of the legislation. The National Carer Organisations' response has further details.

5. Short Breaks Statements

5.1 Part 6, Section 32 of the bill requires each local authority to prepare and publish a Short Break Services Statement. This will contain information about the short break services available for carers and the people they care for. The bill also gives Scottish Ministers regulation-making powers to direct local authorities on the preparation, publication and review of Short Breaks Services Statements.

5.2 This is another welcome development and one that we hope will go some way towards overcoming the difficulties faced by carers trying to access information about short breaks in their local area. However, we would expect a statement to go further than just a list of the *'different types and the range of short breaks that might be available'*⁶

It must include at least the following information:

- Details of the range of local short break supports available, and how these reflect the needs and preferences of carers in the area
- Any criteria against which the eligibility for services will be assessed and the process which will be used to do this

⁶ Carers (Scotland) Bill Policy Memorandum

- Details of universally available, inclusive recreation and leisure opportunities in the local area – including provision not subject to eligibility criteria
- Information about how short breaks will be supported through age and stage transitions
- An up-to-date list of key contacts for information and assistance on short breaks
- A named Lead Manager contact with responsibility for the Short Breaks Statement
- (We expect that separate statements will be needed for Children’s services and Adult and Older People’ services.)

5.3 This will ensure greater transparency around how short breaks are accessed and allow comparisons between the different approaches to provision across the country, which may help drive up standards.

5.4 This information must be made widely available and we would therefore like to see local authorities being more proactive in promoting the choice and availability of Short Breaks in their area. For this reason we would propose therefore that Short Breaks provision is added to the list of information and advisory services specified in Section 31 of the bill.

5.5 We would expect the duty to involve carers in carers services (Section 25) to extend to the preparation, monitoring and review of the short break services statement. We would also expect local authorities to co-ordinate the development and production of their statement with their Children Services Plan and other relevant local strategy documents, e.g. Learning Disability strategy.

(ref. Policy Memorandum)

6. Voluntary Sector Short Breaks Fund

6.1 Subject to spending review decisions, the government also proposes to extend the duration of the voluntary sector Short Breaks Fund. This Fund was developed by the National Carer Organisations in partnership with the Scottish Government and is administered by Shared Care Scotland. (The Family Fund administers a separate fund called Take a Break Scotland which provides grants directly to families caring for disabled children and young people.) Between 2011 and 2015 the Fund has distributed £10.3 million to 613 projects benefiting 40,000 carers.

6.2 The continuation of the Fund is to be welcomed. The evaluation of the different programmes year-on-year⁷ has shown the considerable benefits the Fund is delivering to

⁷ <http://www.sharedcarescotland.org.uk/resources/publications/> & <http://shortbreakstories.org.uk/>

carers and the people they care for – many of whom may not have access to statutory services. The Fund cannot and should not replace the responsibilities of local authorities and health to support short breaks, but it can help to enhance and extend the provision available. Through the learning exchange programme, for example, the Fund is contributing to the development of new models of service provision, and is equipping services with new tools and information to help them become more sustainable.

7. Evidencing the Impact

7.1 Establishing key baseline information and a robust monitoring and evaluation framework prior to legislation being enacted will be essential. Many carers we speak to are understandably pessimistic about the extent to which well-intentioned policy and legislation will make any material impact on them personally. Expectations are often raised only to be quickly dashed as promised improvement fails to materialise. Carers must be confident that this legislation will have real ‘teeth’ and that the responsible organisations will be held to account.