



Briefing: Carers (Scotland) Bill – Insertion of an Equalities Clause

Purpose: to provide MSPs with information on a proposed amendment to the Carers (Scotland) Bill to ensure that it recognises and addresses the needs of carers with protected characteristics¹.

Background: The Carers (Scotland) Bill contains no specific reference to carers with protected characteristics but adopts a ‘broad brush’ approach to the identification and support needs of all carers. The Equality Impact Assessment (EQIA) undertaken as a requirement of the Equality Act (2010) recognises that:

“...there may be other factors affecting those in protected groups which although not a consequence of the Bill provisions as drafted, may, in comparison to those in non-protected groups, impact on the extent to which they can access and benefit from Bill provisions when implemented. For example, although adult carers in the LGBTI group are entitled to an adult carer support plan in the same way as a carer in a non-protected group, the particular issues facing that group (such as the fear of homophobia or discrimination) may imply additional barriers to accessing a support plan.”²

Whilst recognising that information/evidence gaps exist in relation to carers with specific protected characteristics and that this will be addressed through data collection, the findings of the EQIA state:

“..that the provisions of the Bill will not directly or indirectly discriminate on the basis of age, disability, gender, gender re-assignment, sexual orientation or race and belief. The Bill is intended to apply equally to those affected by its provisions. The Bill will make a meaningful difference to carers and young carers and will contribute towards the improvement of their health and wellbeing, ensuring that they can continue to care and to have a life alongside caring.”³

Carers’ and carer organisations views: Despite a legal obligation to ‘promote equality of opportunity’⁴ for individuals with a protected characteristics¹, there is substantial evidence regarding lower levels of access to services for carers from minority groups including carers from Black and Minority Ethnic (BME) communities, LGBT carers and disabled carers. Despite commitments within ‘Caring Together’ to ensure actions are taken forward with due regard to “fully address the equalities

¹ Equality Act 2010

² <http://www.gov.scot/Publications/2015/05/6242/1> (point 24)

³ <http://www.gov.scot/Publications/2015/05/6242/1> (point 34)

⁴ Equality Act (2010)

perspective”, this has not been evident across local authorities and health boards in Scotland. Research conducted by Carers Scotland and MECOPP in support of the Scottish Government Carers Charter⁵ recorded practitioner views that BME and LGBT carers had the lowest levels of awareness about rights and entitlements.

Whilst we welcome the response from the Committee in the Stage 1 report:

“The Committee believes that it is important that the preparation of Adult Carer Support Plans reflect the needs of carers with protected characteristics. The assessment process must recognise the differing nature and extent of care delivered by minority groups to ensure the assessment process is fit for purpose. The Committee asks the Scottish Government to provide further information on how the guidance it will issue to local authorities on ACSPs will take these issues into account.”⁶,

we would argue that the Bill needs to be strengthened in this respect. The importance of an assessment process that is ‘fit for purpose’ cannot be overstated but everything else that flows from the assessment and Adult Carers Support Plan must also be accessible and meet the needs of carers with protected characteristics. This includes: ensuring that the arrangements for identifying individual outcomes pay due regard to their specific needs and preferences; information is provided in an accessible format; involvement in setting local eligibility criteria; plans to ensure accessibility of services and how needs will be met; and, participation in developing local carer strategies. The Government has not been persuaded about the need to include arrangements for culturally competent assessments in statutory regulations but we believe this is crucial to drive forward progress and could be accommodated within regulations on workforce development.

Given the substantial growth in the number of BME carers, the lack of a robust BME carer support infrastructure across Scotland and the almost complete lack of support services for carers with other protected characteristics, the Bill presents a timely opportunity to rectify this historic exclusion..

Details of the proposed amendment:

Amendment: We propose the inclusion of an Equalities Clause on the face of the Bill to support ‘the encouragement of equal opportunities and in particular, the observance of equal opportunities requirements’. We further propose that statutory agencies be tasked with preparing an equal opportunities statement and action plan setting out how they intend to meet the needs of carers with a protected characteristic

The National Carer Organisations, October 2015

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⁵ Service Providers Survey: Analysis of Responses (2014)

⁶ Scottish Parliament Health and Sport Committee Stage 1 Report on the Carers (Scotland) Bill, 10th Report, 2015 (Session 4) paragraph 167