

Briefing 1: Short summary of the Care Bill

The Care Bill simplifies, consolidates and improves existing legislation; “putting carers on an equal legal footing to those they care for and putting their needs at the centre of the legislation”.¹ A copy of the Care Bill can be found [here](#).

The Care Bill is the amended Draft Care and Support Bill. The Bill has been amended following the Joint Committee’s scrutiny (please see Carers Trust’s [submission](#)) and recommendations from both the Dilnot [Report](#) and the Francis [Report](#).

This briefing summarises the key developments from the Draft Bill and outlines the Care Bill as it relates to carers and carers’ services. For an in depth analysis of the Bill clause by clause please read Briefing 2: In depth briefing on the Care Bill.

What’s new and different?

Dilnot recommendations: There are new clauses on long-term social care funding, including a cap on the amount individuals will have to pay over their lifetime on care costs (clauses 15 & 16).

Francis report recommendations: A new part of the Bill covers recommendations from the Francis Inquiry including ratings for care homes and hospitals (Part 2).

Integration: There is an increased emphasis on integration in the Bill particularly between health and social care. This is a crucial area for carers, for example when the person they are caring for is discharged from hospital.

Overarching duties

1.1. Well-being

Clause 1 has been clarified to ensure that the well-being principle applies to carers, as well as adults with care needs. This principle is the driving force behind the legislation.

1.2. Prevention of needs and provision of information

Clause 2 places a duty on local authorities to prevent, reduce and delay needs for care and support. Local authorities must have regard to services in their area and the importance of identifying carers and adults who are not having their needs met.

Clause 4 places a duty on local authorities to establish an information and advice service about the types of care and support available (including financial advice); how they can be accessed and how concerns over others’ well-being can be raised.

1.3. Integration and co-operation

Clause 3 ensures that local authorities will provide services through integrated care and support where it’s in the best interests of adults or carers with needs.

¹ The Care Bill explained: Including a response to consultation and pre-legislative scrutiny [here](#)

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Clause 6 places a general duty on a local authority to co-operate with its relevant partners (local authority service providers) to carry out functions for carers and adults with care needs including: promoting the well-being of individuals, improving the quality of care and support for adults and carers and protecting adults experiencing, or at risk, of abuse and neglect.

1.4. **Service market**

Clause 5 is a new duty for local authorities to create a service market of diverse and high quality service providers. The local authority must be aware of changes in demand and ensure that services are sustainable in their area. Local authorities must give particular attention to ensure sufficient services that enable participation in work, education and training.

Implications

Carers' rights to achieve their day to day outcomes and access information have been improved. The emphasis on prevention will mean that carers should receive support early on and before reaching crisis point. Information and integration of services should make it easier for individuals to access support and plan for their future needs.

Assessments

2.1. **Adult Assessment**

Clause 9 establishes a right for adults to an assessment based on the appearance of needs regardless of financial resources or level of needs. This assessment must take into consideration the wishes of the adult and how the provision of care could achieve day to day outcomes. The adult, their carer, and any other adult requested must be actively involved in the assessment. Whether an adult has friends or family providing care and support will also be considered.

2.2. **Carer's Assessment**

Clause 10 is a new single duty for carers to receive an assessment regardless of their needs for support or their financial resources, or those of the adult that they care for. The assessment must consider how the provision of support would enable a carer to achieve their day to day outcomes.

The assessment must consider whether the carer is willing, and able, to continue to care and have regard to whether the carer is working, training or in education or wishes to do so. The care provided can be practical or emotional support. The assessment must also consider what resources or support the carer can access from family or friends.

2.3. **Whole Family Assessment**

Clause 12 provides that regulations will clarify how assessments are to be carried out but it must have regard to the 'needs of the family of the adult' which should children and other relatives.

Implications

Adults and carers will have the same rights to an assessment on the appearance of needs. For carers this means that the previous requirement to provide 'substantial' and 'regular' care will be removed. The whole family will also be entitled to an assessment. Assessing what capabilities and existing resources a person may have needs careful consideration so that local authorities do not unduly rely on family and friends to provide care and support.

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Eligibility

3.1. Eligibility Criteria

Clause 13 means that national eligibility criteria will apply. Where at least some needs meet the criteria the local authority must consider what could be done. If none of the needs meet the criteria the local authority must still provide a written record of advice on what could be done to reduce, prevent and meet needs.

3.2. Charges and Costs

Clause 14 will allow local authorities to impose charges for meeting the needs or for putting into place arrangements to meet the needs of individuals and carers. Regulations will stipulate the exercise of this power. Carers are not responsible for paying for provision of services to adults needing care.

3.3. Cap on Costs

Clause 15 will prevent a local authority from charging if the total accrued cost of meeting an individual's eligible needs exceeds the cap on care costs. The Secretary of State will have the power to set and amend a cap on costs varying it for different age groups. The cap and accrued costs are to be adjusted according to the same inflation index (clause 16). Progress towards the cap will not include daily living costs.

3.4. Financial Assessment

When a local authority is charging for the provision of a service they must carry out a financial assessment to determine whether and how much the individual can contribute. This will apply to both carers and adults with regulations stipulating how they will be assessed and what they can be charged for.

Implications

After an assessment national eligibility criteria will be applied to the needs of the person. If a charge is incurred then the local authority must complete a financial assessment. All costs to the individual will be accrued in a 'care account'. Regulations on eligibility (due to be published) will be crucial in determining which needs and therefore which carers can receive support from the local authority. Further clarification is needed on which services are defined as to the carer and which are to the adult with care needs.

Duty to meet needs

4.1. Duty and Power to Meet an Adult's Need for Support

Clause 18 places a duty on local authorities to meet an adult's eligible needs provided that the accrued costs do not exceed the cap and that there is either no charge or the charge is at or below the financial limit. If the adult's financial resources are above the limit then they must request that their needs are met and pay the cost. The local authority is not under a duty to meet the needs if a carer is already meeting those needs.

4.2. Duty and Power to Meet a Carer's Need for Support

Clause 20 provides a new legal entitlement for carers to support. If a carer is ordinarily resident or present in the local authority's area and their needs meet the eligibility criteria, the local authority has a duty to meet the carer's need for support. This duty can be met through:

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- **Provision of support to the carer** provided there is no charge, the carer's financial resources are at or below the financial limit, or those with eligible needs and resources above the financial limit ask the authority to meet their needs and pay for charges incurred.
- **Provision of support through care and support to the adult needing care** with the adult's agreement and if there is no charge, if the adult needing care is at or below the financial limit, but if an adult needing care is above the financial limit then they must ask the local authority to meet the needs of the carer and will pay for charges incurred.

If a carer's needs do not meet the eligibility threshold, then the local authority can still meet their needs through the provision of support to the adult needing care with the adult's agreement. A local authority may also provide services to an adult needing care regardless of whether they are under a duty to that adult in order to meet the carer's needs. A local authority can impose a charge for providing these services (clause 14).

Implications

A local authority must meet eligible needs of adults and carers when they have financial resources below the financial limit. They can still be placed under a duty to meet the needs of those with financial resources above the limit but the adult or carer must request that they do so. Any costs for provision of services to an adult with care needs must be met by the adult to whom the service is being provided. If local authorities will not have to meet the needs of an adult if there is a carer already meeting those needs, local authorities could unduly rely on carers to provide care and support.

Care and Support planning

5.1. Support Plan

Clause 24 ensures that where a local authority is under a duty to meet carers needs they must prepare a 'support plan'. The plan must help the carer decide how their needs should be met and which (if any) would be met by direct payment. A carer should be kept informed of the adult's care and support plan (clause 25).

5.2. Budgets

Clause 26 means that a local authority must provide a statement known as personal budget which breaks down the cost of the adult's care when they meet the needs. The breakdown of costs must show what they paid and what is owed by the individual, daily living costs are to be clearly separated.

Clause 28 details that an Independent Personal Budget will record how much the local authority would have had to spend on care and support for those whose eligible needs they are not meeting (not including daily living costs). This ensures that those who choose to spend more on their care are not reaching the cap on costs quicker.

5.3. Direct Payments

Clause 31 states that care and support needs can be met through direct payments to individuals. These are payments by the local authority to an adult enabling them to arrange their own care and support. Where an adult has capacity to make the request it can either be paid directly to them or to a nominated person (this could be a carer). Where a person does not have capacity, an authorised person under the Mental Capacity Act 2005, may receive the payment clause 32.

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5.4. Care Account

Clause 29 establishes care accounts which will record an adult's accrued costs of care. These accounts will record an adult's progress towards the cap on costs. They will be adjusted according to inflation annually and adults will receive regular statements and must be notified when they reach the cap.

Implications

Following the principle that an individual is best placed to judge their own care and support needs the local authority must work with the individual and their carers to decide how needs should be met. Direct payments can be provided to an adult and to carers. The provisions for calculating care costs and contributions towards the cap on care costs need further clarification as it is unclear whether a care account for an adult with care and support needs includes carers.

Safeguarding

6.1. Under Clause 41 local authorities must make enquiries where they 'reasonably suspect' that an adult in their area, in need of care and support and incapable of protecting themselves, is at risk of abuse and neglect (includes financial abuse).

Clause 42 places local authorities under a duty to establish Safeguarding Adults Boards (SABs). Clause 43 ensures that a SAB will carry out reviews into cases where the SAB 'knows or suspects' that an adult has experienced, or has died as a result of, serious abuse or neglect.

Implications

The Bill introduces new adult safeguarding procedures to protect adults from neglect and abuse. Local authorities will have to establish Boards to investigate suspected abuse or neglect, past or present, experienced by adults still living and deceased. The SABs will investigate the cases with a view to learn from past mistakes, but it is not clear how this information will be shared.

Transition from children's to adult services

7.1. When requested, a local authority must assess a child carer's needs when a carer is likely to have needs after the child they are caring for becomes 18. A child carer is defined as any adult, not necessarily the parent providing care to a child (clause 57). Clause 58 stipulates that the assessment must consider: whether the child's carer is willing and able to continue caring upon the child reaching 18, what the carer wants to achieve in day-to-day life and what support could help to achieve those goals. A local authority has the power to meet a child carer's needs for support, clause 59.

7.2. Clause 60 means relates to young carers at transition from child to adult social care only when the authority is satisfied that an assessment would be 'of significant benefit'. When requested by a young carer or parent of a young carer, local authorities will have the power to assess whether a young carer has or will have needs for support upon becoming 18 years old. A young carer's assessment must look at whether the child is able to care, willing to continue to care, what outcomes the young carer wishes to achieve in day to day life and whether provision of support could help achieve those aims.

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Implications

Child carers will still need to request an assessment (when their child is at transition) and that there is no separate provision for parent carers' rights to assessment and support when their child is under the age of 18 years.

What's next?

- 8.1. The Care Bill has been introduced in the House of Lords and is at Committee Stage. To see how the Bill is progressing in Parliament, you can visit the Care Bill page here: <http://services.parliament.uk/bills/2013-14/care.html> Carers Trust will be working with Government and Parliamentarians to seek helpful changes to the Bill for carers. Carers Trust briefings will be available on www.carers.org
- 8.2. **For further information or advice, please contact:** Emma Smale, Senior Policy & Parliamentary Officer, Carers Trust esmale@carers.org
- 8.3. Carers Trust has taken every effort to ensure the accuracy of this document, but cannot be responsible for errors or omissions. This briefing is an analysis of the clauses of the Care Bill which are subject to change during the Parliamentary process. It is not an authoritative statement of the law.