

The Care Bill: What does this mean for carers of drug and alcohol users?

This briefing aims to explain the proposed changes in legislation brought about by the Care Bill and the Children and Families Bill, as they relate to carers of drug and alcohol users.

The entry of both the Care Bill and the Children and Families Bill into UK law will expand and make concrete the rights of the estimated 5.67million carers living in Great Britain.¹ This will include the **1.5million people who are ‘significantly affected’ by a relative’s drug use²**, and who subsequently assume caring roles. The NTA has reported that 17% of the population are family members affected in this way³; with the cost of harms they experience as a result of a loved one’s drug use amounting to an annual total of £1.8 billion.⁴ It has also come to light that these individuals save the state £747million each year through the care and support they provide, since it would otherwise have to be provided by the health and social care sector.⁵ These facts – together with the huge transformation of public sector services over the last decade – have encouraged these legislative progressions towards protecting and strengthening the rights of carers.

A carer is defined by the Bill as; *‘an adult who provides, or intends to provide, care for another adult.’* Carers can be someone of any age who provides unpaid support to a family member or friend who could not manage without this help. This could mean caring for someone due to illness, disability, mental health issues or **an addiction**.

Carers of drug and alcohol users will have the same rights to a needs-assessment and access to support (if appropriate) as, for example, carers for those with mental illnesses, disabilities and the elderly. The UK Drug Policy Commission, in its paper entitled, *‘The Forgotten Carers: Support for adult family members affected by a relative’s drug problem’*, has recognised this group of carers as one with significant needs; in view of the stress of living with and/or caring for someone with such complex problems. Carers of those who use drugs and alcohol can experience substantial stress and health problems, as well as an impact on their employment, social lives, relationships and finances. Despite this, these carers do not often get offered - nor do they usually take up - carer’s assessments. This may

¹ Census 2001

² UK Drug Policy Commission, *Supporting the supporters: families of drug misusers*, 2009

³ NHS. *Supporting and Involving Carers: A Guide for Commissioners and Providers*, National Treatment Agency for Substance Misuse, 2008

⁴ UK Drug Policy Commission, *The Forgotten Carers*, 2012

⁵ Ibid

be attributable to the fact that these carers fail to actually recognise themselves as carers, and prior to this Bill, there was no legal duty to promote their assessment.

We know that family members and friends are an incredibly useful source of support to the substance user, in terms of both treatment engagement and recovery outcomes. Consequently, it is highly beneficial for all involved that they are given the support they need and deserve to be able to continue to care for those suffering from addiction. The Care Bill is a positive reflection of this increasing recognition of the crucial role family members play in providing care and support to substance users.

Overview of the Care Bill

The Bill consolidates existing care and support law into a single, unified statute, drawing together threads from a dozen different Acts. It refocuses the law around the person rather than the service: placing a duty on Local Authorities to begin with an assumption that the individual is best placed to judge their well being, and a duty to have regard for their feelings, wishes, views and beliefs. Whilst strengthening the rights of carers to receive support, the Bill also clarifies entitlement to support: providing people with a clearer understanding of what is on offer in terms of care and support, and where to get it.

The simplification of the system and processes facilitates joint-working amongst services, and the Bill promotes the integration of social care and support with health services. It furthermore allows for the consideration of ‘whole family circumstances’ in assessing an adult’s need for care. In seeking to reduce dependency, the Bill is essentially about promoting the cared-for and carer’s well being through enabling them to prevent and postpone their needs for care and support: Local Authorities are obligated to promote individuals’ well being and to arrange for the provision of services which it considers would be effective in preventing or delaying a person’s needs for care and support, and in preventing or delaying a carer’s need for support.

Part 1 of the Bill **puts carers on par with those for whom they care** and is **about putting people in control of their own care and support**. A cap on the amount people will pay for care throughout their lifetime will also be introduced, along with a new adult safeguarding framework to protect those at risk of abuse or neglect.

Part 2 is about **ensuring quality of care provision**; introducing ‘Ofsted-style’ ratings for hospitals and care homes, so that the public can compare providers and choose the best option for them. Under this part of the Bill, the publication of misleading or false information by providers is made a criminal offence.

Part 3 establishes two new, impartial bodies: **Health Education England (HEE)** and **the Health Research Authority**. The former is to be established as a non-departmental public body providing national leadership for health and public health education and training. HEE will be responsible for planning and buying education and training for NHS and public health organisations, and for ensuring that the quality of training continues to improve the benefit to the public. It will be assisted by Local Education and

Training Boards (LETBs), and in turn assists local healthcare providers to take responsibility for educating and training their staff around these issues. The Health Research Authority intends to strengthen the ability to protect the general public's interests in health and social care research.

What's going to change?

As the law currently stands, carers do not have a legal right to receive support: the provision of support is at the discretion of the Local Authority. As a result, access to and quality of assessment and support for carers can vary considerably. The current law is complicated and mixes up rights for carers of different ages.

For the first time under the new Bill, carers are **legally entitled to receive support and to an assessment of their needs** for support; putting them on the **same legal footing as those for whom they care**. Local Authorities will have a new single duty to ensure carers receive an assessment regardless of their needs for support or their financial resources, or those of the adult that they care for. The Bill introduces a lower eligibility threshold than under current legislation; replacing the existing rule that carers must be providing a *'substantial amount of care on a regular basis'* in order to qualify for assessment. This means that **more carers are able to have assessments**, equal to the rights of the cared-for.

The Standing Commission on Carers (SCOC) welcomed the **new emphasis on wellbeing and outcomes**, noting that the Bill moves the legal framework beyond the concept of a *'safety net'*, towards a *'wider and enabling definition of social care.'* In addition, they commended the new requirement that Local Authorities have regard for the needs of the whole family around the person for whom an assessment is carried out, and the new ability to undertake joint assessments of the needs of the person cared-for and the carer (providing both agree).

Local Authorities can meet these needs through the provision of such things as; accommodation in care homes or other premises, care and support in the home or community, counselling and other types of support, goods and facilities, information, advice and advocacy.

Assessments

Under the Care Bill, Local Authorities must carry out an assessment **where it appears to them** that a carer *may* have needs for support (whether currently or in the future). A **'carer's assessment'** will examine whether the carer has, or is likely to have in the future, needs for support, and if so, what those needs are, or what they may be in the future. Assessments are required to consider the impact of the caring on the carer and what the carer wants to achieve in their day-to-day life, including work, education and social activities. If the carer's needs are deemed eligible and the Local Authority decides to provide support, planning begins by discussing the type of support the carer needs. This may be help with housework, buying a laptop to stay in touch with friends and family, or may even take the form of direct care being provided to the person in question, so that the carer can have some respite.

In most cases, Local Authorities do not charge carers for the services they provide, but this is at their discretion. If the Local Authority decides against providing support, they are nevertheless under a duty

to give information and advice about what can be done to reduce, prevent, or delay the needs of both the adult in question and the carer.

Children and Families Bill: Young Carers

The ACMD, in 2003, estimated that there are between 250,000 and 350,000 children affected by parental drug use in the UK,⁶ and a later estimate by the NTA found that at least 120,000 children were living with a parent then engaged in treatment.⁷ Some of these children can assume caring roles, and under the Children and Families Bill, these young carers will now have the **right to an assessment of their needs for support, as part of a whole family approach to assessment**. Persons under 18 are not covered by the Care Bill, although it does talk about working with young carers to plan an effective move to adult support.

The Children and Families Bill dictates that Local Authorities must take **reasonable steps to identify the extent to which there are young carers in their area who have needs for support**. They must then assess whether a young carer within their area does have needs for support, and if so, what those needs are. Assessments must consider whether it is appropriate for the young carer to provide or to continue to provide care for the person in question, in light of their needs for support, other needs and wishes. The extent to which the young carer participates or wishes to participate in education, training or recreation, and the extent to which they work or would like to work must also be considered. This is particularly welcome given that 27% of young carers in secondary school either miss school or are experiencing educational difficulties; this figure rises to 40% when looking at young carers of someone with substance misuse issues specifically.

The Triangle of Care

The Carer's Trust's 2013 '**Triangle of Care**' guide compliments these legislative progressions; intending to build upon existing developments and good practice, to **include and recognise carers as partners in care**. In a number of inquiries into serious incidents, the Trust found that a failure to listen to and communicate with the carer was cited as a significant factor, and that evidence suggested carers often refuse referral for assessment because they are reluctant to discuss their own needs. Consequently, they emphasised the importance of making every effort to ensure that carers receive the support they require.

“Successful long term outcomes are most likely when staff accept the benefits of carer involvement and collectively promote the concept of a therapeutic triangle formed by themselves, the service user and carer.”⁸

⁶ Advisory Council on the Misuse of Drugs, *Hidden Harm: responding to the needs of children or problem drug users*, 2003

⁷ NTA, *Moves to provide greater protection for children living with drug addicts*, 2009 (Media release) Available at: http://www.nta.nhs.uk/uploads/3_11_09_moves_to_provide_a_greater_protection_for_children_living_with_drug_addicts.pdf

⁸ Carer's Trust, 'The Triangle of Care, Carers included: A guide to best practice in mental health care in England,' 2nd ed., 2013

The guide focused on the early identification and recognition of carers, offering a range of support services, and staff being 'carer-aware' and trained in carer engagement strategies. The role of carers as useful in both personalised care-planning and in the development of local strategies is strongly emphasised, with a drive to increase professional recognition of the importance of carers in this respect, and subsequently, to increase carer involvement in the provision of care and support. These premises echoed those outlined in the government's earlier 2010 document, *'Recognised, Valued and Supported: Next steps for the Carer's Strategy.'* This strategy focused on the personalisation of support services available to carers; **tailoring support to fit the individual's needs and circumstances**, and enabling carers to reach their full educational or employment potential, so that they are able to have a family and community life, whilst supporting them to remain mentally and physically well.

The Care Bill completed its stages in the House of Commons on the 11th March 2014 and has now been returned to the House of Lords for consideration of amendments. The Children and Families Bill received Royal Assent on the 13th March 2014.

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