Family Carer Support Service response to:
Caring for our Future: Reforming Care and Support
Draft Care and Support Bill Consultation

Hft's Family Carer Support Service (FCSS) provides information and support to family carers of people with a learning disability anywhere in England.

We do this by responding to individuals who request help by telephone, email and letters; through participative workshop courses so groups of relatives acquire skills and knowledge they need to understand and engage effectively in processes affecting their relative and themselves; the production of resources specifically tailored to the support roles family carers play throughout phases and aspects of their relative's life; and by working in partnership with others to help raise the profile of family carers, their needs and contributions, in research, health and social care, as well as mainstream, initiatives.

This response to the Draft Care and Support Bill consultation is based on written and verbal responses from family carers across the country, practice experience and discussions with colleagues working in other organisations that support family carers.

Our family carer response to the Draft Care and Support Bill begins with issues affecting family carers who have a relative with a learning disability as a whole, this is followed by comments on the relevant clauses of the Bill.

Introduction

Family carers are an integral element, if not the core element, of the circle of support of anyone who needs care and support. It is essential for policy makers, and indeed society, to remember when considering this new law, which will change the social care system for years to come, that it is not only older people to whom this law will apply. People with mental health issues, physical disabilities, and learning disabilities are also affected.

In England, there are estimated to be around 1 million people aged over 18 who have learning disabilities. These people will usually need some level of care and support throughout their adult lives. The majority of people who have a learning disability live at home with their parents, and for the most part, their parents, other family members and friends, will take on the long term role as an unpaid carer.

Research has shown that many aspects of family carers' lives are affected by their caring role, including their health, employment and finances. They often need support to sustain their role as a carer.

Hft's Family Carer Support Service welcomes the increased rights and recognition of family carers in the draft Bill.

Complaints and Advocacy

The draft Bill talks of information and advice, but says nothing about the importance of face to face support. Carers can be drowning in information; when they confront a complex situation or things are not going well what they invariably find most helpful is a person who will help them navigate through difficulties. We believe the Bill needs to include direction on effective complaints and advocacy to avoid crises in caring. Both demonstrate a willingness to support when things go wrong, they encourage learning about how to improve services, and so ultimately help to sustain caring situations as long as possible.

Carers alongside adults needing care and support

The question is asked whether ‘carers’ should be included in all the main provisions of the draft Bill or if they should be placed in a separate group. They should certainly be included in all the main provisions; they are essential to the care and support of a person who is affected by the provisions in the draft Bill, and they should be recognised as such. This is best achieved by referencing carers and their support needs alongside adults who need care and support rather than separating the two.

Consistency of terms

The wording in the clauses of the draft Bill referring to ‘carers’ is inconsistent; at times they are referred to as ‘carer’ and other times as ‘adult’, confusing them with the individual who requires care and support. Throughout this consultation response, we refer to ‘carers’ as ‘family carers’ which includes any family member or friend, who cares for someone who has a learning disability and is unpaid.

Regulations will need to clarify where services for family carer services end and the service of the person needing care and support start.

Charging carers for services

We also think it is a matter of principle that family carers should not be charged for services unnecessarily or at a burdensome rate.

The majority of family carers of people with a learning disability are not able to develop a career, build up savings or a good pension because of the demands of supporting their relative intensively from birth. Early child care is not always possible to fix up, there are numerous medical appointments, therapy routines to follow and hands on learning to help with, plus assessments to attend. Once children with learning disabilities reach the stage of compulsory education any paid work often has to be fitted into the shortened hours of a school day and holiday play-schemes are rarely adequate to cover school holidays. Transition to adulthood invariably means less freedom to work rather than more, as is usual as a family grows up – a full-time college place generally covers 16 hours rather than the usual school week and many of the opportunities open to children with learning disabilities are not available when they are adults.

Unless in exceptional financial circumstances we believe family carers should receive support services for free. If they have any savings they should not have to use them to support themselves in a caring role for another person. Research suggests that carers save the Government over £100billion each year in care costs.

Ordinary residence

We find clauses relating to local authorities’ responsibilities in relation to portability and change of type of accommodation confusing and outline this in more detail below.

Clause 1: Promoting Individual well-being

Annex B - Detailed Notes, states that this clause refers to family carers as well as individuals who need care and support. Clause 1 refers only to ‘adult’; the word ‘carer’ or ‘family carer’ needs to be included to ensure clarification that this clause refers to both. Using only the word “adult” will lead to assumptions that only the adult who needs care and support is included in the clause, not the family carer.

Clause 2: Providing information and advice

We welcome the new duty on the Local Authority to “establish and maintain a service for providing people with information and advice relating to care and support for adults and carers”. However we feel it is not enough only to provide information and advice online or in written form, indeed we take “advice” to be more personal. Often people who need to access information and advice services are experiencing difficult periods of change, potentially in crisis, in addition to other possible vulnerabilities. Many are likely to require face to face support so they can ‘hear’ and use the information about options open to them. We also know that when circumstances are complex or not going well advocacy is extremely valuable. Were a system such as the Independent Complaints and Advocacy Service, currently available regarding health services, to be available within social care this would provide effective support, problem resolution and learning about service improvement.

The duty to provide information and advice should include all carers living in an authority, wherever the person they provide care and support to is “ordinarily resident” and not be restricted as implied in clause 19 to those carers living in the same authority.

Clause 3:Promoting diversity and quality in provision of services

Sub clauses 1(a) and 2(b): in regulations or guidance we would like to see mention of the value of registers of people who have disabilities that are life-long – such as learning disabilities. The Case Register in Sheffield has enabled efficient, economical strategic planning to support individuals and their carers. Such registers also support good Joint Strategic Needs Assessments.

3(4): We will welcome clear regulations explaining who holds responsibility in cases where local authorities “act jointly”.

Clause 4: Co-operating generally

We welcome this clause and believe it will improve care and support to “adults and carers”, through application of the principles of promoting well-being, improving the quality of provision and protecting those at risk of abuse or neglect.

Clause 6: Promoting integration of care and support with health services etc

Again we welcome this clause, especially that it recognises “health-related provision” is important. Relieving anxiety, getting fit, being connected to your community are all important for health.

Clause 7: Preventing needs for care and support

This clause again refers only to ‘adults’. Family carers should be included in the provisions set out in this clause.

7(4): Regulations will need to be clear on what basis a fee can be charged for providing or arranging services, facilities or resources. If on a full-cost recovery this could be detrimental to people needing care and support or their family carers.

Will there be a corresponding recognition that family carers who ‘arrange’ or play a part in co-ordination of self-directed support packages incur costs associated with time and financial expenditure (eg leading recruitment and helping day to day communication with personal assistants, providing supervision, enabling payment through dealing with payroll & HMRC, printing, photocopying etc)?

Clause 9: Assessments of needs for care and support

We understand the intention of 9(1) is not for assessments to take place only where a representative of the local authority decides someone needs, or thinks they may appear to need this, but rather 9(3) that the authority must assess to find out whether or not the adult does have needs for care and support. The initial sentence of this and of clause 10 do not seem to be in synchrony: is there a way of avoiding this?

We like the emphasis on outcomes and consultation with the individual, family carer and any other person the adult asks the local authority to speak to. We believe that even if a family carer has said they are not willing or able to provide care they should still be consulted because of the relevance of their knowledge.

Clause 10: Assessment of Carer’s need for support

We welcome the new definition of family carer and that this relates to the impact of caring on someone rather than the hours they provide support.

We hope regulations will facilitate assessments being used as a baseline from which changing situations may be monitored, unmet need noted and information provided so that even when they do not trigger statutory service involvement they are constructive. As well as an opportunity to talk to family carers about how their caring journey may change in the future (eg the course of dementia), they can also be used to assure family carers that someone has listened, understands the circumstances and provides information about who to contact if circumstances change.

The Carer’s assessment legislation should carry the same weight as the legislation for assessment of the adult who has care and support needs; family carers should have equal rights.

On this basis, Clause 10 should include the same sub clauses for carers as 9(3) which relates to adults needing care and support: ‘The duty to carry out a needs assessment applies regardless of the local authority’s view of – (a) the level of the adult’s needs for care and support, or (b) the level of the adult’s financial resources’ and 9(4): ‘A needs assessment must include an assessment of – (a) the outcomes that the adult wishes to achieve in day-to-day life, and (b) whether, or to what extent, the provision of care and support could contribute to the achievement of those outcomes’.

The list in 10(6) should also reflect the list in 9(5), adding the individual who needs care and support to the list as someone who should be consulted, where possible, by the Local Authority in carrying out an assessment.by the Local Authority in carrying out an assessment.

We are pleased the right of carers to have employment, study or train and have leisure time are established in Clause 10(5). However this sub-clause should not mean that family carers beyond working age are assumed to be ‘free to care’ and disadvantaged in assessment outcomes. Prevention and well-being principles should protect them from having to feel they must say they are willing to provide care and support.

We support the inclusive nature of 10(8) which acknowledges that the line between unpaid family carer, volunteer and contracted person can sometimes be less definite than others.

Clause 11: Refusal of assessment

This clause is omitting two less common, but important circumstances. Firstly, legislation should be in place for a situation when the family carer refuses an assessment and the person who needs care and support is then put at risk. Secondly, a sub clause reflecting that of 11(2)(b) needs to relate to a family carer: a local authority …'must carry out a needs assessment if the carer is experiencing, or is at risk of, abuse or neglect'.

Clause 12: Assessment under sections 9 and 10: further provision

We welcome that regulations about assessments will give direction on the matters listed as to how they should be undertaken.

We think it would be wise to give clarity of the power of the contracted 'person with expertise in a specified matter' to influence the final decision on service provision, how the Government will keep this regulated and where responsibility lies in final decision making. There are also concerns about information sharing with external agencies and the transparency of this process. We hope these will be addressed in regulations.

Clause 13: Eligibility Criteria

We are pleased in Clause 13(3) that local authorities will have flexibility to set their own level of eligibility below any national criteria.

Clause 14: Power of authority to impose charges

This clause does not state whether it applies to registered or non-registered care. The rules which apply to each, as far as we understand, are very different. This needs urgent clarification.

It is not clear in this clause where family carers' services end and services for the individual who need care and support start. This needs to be clarified to prevent family carers being incorrectly charged for the services of the person who needs care and support.

Your 'Factsheet 5: The draft Care and Support Bill - The law for carers' says "in recognition of the contribution that carers make to the local community, in most cases local authorities will not charge for providing support to carers". This must be clearly reflected in Care and Support Bill clauses and regulations to ensure family carers are not charged for services they should not be. Our introductory remarks refer to the reasons for the financial situation that most long-term family carers of people with a learning disability find themselves in.

We look forward to the opportunity provided by consultation on draft regulations, which will allow feedback to the Government on the threshold level of entitlement to free care and support services for family carers and for the person who needs care and support. This information is extremely important in considering whether care and support will be affordable, easily accessible and helpful to family carers and individuals.

Clause 15: Assessment of financial resources

Although this mainly refers to adults who need care and support (including their requirement to be financially assessed if providing them with a service will support their family carer) we would welcome confirmation that family carers' homes will not be put at risk and so result in them having to choose between losing their home or going without support. If this were the case carers will be dissuaded from asking for support that they may need.

Clause 19: Duty and power to meet a carer’s needs for support

It must be made clear in subsection 1(a) that the family carer does not have to be ordinarily resident in the local authority area of the person they care for.

We welcome the emphasis put on what happens after assessment.

Clause 23: The steps for the local authority to take

Sub clauses 1(b) and (c) make reference to “the adult”. Is this the person who needs care and support under section 17, the family carer who has been assessed under section 19, or both?.

Family carers should also be offered a Direct Payment to allow them choice and control of how their assessed needs will be met. Flexibility is essential to support people in a personalised way. We propose that the term “adult” in these sections is changed to include both the family carer and the person in need of care and support.

Sub clause 2 is of key importance; we trust that regulations will give good direction on how best to use 23(2)(c) in supportive, preventative ways.

Clause 24: Care and support plan, support plan, and
Clause 25: Personal Budget

We welcome the content of clauses 24 and 25 but offer a few observations.

Family carers and individuals must understand their support plan, or care and support plan. We suggest it is written into the draft Bill that the plan is written in a way that can be easily understood, to be used by the family carer or individual. We say this because accessibility is not always considered when drafting what in future will be called ‘carer and support plans’ or ‘support plans’ for people with learning disabilities.

Care and support planning is an on-going process, with regular reviews and involvement of the individual, the professional and often other people who form part of the ‘circle of support’ for the individual or the family carer.

It is possible 24(3) would result in involvement from voluntary and community sector organisations in determining care needs. It should be clarified if this is permissible.

It is a positive inclusion in Clause 24(6) to “authorise a person (including the adult for whom the plan is to be prepared) to prepare the plan jointly with the authority”, in terms of the important role that individuals with needs can play in developing their own plans. It is important that the person taking on this responsibility fully understands what this will entail before they agree to take it on. The inclusion of a sub clause to 24(6) stating the local authority has a duty to provide suitable guidance to an individual interested in becoming “authorised” to help them make an informed decision would be beneficial.

24(8)(b): It is likely to be essential that carers receive a copy of the adult’s care and support plan – how could they continue to provide care and support if they were unaware of the assessment outcome or detail of the resulting plan?

There must be a time limit indicated in legislation between the process of assessment and drawing up a care and support, or support plan. Evidence has shown that many people have experienced long delays between the assessment, the care and support plan and services being put in place. This further impacts on the individual and the family carer, resulting in increased levels of need for care and support. In order for the draft Care and Support Bill to work in a preventative way, as is the Government's intention, time limits must be written into the regulations indicating the maximum time a local authority can take to complete the process of carrying out an assessment, through to putting services in place to meet the needs of the individual or the family carer.

The requirement for a date for review of the plan would help those developing the plan to assess whether a person's needs are likely to change significantly in the short to medium term and ensure the plan and services can be adapted if required.

Clause 26: Review of care and support plan or of support plan

The review of plans is an essential element of ensuring support is relevant and appropriate for the individual, allowing for change and amendments as people's situations alter.

Reviews should be carried out at least annually and this should be written into regulations, allowing for reviews to be carried out earlier than yearly, where appropriate for the individual.

26(4) gives the local authority the power to carry out a review if they believe the individual or family carer's circumstances have changed. Family carers and individuals should also have a right to request a review when they feel a support plan is no longer working effectively for them. This could be included as 26(5).

While a care or support plan review is taking place, it is important that the local authority is given a duty to continue to provide support as per the current plan, until any changes are agreed and a new plan and care and support package is put in place. This would reduce the possibility of a care package being changed or stopped without the family carer or individual's consent, which has been occurring more frequently in the current economic climate.

Clause 27: Cases where adult expresses preference for particular accommodation

While we welcome the choice and flexibility this provides, as a carer support service based within a provider organisation meeting the needs of people who have lifelong needs for support, we are aware of the dilemmas 'topping up' fees can cause. It is not usually in someone's best interests to force them to change provision because ability to cover a financial shortfall ceases. People with learning disabilities are generally unlikely to have assets against which a deferred payment can be charged and their anticipated lifespans are, thankfully, longer than in the past so it is not easy to estimate how long top up payments might be necessary. Perhaps regulations will specify pros, cons and issues of security related to this clause.

Clause 28: Adults with capacity to request direct payments

As with Clauses 1, 7 and 23, this clause refers only to "adults". It should be made clear that it refers to family carers as well as individuals who have care and support needs. Will family carers have the right to request a direct payment or a personal budget? It is stated in 'Factsheet 5: The draft Care and Support Bill – The law for carers' that "Carers should receive a personal budget…they will then have a right to request that the local authority make a direct payment to them". This assertion must be made clear in the draft Care and Support Bill, under this Clause.

28(4)(b) should specify a nominated Trust as well as a "person", or is this understood? People with capacity to agree to a Direct Payment can also understand that managing the money and taking on employer responsibilities is beyond them so should be entitled to have a trust rather than a nominated person supporting them in this way.

Clause 29: Adults without capacity to request direct payments

As above, we assume the term “authorised person” must include a Supported Living Trust?

29(4)(c) how will the decision be made by the local authority that the person is suitable to take on a direct payment on behalf of the individual? This must be subject to close monitoring.

Clause 30: Direct payments: further provision

Direct payments can be complicated to understand. It is important that sufficient information, advice and advocacy is given to the family carer or individual to help them make an informed decision about whether they would prefer to arrange their care and support themselves by taking on a direct payment, or have it arranged for them through a ‘managed personal budget’. This must be written into the draft Bill and could be included as additions; 28(6)(c), 29(7)(a) and included in Clause 30.

Regulations could usefully describe possible support options for providing information and advice. Direct payments have been used successfully in many authorities for long enough now, particularly in relation to people with learning disabilities, for there to be good practice on which to base requirements and recommendations.

Clause 31: Continuity of care when an adult moves, and
Clause 32: Where a person’s ordinary residence is

The introduction of ‘portability of care’ into legislation is welcomed; it acknowledges that people move from one local authority to another, for whatever reason, during their lives. Historically, common problems have arisen when people move from one local authority to another, or are placed ‘out of area’ and so in legislating for this issue, it is vital that it is made clear and all potential situations that might arise are covered by the draft Bill, particularly in regard to ‘ordinary residence’. It will also allow for more joined up working between local authorities and less gaps in support for individuals and family carers when they move.

The introduction of national eligibility criteria will be essential in cases of when adults move, to ensure that the receiving authority and the sending authority’s assessments of need are undertaken with the same overarching guidance.

The consideration of the family carers’ needs is a positive inclusion in this section of the draft Bill, by placing a duty on the receiving authority to provide information to the family carer, undertake a carers assessment, and provide support to that family carer where needs are assessed as requiring support.

The first important point which is not included in the draft Bill, but we believe should be, is who should the individual and/or the family carer notify when they are moving into a different local authority area? We suggest that Clause 31(10) or regulations detail that local authorities provide information about who to contact to notify of intention to move.

31(2) is unclear. It says that the portability provisions apply if an adult moves out of his or her ‘out of area’ placement but stays in the same area and is provided with care and support at home or in the community. Does this mean if an individual moves out of accommodation as stipulated in Clause 32(3) or 32(4) to ‘supported living’ they will then become the responsibility of the receiving authority, but if they move from an accommodation as stipulated in Clause 32(3) or 32(4) to another accommodation covered by that Clause, they will still be the responsibility of the sending authority? This requires further clarification.

Annex B paragraph 60, states "...which relates to care homes only, and extends the principle to other types of accommodation related to care and support needs". Does this therefore cover accommodation which falls under the umbrella term of 'supported living', which is not registered care? We are concerned that this is not clear enough in the draft Bill and allows for interpretation of meaning.

What we would like to see is for there to be genuine choice for people to move out of registered accommodation and stay in the area to which they have become accustomed and are likely to know people. Currently they are usually required to either return to the sending authority if they change provision type and move into "supported living" or they have to face lengthy negotiations with the receiving local authority who must pick up the cost of their care.

Potentially Clause 31(2) will result in 'net importer authorities' being faced with additional costs as increasingly people move out of care accommodation into independent/supported living in the community but stay in their area.

We understand through Clause 31 that a receiving local authority will have a duty to provide care and support (or support in the case of family carers) as indicated in the sending authority's assessment, until the receiving authority has carried out its own assessment. The duty to provide care and support or support for family carers the day the adult move into an authority gives an incentive to do assessments and put in services as promptly as possible. There is a risk that this new duty will mean people who have been awaiting assessment for some time could be pipped to the post by those with intentions to move into an authority. This is another reason to have time limits for completing assessments, so those who move authorities do not have a damaging priority.

The receiving authority may decide to meet an assessed need in a different way to the sending authority. The service received could be very different to what the individual or family carer is used to. If this causes difficulties for the person receiving the service, there needs to be an effective method for considering effects through a complaints procedure.

Clause 31(9); it seems hard on the sending authority to charge them for services provided in the new authority if someone changes their mind and returns to the original area.

Clause 33: Disputes about ordinary residence and continuity of care

Clause 33 addresses disputes about ordinary residence and continuity of care. These disputes are more likely to occur between local authorities than between the local authority and the individual in respect of who is funding the individual or family carers support package.

It is important that during disputes of this type, that the individual requiring support and the family carer are not caused undue stress by the dispute and/or concerns about funding while the dispute is being resolved. Clause 33 must include a provision that funding is not suspended in the case of disputes (with subsequent reimbursement between authorities if necessary)

Clause 34: Enquiry by local authority
The duty for local authorities to make (or cause to be made) enquiries to decide what action to take in respect of safeguarding adults is a positive one.

This clause needs further detail and clarification: a definition of the term “neglect” is essential if this is a reason for which enquiries should be made.

The term “abuse” covers many more areas than those relating to financial or property affairs, including physical, emotional, sexual etc. These must be detailed in the list given in 34(2).

There is no specific reference to family carers who may be in need of protection in relation to adults needing care and support, and there is a need to include family carers in this clause.

Clause 35: Safeguarding adults boards
It is extremely important to put safeguarding adults boards (SABs) on a statutory footing. They should act as the local leader for safeguarding, ensuring those at risk are protected and that serious cases are kept to an absolute minimum.

The membership of the SAB, as indicated in Schedule 1(1), should include the Care Quality Commission, to strengthen the role of the Board. The CQC is a key organisation in protecting vulnerable adults at risk and also in ensuring that cases are appropriately investigated by joint working with all authorities, organisations and people involved in an individual’s life.

The local authority representation on the SAB should include representatives from each department, including for example, social services, housing and education, to ensure communication across the departments. There have been several cases that have highlighted the lack of communication between local authority departments which has resulted in the lack of protection of adults at risk.

Other bodies such as the prison service, probation and mental health trusts have not been included in the list of membership of the SAB, despite their often key role in adult safeguarding processes. Family carers have also been usefully included in some areas.

The strategic plan (Schedule 1(2)) will set out what is expected of each member of the SAB, however, we suggest that the legislation set out the duties of each member of the SAB to ensure active participation and sharing of information generally.

The Bill should specify who monitors the quality of the boards. There is mention that they consult with Healthwatch (and the local community if possible) and a list of who annual reports should be sent to (Schedule 1(3)) but it is not clear who is ultimately responsible for their performance.

A monitoring process for safeguarding nationally must be put in place, to enable the sharing of learning and to address serious failures, in addition to a serious case reporting mechanism which would alert the Department of Health to any serious failings of safeguarding practices so that they can support the SAB to prevent such cases in the future.

Guidance on the practical workings of, and the monitoring of, the effectiveness of the Boards will set a minimum standard. The guidance should include timescales of action.

The *No Secrets* guidance states “the local authority shall take steps to ensure that the Director of Adult Social Services has the powers and resources necessary to encourage a culture of vigilance against the possibility of adult abuse”. This should be included in this draft Bill to ensure there are adequate resources available on safeguarding issues and to maintain social services as the lead authority on safeguarding matters.

Clause 36: Safeguarding adults reviews

The reviewing of the types of cases listed in this clause is an important process. In addition to the reasons for a review to be carried out under 36(a) and 36(b), it is important that a review is carried out in the case of an adult sustaining a serious injury which has no reasonable explanation and this should be written into the draft Bill.

To clarify the roles in a review, an addition to the legislation setting out a lead agency in the process would be useful. We believe the agency best placed to take on the lead role would be the local authority.

It is not clear if, or how SABs reporting will be shared more widely. This may have particular implications for voluntary organisations and family carers involved in the care and support of the individual, or implicated in a review.

Clause 37: Abolition of local authority’s power to remove persons in need of care

While this power is rarely used in practice, it is important for a power of this nature to be included in the draft Bill, but it must have a great deal of clarity. We await further information on how this power will be legislated for based on responses to the consultation on this issue.

Clause 38: Protecting property of adults being cared for away from home

It is a positive move that this issue is recognised as being a very real one and that a duty is placed on the local authority to protect the property of an adult who is being cared for away from home.

It is very important when in charging the individual for such a service, affordability is taken into account for the individual.

Clause 39: Assessment of a child’s needs for care and support

The period of ‘transition’ from children’s services to adult services can be a confusing, worrying, and difficult time for young people and their families. Support offered during this time can be very patchy around the country, and it is a very positive step forward to include legislation for that period in this draft Bill.

It should be made clear in 39(1) that the only time a young person, parent or carer should have cause to request an assessment of need for care and support is when other statutory responsibilities have not been met. Currently this sub clause implies that assessments at this stage will be dependent on individuals or their family requesting them, so it is misleading.

Sub clause 39(5) introduces a new definition of the term “carer”. It is confusing, and we strongly believe the term to describe a family carer should remain the same throughout the draft Bill. Throughout the clauses related to transition, would the term “parent carer” be better with an explanation that this encompasses those with parental responsibility, rather than just parents?

The parent and ‘carer’ views in clause 39(7) have equal weight in requesting an assessment for a child, and this should be correctly balanced in regulations.

Children receive social support under other legislation than only the Children Act 1989 and this must to be included in this clause to ensure that all children who require support are entitled to an assessment.

Clause 40: Assessment of a child's carer's needs for support

It is unclear why there is not a duty on a local authority to carry out a carer's assessment of a family carer of a child or young person as there is for a family carer of an adult. This should be a duty.

Clause 41: Assessment of a young carer's needs for support

Clause 41(1) should provide a duty to carry out a carer's assessment of a young carer.

On transition, older young carers will only be able to request an assessment which accounts for their needs beyond 18 if they are a child "in need" under the Children Act 1989. The definition of a young carer in 41(3) should be amended to include young carers who are caring for parents who may not have services provided under the Children Act 1989 but under relevant adult social care legislation such as the Chronically Sick and Disabled Person's Act.

The threshold for support for young carers will be higher than currently applies for young carer's assessments and for adult carers assessments whereas this draft Bill needs to 'meet up' well with acts affecting children. There needs to be an amendment in the eligibility for a young carer to receive support. It should not be that they must be in receipt of Children Act 1989 services, but that they 'may be in need'.

If it is identified that a young carer has needs, there must also be consideration of whether the parent needs additional care under the relevant sections of this draft Bill. This would place the duty of care and duty to provide services on adult social services where there is a parent who is in need of care services.

Clause 42: Further provisions for assessments under 39 to 41

The lack of consistency in definitions is problematic, as the word care is used but it is not clear from the text which definition is being used.

The level of assessment threshold needs to be aligned so that the trigger is the same for all three groups of family carers.

Clause 43: Continuity of services under section 17 of the Children Act 1989

It is unfortunate that although a receiving authority has a duty under the draft Bill to be prepared to meet the needs of an adult and/or family carer from day one of their move into their area, young disabled people, whose impairments and ages are already known to the authority, are not given the right to services provided by adult social care on the day they become 18.

Assessments should be carried out by adult services before young people become 18. Even if provision is not to change, the cost of and responsibility for the service, should be taken on by the adult team. We have knowledge of many young people who have continued in services designed for children because the adult team has avoided picking up their case. This is discriminatory towards the young person (whose peers have become "adults" entitled to adult provision) and to their family carers who are left not knowing the outcome of the transition into this part of adulthood.