

Rapid Engagement on the Retention or Suspension of section 15 of, and Part 2 to Schedule 12 to, the Coronavirus Act 2020.

Please use this form to capture your feedback and evidence. Please send responses to SocialCareCoordination@gov.wales by **0900hrs on Monday 2 November 2020.**

<p>Do you support the retention or suspension of the social care provisions of the Coronavirus Act 2020? Please delete as appropriate.</p>
<p>I support the suspension of the provisions.</p>
<p>Please explain why you support your chosen option.</p>
<p><i>The Social Services and Well-being (Wales) Act 2014 was a ground-breaking piece of legislation. The legal duties it placed on local authorities to support unpaid carers were widely welcomed by carers and carers organisations across Wales.</i></p> <p><i>Carers Wales was saddened to see many of these duties suspended by the Coronavirus Act (2020).</i></p> <p><i>Six months on, even though local authorities have reported to Welsh Government that they have not enacted the provisions that suspended these dutiesⁱ (Welsh Government's response to the recommendations from the Equality, Local Government and Communities Committee report on inequality 23rd September 2020) our research shows that life has been made significantly harder for unpaid carers and those they care for during this pandemic and has had a detrimental effect on their health and well-being.</i></p> <p><i>If, as is the evidence provided to Welsh Government that no local authority has drawn on the powers contained in the Coronavirus Act, then there is no reason that these duties should not be suspended with immediate effect.</i></p> <p><i>In addition, since the pandemic our research shows that an estimated 196,000 people in Wales have become unpaid carers as a result of the Covid 19 pandemicⁱⁱ, this is on top of the 487,000 unpaid carers in Wales who were already caring before the outbreak, bringing the total to 683,000 carers across Wales.</i></p> <p><i>It is vital that these carers received the information, advice and support they need to enable them to care and have a life alongside caring.</i></p> <p><i>We support the suspension of these provisions for the following reasons:</i></p> <p><i>Wellbeing:</i></p> <p><i>The Social Services and Well-being (Wales) Act 2014 commendably placed a duty on local authorities to support the wellbeing of people in need as well as their carers. Carers UK's Caring Behind Closed Doors six months on report (September 2020) ⁱⁱⁱ which included a survey of carers in Wales, revealed that:</i></p> <ul style="list-style-type: none"> <i>76% of carers in Wales reported to be exhausted and worn out by their caring role</i>

- 54% said they are more stressed than before the pandemic

The majority of carers describe their mental health as having deteriorated due to COVID-19, with only a minority of carers feeling able to manage their caring role at present and a majority are seriously worried about how they would cope if restrictions tighten or forms of lockdown are re-imposed.

The recent two week lockdown in October and November will only have exacerbated this and intensifies the need for carer wellbeing to be properly considered and services to be put in place by local authorities.

Carer's needs:

The collection of carers organisations who comprise the Wales Carers Alliance reported in April 2020 that carers were reporting that support plans had already been changed or reduced (despite local authorities reporting to Welsh Government that they had not enacted any of the suspension provisions).

Carers UK's Caring Behind Closed Doors six months on report (September 2020) also found

- 80% of carers in Wales are providing more care as a result of COVID-19
- 37% were having to provide more care as a direct result of support services becoming harder to access.
- 80% reported that they are providing more care since the pandemic began
- 76% reported that the person they care for need more support

The provisions to suspend duties to provide carers needs assessment have been especially detrimental in a context where a significant proportion of carers will not have had their needs assessed in the recent years before the pandemic struck.

Carers Wales has been monitoring the implementation of the Social Services and Well-being (Wales) Act 2014 since it was enacted in 2016. It was set up to gather and monitor information from carers, local authorities and local health boards to gauge how the Act is working in reality for carers.

Our 2019 "Track the Act" report^{iv} found 56% of carers who had received a carers needs assessment had to ask for it themselves. If the duty to provide carers needs assessments remains suspended, a significant proportion of carers may have gone years without one, if they have ever had one at all.

Carers legal rights:

In Wales suspension of duties only have to be judged to compatible with protecting an adult from abuse or neglect or putting them at risk of abuse or neglect. Local authorities have no duty to carry out assessments under sections 19, 20, 24, 25, 35, 40 and 57 of the Act to make determinations of eligible needs under section 63. The duties on local authorities to meet eligible needs under sections 35 and 40 were replaced by a duty to meet needs for care and support where an adult or carer may be experiencing or are at risk of abuse or neglect. Local authorities have the power to meet other needs and can continue to meet other needs if they are able to and to prioritise provision as necessary.

We are concerned that similar provisions suspending duties of the Care Act (2014) for England included an express commitment to avoid breaches of the European Convention on Human Rights, whereas in Wales there is no mention of this. The easement of duties must always be compatible with the Human Rights Act and is always required.

Changes to care and support which would lead to inhuman and degrading treatment are not lawful for example a lack of support for a carer who suffers severe physical or mental illness as a result of caring (when authorities know about this).

Schedule 12 undermines Wales' commitment to a rights- based approach to caring and sees Wales falling behind England in safeguards at a time of great change.

Carers have reported confusion on changes to their rights due to the provisions of the Coronavirus Act and the member organisations of the Wales Carers Alliance have previously called for expedited, clear guidance for carers on the legislation's impact.

Suspension of these provisions will not only materially improve the lives of carers, it will send a strong signal re-affirming the Welsh Government's commitment to a rights-based approach to social care.

Information:

Our 2019 Track the Act report found that only 45% of carers in Wales had received information to help them care. While there was clearly room for improvement in local implementation, the Social Services and Wellbeing Act's duty on local authorities to provide advice and information services held the potential to fill a clear gap in identifying carers and ensuring that carers receive the information and advice they need to support them to care. The pandemic will have made it even less likely that carers, especially those carers who have taken on a caring role since the pandemic, will know where to access information that would help them manage their caring role and access vital services.

From Carers UK's, Carers Week research^v 98,000 people (50%) who started an unpaid caring role since the pandemic began, also juggle work alongside their caring responsibilities. It is vital that these carers receive the information, advice and support they need. It could mean the difference between remaining in work or giving up work completely to care with the inevitable economic impact that would have on their finances as well as the wider economy.

Non-statutory carers services:

The Social Services and Well-being (Wales) Act 2014 requires local authorities to support services delivered by non-statutory partners for carers. Our 2019 Track the Act survey found 57% of carers in Wales had not received any support, from statutory services or otherwise, to help them care.

The continued suspension of this duty and the ability to enact it is likely to result in this proportion increasing further still. The Wales Carers Alliance has drawn attention to the intensified needs for certain services as a result of months of lockdown, from counselling to employment support.

In addition to re-instating fully the duties placed on local authorities by the Social Services and Well-being (Wales) Act 2014, we would urge the Welsh Government to issue guidance to local authorities outlining timescales and processes by which they can resume “business as usual” for the services carers rely on. This would provide much needed reassurance for unpaid carers at a time of unprecedented strain for them.

Please share specific evidence in support of your chosen option that you wish Welsh Ministers to take into account.

Wellbeing:

Carers UK’s Caring Behind Closed Doors six months on report (September 2020) found that since the pandemic in Wales

- 66% reported worse mental health*
- 54% of carers in Wales felt unable to manage their caring responsibilities*
- 68% of respondents in Wales were worried about whether they could cope if further restrictions were imposed.*

Carer’s needs:

The same report found

- 80% of respondents in Wales were providing more care due to COVID-19.*
- 37% of respondents were having to do so as a direct result of a reduction/cancellation of services.*
- 76% of respondents reported the needs of the person they care for had increased due to COVID-19.*

In addition:

Carers Wales 2019 Track the Act report found 56% of carers who had received a carers needs assessment had to ask for it themselves, instead of being offered one.

Information:

Carers Wales 2019 Track the Act report found only 45% of carers in Wales had received information to help them care. 57% of respondents in Wales said they hadn’t received any support to help them care.

(N.B. Carers Wales 2020 Track the Act report will be launched on 5th November with updated figures for the year 2019-2020 before the pandemic)

Please indicate whether your chosen option will have either positive or adverse effects on people including those with protected characteristics? How could these be mitigated?

The demographic makeup of unpaid carers in Wales contains a high proportion of carers with several protected characteristics in their own right, eg. carers with disabilities themselves and older carers.

This is further the case for the people who rely on their care.

We therefore believe suspension of these provisions will have significant positive effects on people with protected characteristics. Should these provisions not be suspended, we would be deeply concerned about a continuing and worsening negative impact on many vulnerable people and carers across Wales.

Can you identify any potentially unintended consequences of your chosen option? How could these be mitigated?

We call upon the Welsh Government to ensure sufficient resources to local authorities to enable them to once again fulfil their full statutory duties under the Social Services and Well-being (Wales) Act 2014 and provide the standard of support unpaid carers and those they care for need and deserve.

Do you have other relevant evidence or views you wish to share that will inform Welsh Ministers' decisions.

Attached is a link to a copy of Carers UK's Caring Behind Closed Doors Six months on research report which examines the impact of COVID-19 on unpaid carers.
http://www.carersuk.org/images/News_and_campaigns/Behind_Closed_Doors_2020/Caring_behind_closed_doors_Oct20.pdf

Wales specific data can be found on page 29. We would be happy to discuss our research in further detail to assist your consideration of this issue.

Attached is also a link to the Wales Carers Alliance Recovery roadmap -
<https://www.carersuk.org/wales/news-campaigns/news/wales-carers-alliance-thoughts-regarding-welsh-government-recovery-roadmap>

Caring Behind Closed doors – first research report issued in April 2020 -
<https://www.carersuk.org/wales/news-campaigns/news/wales-carers-alliance-thoughts-regarding-welsh-government-recovery-roadmap>

ⁱ <https://business.senedd.wales/documents/s105316/Welsh%20Government%20response%20to%20report.pdf>

ⁱⁱ <https://www.carersweek.org/images/CW%202020%20Research%20Report%20WEB.pdf>

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http://www.carersuk.org/images/News_and_campaigns/Behind_Closed_Doors_2020/Caring_behind_closed_doors_Oct20.pdf

^{iv} <https://www.carersuk.org/wales/news-campaigns/track-the-act/track-the-act-survey-briefings>

^v <https://www.carersweek.org/images/CW%202020%20Research%20Report%20WEB.pdf>