

Family and Parenting Institute and Daycare Trust submission to the joint Parliamentary Committee on the draft Care and Support Bill

1. The Family and Parenting Institute is an independent charity that exists to make the UK a better place for families and children. Daycare Trust is the national childcare charity, campaigning for high quality, affordable childcare for all and representing the voice of children, parents and carers on childcare issues. The Family and Parenting Institute and Daycare Trust have merged and the new charity will be launched in April.

2. The Family and Parenting Institute and Daycare Trust wish to respond to three specific issues that may not be adequately covered by the responses of other organisations.

Protecting family roles and relationships

3. Family structures and roles are too often compromised in the current care and support system. This problem particularly affects older couples who can be forced to live separately when one partner requires a higher level of care (either when one partner lives in a care home rather than a family home, or when both partners live in separate care homes) but there are also wider examples, for example where working age adults who live in residential care struggle to maintain adequate interaction with their family.

4. The Law Commission considered in detail caring responsibilities and a family's situation as a whole as part of its review of social care law, but did not address this specific point.

5. The government has repeatedly stated that a central motivation for care and support funding reform is to avoid a small proportion of individuals being subject to unfair 'catastrophic' care costs. Reform will not be balanced or effective if new protections against the impact of care and support costs for those with financial resources are established, but fundamental risks to remain that families without resources will be undermined due to funding constraints.

6. We know that there are sometimes very difficult decisions people must make about their own care that mean making sacrifices for the benefit of specialist support. We also know that the obligation of the state to fund care cannot be unlimited. However, family roles and structures must be valued and receive appropriate protection.

7. It is therefore crucial that new care and support legislation sets clear expectations of local authorities in protecting an individual's wish to remain part of their family. We accept that this may not be a straightforward legal proposition, and such duties cannot override duties towards the best interests of an individual concerned and must be compatible with effective adult safeguarding.

8. Family roles and relationships could be better protected by extending the family component of the general duty to promote individual wellbeing (clause 1, subsection 2f) to include family 'roles' as well as relationships, and by expanding clause 27, 'Cases where adult expresses preference for particular accommodation' to include care generally (and subsequent regulations could make clear there should be a strong presumption in favour of maintaining family roles and avoiding compromising a family unit). Clause 3, which sets out the matters a local authority must have regard for in exercising its responsibilities under the general wellbeing principle, could also be amended to include a reference to the importance of supporting an individual's family role and relationships.

9. We would also advocate strongly for the new eligibility framework to provide clarity on the way that local authorities should take into account family roles and responsibilities.

Information and advice services

10. Clause 2 (*Providing information and advice*) of the draft Bill creates a duty for a local authority to establish an information and advice service, which it may do jointly with another local authority. This clause appears to interact with clause 3 (*Promoting diversity and quality in provision of services*), which includes duties to provide those wishing to access care services sufficient information to make an informed decision about how to meet the needs in question (1c), and to ensure that the authority has, and makes available, information about the providers of services for meeting care and support needs and the types of services they provide (2a).

11. Two key problems faced by people in need of care and support and their carers are the difficulty of arranging support, both when they are and are not eligible for direct services, and of resolving problems quickly and effectively. A dedicated, high quality information and advice service is crucial in reducing the incidence of these problems. The draft legislation codifies in legislation guidance issued by the government in the past to local authorities (for example through the 'Putting People First' concordat), which has not been effective in creating high quality information and advice services. The 'Big Care Debate' consultation initiated by the last government also showed that there remain significant deficiencies in information and advice services. There is therefore a case for stronger and more specific information and advice duties than those in the draft Bill.

12. The information and advice provisions of the Childcare Act 2006 provide a useful case study of the implementation of such legislation. The Act placed duties on local authorities to provide information, advice and assistance through 'Family Information Services'. These services have been successful and are valued by parents, in part because they provide a brokerage service that links parents directly with services. However, funding pressures mean that since 2010 around one fifth (19 per cent) of Family Information Services have been rolled into local authority call centres. This leads to a lower quality of support for the public, but also means that local authorities give up valuable knowledge and intelligence that supports monitoring and effective commissioning. The lessons from the Childcare Act are that well defined information

and advice services are hugely helpful the public, but that under financial pressure many local authorities scale back services to the minimum that is acceptable under their statutory duties, and in some cases stop meeting those duties.

13. To ensure that adult social care information and advice services address current deficiencies, clause 2 should:

- refer, like the Childcare Act, not only to information and advice but also to 'assistance'; and
- make clear that information and advice relates to all services rather than only local authority commissioned services and local authority funded clients.

14. As the legislation stands, it appears that there is an overlap between clause 2 and the duties of Local Healthwatch under the Health and Social Care Act 2012 (clause 182), which both have duties to provide information on local services. Roles and responsibilities must be clear so that this overlap does not cause confusion that in turn leads to poor quality services. It is important that neither the distinct public 'watchdog' role of Local Healthwatch nor the provision of comprehensive social care advice and assistance is compromised.

15. In addition, the clause should allow for the provision of secondary regulations by the Secretary of State to define the scope of advice services. For example, as an important element of the success of these services is brand awareness and perceived independence, there is a case for encouraging local authorities to use a single name for information and advice services.

The need for a strong principle supporting aspiration and positive lifetime outcomes in the legislative framework

16. It is unfortunate that discussions about social care often focus solely on older people and the problem of charging and paying for long term care. Of current social care 'clients', around one third are working age and two thirds are aged 65 or over.¹ We would like to see more focus on the wider picture of care and the impact of inadequate support on individuals and their families.

17. In particular, it is important that the new legislative framework and secondary regulations serve as an effective mechanism in promoting aspiration. Costs to the social care system must be seen not only as a burden but an investment.

18. With these problems in mind, a greater change than the proposed legal framework establishes is needed to prevent current flaws in relation to aspiration, independent living and lifetime outcomes to ossify. The 'wellbeing' principle, whilst welcome, does not appear sufficient to reverse the provision and practice of social

¹Community Care Statistics, Social Services Activity - England, 2011-12, Provisional release, www.ic.nhs.uk/searchcatalogue?productid=8279&topics=0%2fSocial+care&sort=Relevance&size=10&page=1#top

care that sets an extremely low bar for good outcomes. Whilst no one with a care need should feel pressured or be made to feel inadequate, it must also not be the case that people with aspirations are given too little support to pursue them or feel discouraged from pursuing that support.

19. Examples in which such a change would be beneficial are, for example, through easier access to support for young adults to develop professional careers, or middle-aged adults to re-enter work after developing a disability. The current system too often allows dependency to develop because the needs of people in these situations are effectively invisible to the social care eligibility framework, and are not well catered for by DWP or other services.

20. The Law Commission set out that the concept of independent living would be problematic if placed in legislation because it may constrain choice and control. In the light of the difficulty of this issue, the government should do more to engage with the problem of ensuring reform supports aspiration and long term outcomes.

21. One concrete step would be to put in statute an obligation for the government to produce an evidence-based eligibility framework. The National Institute for Health and Clinical Evidence already has a role in producing social care guidance. As well as ensuring that local authorities must have regard for that guidance, there is a strong case for asking NICE to lead in developing the eligibility framework for social care. An evidence-based framework, supported by statutory duties, would be likely to be more effective in rebalancing resources towards supporting independent living and aspiration, as well as prevention, than the current eligibility framework.