

Draft Care & Support Bill, July 2012

Consultation Toolkit for local carers' organisations

This toolkit is for local carers' organisations who would like to respond to the draft Care and Support Bill consultation. You may also find it helpful to use the toolkit to help carers contribute to the consultation.

Top Tips

- 1. Focus on what the Bill means for carers** - you don't have to respond to every part of the Bill. Make the best use of your time by responding to:
 - Clauses 2-3: Information and advice and diversity and quality of services
 - Clause 7: Duty to provide services to prevent of delay needs for care
 - Clause 10: Duty for carer's assessments based on appearance of need
 - Clause 13: Eligibility framework and national eligibility threshold
 - Clause 19: New duty to meet carer's needs for support
- 2. Your views matter** – don't leave something out because you think 'well everyone will say that'. Sometimes it's the number of people all making the same point that causes a change in policy. Changes to policy and proposed legislation are made as a result of responses received.¹
- 3. Relate your response to who you are and what you do** - try to relate your views to your own experiences, the service provided by, or philosophy of, the organisation you represent.
- 4. Focus on what you know** – you are in the best position to inform policy change because you understand how things work in practice. If you know more about a specific area then go for it! Feel free to raise additional points if you think they are not covered sufficiently in the Bill. If you agree with any proposals, say so in your response.
- 5. Back up with evidence** – the best way to make the case for change is by demonstrating what works and why. Try to provide evidence and examples to support your views and argument. This could be number of similar examples or a range of different examples from: your service; your own experience as a carer; your experience working with carers; academic research or materials produced by other charities and local authorities. If you quote from research or other legislation or guidance these should be referenced.

¹ The draft Mental Health Bill (2002) was completely rewritten as result of the level of the response from organisations and individuals

What is the consultation process?

A Draft Bill is a Bill that is published to enable consultation and pre-legislative scrutiny before a Bill is formally introduced into either the House of Commons or House of Lords. This means that any interested individuals and parties such as voluntary organisations can comment on the draft Bill.

You can comment on each part of the draft Bill online and answer questions by topic:

- [Comment by clause](#)
- [Answer questions by topic](#)

What else will happen to the draft Bill?

A Draft Bill is considered, often by a departmental Select Committee in the Commons or by a joint committee of Lords and Members of the Commons. This allows MPs and Members of the Lords to have early influence on the Bill. This process is known as pre-legislative scrutiny.

Key questions to help structure your response

When you are considering your response, think about:

1. *What does the law do?*

- Does it make it easier to understand what people are entitled to?
- Will it help people access the right support?
- Does it leave anything out which you think is important?
- Is it based on the right approach and principles? (e.g. promoting independence and wellbeing, personalisation, recognising carers)

2. *How would the new law work in practice?*

- How will it affect carers?
- What will it mean for local carers' organisations?
- Will it help support good practice?
- Will it make things easier or more difficult?
- How will it work with other areas of law or practice, e.g. recent health reforms?

Carers Trust

3. What does the Bill cover?

- The Bill focuses on care and support – financial, practical and emotional help that support people to manage day-to-day living
- Not everything is covered in the Bill and much of the detail will be in regulations so it's helpful to consider:
 - i. Whether it is appropriate to include all the details in primary legislation
 - ii. How policy and guidance may support and develop good practice
- There will be a further opportunity to feed in your views when the regulations are consulted on. This will be after the Bill has passed through Parliament. Usually Orders and Regulations will be accompanied by draft guidance on implementing the order or regulation; these will explain what the order or regulation does and who it applies to

4. How should I respond?

You can **respond to individual clauses online here** [comment-by-clause](#) or by answering [questions by topic](#) but you are also welcome to submit a **written response** considering the draft Bill as it relates to carers. The address to send your response to is on page 8.

A helpful structure:

- State who you are and what you represent (include contact details)
- Summarise what information you are using to respond e.g. experience supporting carers
- Summarise key points and include:
 - what you welcome and agree with
 - what you disagree with
 - what needs clarification
 - what needs amending
 - any questions for the Government
- Outline key arguments under each question or heading (you may like to consider using the headings below)
- Summarise what you recommend in a conclusion

Answering the consultation Questions

The Government have published five consultation questions. These are broad and overarching questions but you may find it more constructive to comment on individual parts of the Bill and in more detail.

Carers Trust have drafted some additional questions that you may like to consider to help structure your response for considering specific parts of the draft Bill. Carers

Carers Trust

Trust have also produced a detailed briefing and in depth analysis of the contents of the draft Care and Support Bill (Carers Trust Draft Care and Support Bill: Briefing 2). To help cross reference this information, briefing 2 is referenced below.

A short briefing looking at key clauses affecting carers is also available (Carers Trust Draft Care and Support Bill: Briefing 1) and further information on what the Bill means for young carers (Carers Trust Draft Care and Support Bill: Briefing 3).

Questions on specific clauses and parts of the Bill affecting carers

General Duties: Clauses 2-7 (Refer to briefing 2, Section 3)

Consultation question:

- Does the new well-being principle, and the approach to needs and outcomes through care and support planning, create the right focus on the person in the law?
- Do the opening clauses sufficiently reflect the local authority's broader role and responsibilities towards the local community?

Additional questions:

The Government consultation questions apply to broad sections of the Bill rather than specific clauses. Carers Trust has drafted additional questions to help consider in more detail the specific parts of the Bill that will affect carers.

On information and advice (clause 2)

- What types of information and advice should be included under this duty?
- What is needed to ensure access to the right information and advice?
- Who should be involved in providing information and advice?
- Are there any specific issues for carers?

On promoting diversity and quality in the market (clause 3)

- Will this duty help diversify the market?
- What else should the law say to help make this a reality?
- What would you expect to see in guidance on this duty so that local organisations can play a key role?

On cooperating with partners (clauses 4-6)

- Are there any partners missing from those listed?
- Are there any specific circumstances in which this duty should apply?
- Will cooperation work well with all the partners listed? How may this duty help greater cooperation?

Carers Trust

On preventing people's need for support (clause 7)

- Should carers' services be referenced?
- What role will carers' services play?
- Is this duty consistent with other parts of the draft Bill?

Assessment of needs: Clauses 8 – 12 (Refer to briefing 2, Section 4)

Consultation question:

- The law for carers has always been separate to that for the people they care for. Is it helpful to include carers in all the main provisions of the draft Bill, alongside the people they care for, rather than place them in a separate group? (this question relates to all the clauses relevant to carers 9-33)

Additional questions:

On assessments (clauses 9-10)

- What are the benefits of a single duty for assessment?
- Should there be any carer's who are excluded from having a carer's assessment?
- Should this duty apply regardless of the level of carer's resources?
- Should assessment consider outcomes the carer wishes to achieve in day-day life and how they can be supported to help achieve these outcomes?
- Should carer's assessments be carried out at the same time as a needs assessment?
- Should assessments be carried out by someone other than the local authority?

On whole family assessments (clause 12)

- Will this provision help identify young carers or other family members in need of support?
- Is it clear how a whole family assessment relates to the duties to meet needs for care and support and a carer's needs for support and meeting a young carer's needs for support?
- What would you expect to see in regulations and guidance on whole family assessments?

Eligibility: Clause 13-15 (Refer to briefing 2, Section 5)

On eligibility (clause 13)

- Is a national eligibility framework helpful?
- Will a national minimum eligibility threshold help carers?
- Will this change the current situation?

Carers Trust

On charging and assessing financial resources (clause 14 and 15)

- Do these proposals look fair?
- Should any types of service be excluded from the power to charge for services?
- Will it be clearer for local authorities when they should charge carers and when they should charge adults with care?

Entitlements to support and meeting needs: Clauses 17-22 (Refer to briefing 2, Section 6)

Consultation question:

- Does the draft Bill clarify individual rights to care and support in a way that is helpful?

Additional questions:

On the duty and power to meet a carer's needs for support (clause 19)

- Does the new law provide for fair and reasonable access to services for carers who have been found to have eligible needs?
- Is it reasonable for carers who are above the financial limit to request that their needs for support are met?
- Is it reasonable to charge carers for support?
- Is the distinction between provision of support to the carer and services for the adult clear and easy to understand?
- How could this duty be simplified or strengthened?
- Should any carer's be exempt from the duty to meet their needs (including carers subject to immigration control)?

What happens after assessments: Clauses 23-26 and clauses 31-33 (Refer to briefing 2, Section 7)

Consultation question:

- Do the "portability" provisions balance correctly the intention to empower the citizen to move between areas with the processes which are necessary to make the system fair and workable?

Additional questions:

On support planning (clauses 23-24 and 26)

- Are carers sufficiently involved in the care planning process?
- Does the "support plan" include all the relevant information?
- Do you agree that other organisations can carry out plans?

Carers Trust

Personal budgets and direct payments: Clause 25-30 (Refer to briefing 2, Section 8)

On personal budgets and direct payments:

- Do you agree with the definition or a "personal budget"?
- Do you agree that the right to request direct payments will help carers?
- Is it helpful that direct payments can be paid to carers on behalf of the adult who needs care?
- Is the clarification helpful in relation to what should happen if an adult is without capacity to request direct payments?

Safeguarding adults at risk of abuse or neglect: Clauses 34-37 (Refer to briefing 2, Section 9)

On making enquiries and Safeguarding Adults Boards (SABs):

- Will these proposals help protect vulnerable adults?
- Is there anything else they should include in relation to carers?
- Is it clear how local carer's organisations may be involved in the proposed safeguarding processes?

Transitions, young carers and parent carers: Clauses 39-44 (Refer to briefing 2, Section 10)

On young carers and parent carers' assessments:

- Should young carers and parent carers have to request an assessment?
- Should there be a duty to meet their needs?
- Do you agree with the new proposals for young carers at transition?
- Would you change anything about these proposals?

Where do I send my response to and by when?

Carers Trust strongly encourages carers and Network Partners to respond to the consultation and to feed into the Carers Trust response. You can do this in the following ways:

- Organise your own consultation event or contribute to a local consultation response with carers and local partners
- Respond online by answering the consultation [questions by topic](#) or [comment-by-clause](#);

Carers Trust

- Submit your own written response (using the 'additional questions' pages 4-5 to help you). Email or send your consultation response to the Department for Health:

Email: careandsupportbill@dh.gsi.gov.uk

And copy in Carers Trust esmale@carers.org

Or

Write to:

Draft Care and Support Bill Team
Department of Health
6th Floor
Richmond House
79 Whitehall
London
SW1A 2NS

The consultation deadline is 19th October 2012

What do I do if I have a question or need some advice?

Contact

For help, information or advice, please contact:
Emma Smale, Senior Policy & Parliamentary Officer, Carers Trust
esmale@carers.org

Useful Resources

- Carers Trust draft Care and Support Bill Briefing 2: Detailed Briefing Clause by Clause <http://www.carers.org/>
- A shorter briefing is also available – Carers Trust draft Care and Support Bill Briefing 1: Short Briefing on key clause affecting carers and Briefing 3: What does the Bill mean for young carers? <http://www.carers.org/>
- The draft Care and Support Bill http://www.dh.gov.uk/prod_consum_dh
- Easy Read version of the draft Care and Support Bill <http://www.dh.gov.uk/health/files/2012>
- The Law Commission report http://www.dh.gov.uk/health/files/2012/07/2900021-Reforming-the-Law-for-Adult-Care_ACCESSIBLE.pdf
- Department for Health 8 Factsheets <http://www.dh.gov.uk/health/2012/07/cs-bill-factsheets/>