



The Future of Social Care – Opportunity to tell the Government what you think

In the recently published Family Carer Support Service News Digest 18, we gave news of Government proposals to change the structure of adult social care.

Three documents were published, a White Paper called *Caring for our future: reforming care and support*, a *Draft Care and Support Bill*, and *Caring for our future: progress report on funding reform*. The Government is asking for people to give their views on the *Draft Care and Support Bill* which sets out the suggested laws to support the proposals in the white paper. This chance for you to have your say is open until Friday 19th October 2012. You can give your views online, in writing, or by email. Details of where to send your response are at the end of this paper.

We at the Family Carer Support Service would like to make a collective response to the consultation, including your views if you wish to get involved. Family carers' knowledge and experience can be used to provide the Government with key messages they may not otherwise hear. It is crucial that family carer perspectives influence procedures which will affect disabled people and their supporters for many years to come. We give details below of how you can share your thoughts and ideas with us to be included in our response.

The *Draft Care and Support Bill* sets out the laws to support the proposals in the White Paper. The key elements of the White Paper are to:

- focus on people's wellbeing and support them to stay independent for as long as possible
- introduce greater national consistency in access to care and support
- provide better information to help people make choices about their care
- give people more control over their care
- improve support for family carers
- improve the quality of care and support
- improve the integration of different services

As with most legal documents, the *Draft Care and Support Bill* is not an easy read. It is a long document and uses legal terminology that can sometimes make reading and understanding complicated and difficult. Below, we summarise the different clauses of the *Draft Care and Support Bill* to enable you to respond to the points you choose to.

Part 1 –Care and Support

Part 2 – Health

Part 3 – General

Clause 1: Embedding the principle of well-being

This clause sets the context for the all the legal provisions which follow; that the well-being of the individual is of utmost importance and that local authorities must promote the individual's well-being in decisions made with and about them.

Clauses 2-7: Reflecting broader local responsibilities

These clauses place responsibilities on local authorities to:

- provide an information and advice service to help people understand how the care and support system works, what services are available locally, and how to access the services they need now and might do in the future (clause 2)

- promote the diversity and quality of local services, so that there is a range of high quality providers in all areas allowing people to make the best choice to satisfy their own needs and preferences *(clause 3)
- cooperate with other local organisations, work to integrate services (such as social care and health services) to promote well-being, and improve quality and outcomes (clauses 4-6)
- provide services or take steps which are intended to prevent, delay or reduce people's needs for care and support. The focus will be on taking proactive steps and making earlier interventions to reduce dependency, rather than just providing intensive services at the point of crisis (clause 7)

Clauses 8-16: Starting the care and support journey: assessments and eligibility

These clauses set out the process of assessments for family carers, and people who need care and support, and aims to ensure that the focus is on an individual's needs. The clauses:

- give the right to an individual assessment for adults and on for family carers, based on the person appearing to need care and support (clauses 9-12)
- set out the eligibility framework in law for the first time, to provide clarity through regulations on what constitutes 'eligible needs' and how decisions are made about support, and allow for national eligibility to be set in the future (clause 13)
- simplify rules about charging and financial assessment, so people understand any contributions they have to make towards the cost of their support (clauses 14-15)
- Clause 16 allows for regulations to require local authorities to offer deferred payment for care and support and to allow them to charge interest on deferred payments. This means that someone would not have to sell their home to pay for their care. The Government has said it "will work with the care sector on how the deferred payments scheme should work, including who should be eligible and the terms of the arrangement, such as any interest rate".

Clauses 17-22: Clear entitlements to care and support

In the past, different duties and legal tests for different services have caused confusion about who is entitled to care and support. These clauses aim to provide one approach to assessing entitlement, to ensure that levels of care and support offered to people in different parts of the country in a consistent way.

- Clauses 17 and 18 provide a single route of eligibility assessment, and place a clear duty on the local authority to meet an adult's needs for care and support, when the person has been assessed as eligible for support.
- Clause 19 provides the equivalent right for family carers to be provided support where they have been assessed as eligible. This is the first time that family carers have been given a legal right to support.
- Clauses 20 – 22 clarifies the circumstances if the local authority cannot meet care and support needs because the responsibility to provide care and support rests with another organisation, for example the NHS or a local housing authority.

Clauses 23-30: Care planning and personal budgets

- Clauses 23, 24 and 26 explain what must happen after an assessment has been carried out, whether the person has been assessed as eligible for support or not. The clauses include the process of care and support planning to meet needs, and the requirement for ongoing review of care and support plans to ensure the needs and outcomes continue to be met over time. Clause 23 says that when someone is assessed as not eligible for support, they must be given information about support they can get from other organisations.

- Clauses 25, and 28 – 30 provide a requirement for an individual or a family carer (who has been assessed as eligible for support) to be offered a personal budget, to help people to understand the costs of meeting their needs and find out what public funding is available to help them. People will have an entitlement to receive a direct payment, to maximise their control in choosing services and spending their budget on support to meet their needs.

Clauses 31-33: Moving between areas

Clauses 31 and 32 set out:

- 'portability' arrangements so that if a person, and their family carer move home to another area, the new local authority must continue to meet the needs for care and support as in the old area. The care and support will continue until the new authority carries out their own assessments and put a new care and support plan in place.
- a clear rule that where a local authority arranges care including accommodation, of whatever type, in another local authority's area, then the original local authority remains responsible for meeting the person's needs.
- Clause 33 sets out the resolution process where there is uncertainty over where a person is ordinarily resident and therefore which local authority is responsible for meeting their needs.

Clauses 34-38: A new framework for adult safeguarding

These clauses set out the first ever legal framework for safeguarding adults, which specifies local authorities' responsibilities, and those they work with, to protect adults at risk of abuse or neglect.

- Clauses 34 – 36 require the local authority to make enquiries into suspected cases of abuse or neglect, and to establish Safeguarding Adults Boards in their area. The role of the Boards is described in Schedule 1; they will develop shared strategies for safeguarding and report to their local communities on their progress.
- Clause 37 removes local authority powers to remove adults in need of care from their homes (from Section 47 of the National Assistance Act 1948), however, the Government is consulting on a new power to intervene to protect adults from abuse or neglect, as they feel there may be a need to increase powers to protect people. The consultation on a new safeguarding power closes on 12 October 2012.
- Clause 38 States that when an adult has to leave their home for a place to receive care and support, the local authority must protect that individual's property, which could be their home and items in their home.

Clauses 39-44: Transition from children's care and support services

- These clauses give the local authority powers to assess children, young carers and family carers of children under the adult legislation, to make the transition as smooth as possible.
- They set out a new protection to make sure that any service being provided under children's legislation must continue to be provided after the person's 18th birthday, until the assessments and care planning required by adult law have been completed, and adult care and support is ready to meet their needs. This provision aims to ensure there is no gap in care and support at the transition stage.

Clauses 45-53: Other provisions

These clauses propose a number of other important provisions including:

- Updating local authority powers to recover debts, for example where an adult has failed to pay any charges for their care and support (clauses 45-46)

- Restating and rationalising the provisions which focus local authorities and the NHS on reducing delayed discharges from hospitals (clause 47 and Schedule 2)
- Making a number of amendments to section 117 of the Mental Health Act 1983 to remove inconsistencies between aftercare services provided under that Act to people who have been detained in hospital for a mental disorder, and care and support provided under the new draft Bill (clause 48 and Schedule 3)
- Allowing the Secretary of State to issue guidance to local authorities in relation to their functions in this draft Bill. This new statutory guidance will be an important element of the new framework, which will determine the way in which local authorities carry out their responsibilities (clause 50)
- Giving local authorities new powers to delegate some of their care and support functions to other organisations, for instance, the assessment process or care planning (clause 51)

Part 2 – Health

Part 2 of the draft Bill addresses the setting up and responsibilities of new Health departments such as Health Education England and the Health Research Authority. We will not go into detail here of these new departments, however, you can read more about them in the draft Bill which you will find here: <http://careandsupportbill.dh.gov.uk/home/download/>

Part 3 – Miscellaneous and General

Part 3 explains the meaning some of the terminology used in the draft Bill

When will the changes to the care and support system happen?

The proposed changes set out in the draft Care and Support Bill will not happen until the Bill has been passed by Parliament as an Act of law.

There are some changes in the White Paper that will happen sooner:

By the end of 2012, the Government will have:

- appointed a Chief Social Worker (they are recruiting now)
- consulted on a new power for safeguarding adults (consultation closes 12th October 2012)
- set up Healthwatch England, the new consumer champion organisation for both health and social care
- referred an initial list of topics for social care quality standards to the National Institute for Clinical Excellence (NICE)
- published a Social Care Leadership Qualities Framework to complement the existing NHS Leadership Framework
- banned age discrimination in the NHS and care and support system

In 2013:

- there will be one website, nhs.uk, bringing together information on the NHS, social care and public health in one place for the first time
- quality profiles will be available online for every care provider in England
- everyone needing state-funded care will be offered a personal budget as part of their care and support plan
- local Healthwatch will be set up around the country
- a Leadership Forum for social care will be created



- NICE will start to develop a library of quality standards and guidance to improve the quality of care and support
- a code of conduct and minimum training standards for care workers will be published
- there will be a pilot of increasing areas that can use the NHS 111 telephone service to provide advice on care and support
- a £200 million capital fund for specialist housing will open

In 2014-15:

- start up funding totalling £32.5 million will be allocated to support local authorities to develop better online information about local care and support options and services such as self-assessments

From April 2015:

- a national minimum eligibility threshold for care and support in England will be introduced
- Universal Deferred Payments will be introduced