



Citizens Advice Cymru's response to the National Assembly for Wales' Legislation Committee No.5's consultation on the Proposed Carers Strategies (Wales) Measure, March 2010

About Citizens Advice

The Citizens Advice service provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities. It values diversity, promotes equality and challenges discrimination. The service aims to:

- provide the advice people need for the problems they face
- improve the policies and practices that affect people's lives

In 2008/09 Citizens Advice Bureaux in Wales helped people deal with 298,000 problems. Over 110,000 of these were debt problems, a further 97,000 were about benefits and tax credits and over 7,000 involved signposting and referral. During this same period, bureaux dealt with 2617 problems relating to Carer's Allowance. The majority of these were enquiries about eligibility and entitlement to the benefit. They also dealt with over 15,000 problems relating to Disability Living Allowance care component with the majority relating to eligibility for benefit and the benefit application form.

Advice to specific client groups

The Citizens Advice service has a strong record of providing tailored advice in appropriate settings to particular client groups, often in partnership with other organisations. For example, we work with the Royal British Legion and Royal Airforce Benevolent Fund and our sister organisation in Northern Ireland to provide a benefits and money advice service to serving and former forces personnel in England, Wales and Northern Ireland. In Wales, bureaux provide advice in health settings such as GP surgeries through the 'Better Advice, Better Health' (BABH) project. Funded by the Welsh Assembly Government and co-ordinated by Citizens Advice Cymru, BABH aims to improve general health by resolving non-medical factors such as debt, poor housing, relationship problems etc that have a detrimental impact on health. We also deliver specialist welfare benefits advice to cancer patients in England in partnership with Macmillan Cancer Support.

Summary:

- Citizens Advice Cymru welcomes this proposed Measure. Our evidence from clients shows that carers are often unaware of or confused about the benefits and services that they or the people they care for could receive.
- Citizens Advice Cymru feels that the definition of 'appropriate advice and information' should be amended to include the word 'independent'. Our preference is for the text of the Measure itself, rather than the subsequent regulations, to include this amended definition.
- Citizens Advice Cymru believes that the Measure could be improved by placing more of an emphasis on how the strategies will be implemented and monitored.
- This Measure should improve the lives of carers across Wales, if the strategies are well designed, resourced and implemented. However, many of the issues affecting carers (benefit entitlements / rates and carers' rights at work) relate to non-devolved matters that require action by the UK Government.

For more information please contact:

Bethan Collins

Public Affairs Officer, Citizens Advice Cymru

Email: Bethan.Collins@citizensadvice.org.uk / Tel: 02920 376757

Question 1: Is there a need for legislation (by means of an Assembly Measure) to be made to introduce a new requirement on the NHS and Local Authorities in Wales ("the relevant authorities") to work in partnership to prepare, publish and implement a joint strategy in relation to carers and if so why? If not, what alternatives do you propose?

There is a clear need for more advice and information to be made available to carers in Wales. There are 350,000 carers in Wales, 90,000 of whom care for more than 50 hours a week.¹ A 2008 survey by Carers UK found that 74% of carers are struggling to pay essential utility bills, 65% are living in fuel poverty (spending more than 10% of their income on fuel) and 54% are in debt – nearly a third of these owe more than £10,000 and many are resorting to bank overdrafts and credit cards.²

Evidence from Citizens Advice Bureaux clients highlights some of the key issues that carers face, in particular in relation to the benefit system. It is especially confusing that many potential claimants of Carer's Allowance (CA) are not entitled to receive this benefit because they already receiving an 'overlapping benefit' e.g. retirement pension, but may nevertheless be eligible for a 'carer's premium' which could increase their entitlement to other means-tested benefits. People who could have claimed CA but, had not realised they could make a claim, have also often missed out on National Insurance credits, they would have received if an award had been made.

There is also a need to consider the individual circumstances of both the carer and the caree, as often increasing the income of one can have a negative impact on the income of the other.

A North Wales bureau advised a client whose husband had claimed CA for looking after wife. His application was refused but the adviser found that the client may still be eligible for Carer's Premium which would increase the amount of Council Tax Benefit (CTB) that they receive. The letter they have received from the Department for Work and Pensions (DWP) informing them of their ineligibility for CA made no mention of their possible entitlement to Carer's Premium. The client could not understand why they hadn't been informed by DWP of their potential entitlement, which would increase their CTB entitlement, and felt that the process of claiming it had been made more complicated and confusing as a result.

A bureau in South Wales delivering the 'Better Advice, Better Health' project advised a client who has two sons, one of whom suffers from 'Global Delay' a condition affecting his brain development. The son is eight years old and has been in receipt of middle rate care component Disability Living Allowance for a number of years and lower rate mobility component since the age of five. The client contacted the bureau to complete a review form as their son's mobility needs were becoming more pronounced. After interviewing the client it became apparent to the adviser that she had never claimed CA for her son. The client mistakenly thought that because her husband works she would not be entitled.

The adviser helped the client to submit a claim, requesting the maximum backdating of three months. The claim was approved and CA awarded at the full rate. The client felt cheated out of money to which she was entitled for looking after her disabled son and felt that the rules relating to claiming when only a partner works should have been clear and transparent.

¹ Census 2001

² 'Carers in crisis' - A survey of carers' finances in 2008, Carers UK, 2008

A bureau in North Wales advised a client who had been caring for her mother for about two years and was unaware that she could claim CA. As well as potentially having missed out on CA, she may also have missed out on any entitlement to Income Support. .

A particular problem with CA is the effect that receipt of it can have on the means-tested benefit of the person being cared for. Increasing the income of a carer can have an adverse effect on the income of the disabled person. This gives rise to a 'conflict of interest' situation which is unusual in benefits work. It means that it is absolutely essential that independent and impartial advice is available to both carer and caree. It is not a situation where the family 'as a whole' can be advised by one agency.

A bureau in West Wales advised a 67 year old client suffering from severe emphysema and in need of care from her daughter. She had previously debt advice and a schedule of payments was established taking into account her income including Severe Disablement Addition to her Pension Credit of £45.50. Her daughter applied for - and was awarded - CA. Her mother's Severe Disablement Addition should have stopped, as it is not payable if someone is receiving CA for looking after you. The daughter had not been informed of this. Further, this overpayment was allowed to continue for over nine months before the client (who cannot read or write) was made aware of it, leading to the client incurring a significant overpayment that needed to be repaid causing her hardship. The client's daughter needs the CA because it is impossible for her to look after her mother and work full time, but, had she known of the effect on her mum's income she would not have applied for it. The bureau adviser noted that the problem stemmed from the lack of information supplied with application forms for CA of the effect of claiming on the caree's income.

Question 2: Are the sections of the proposed Measure appropriate in terms of reforming legislation relating to the provision of information and advice to carers? If not, how does the proposed Measure need to change?

a) The definition of appropriate advice and information as defined in the Measure (Section 3);

Citizens Advice believes that in addition to being provided free of charge, the advice and information provided to carers should be from an independent and impartial source.

Question 3: How will the proposed Measure change what organisations do currently, and what impact will such changes have, if any?

The Measure may lead to Citizens Advice Bureaux in Wales directly providing advice and information to more carers, especially in the areas of benefits, debt, employment rights and discrimination. Bureaux may also be better able to refer their carer clients on to local, specialist providers where necessary and where other agencies may be better placed to help. Appropriate referrals are of clear benefit to the client and also free up resources for bureaux to devote to other clients that need their help

Question 4: What are the potential barriers to implementing the provisions of the proposed Measure (if any) and does the proposed Measure take account of them?

The allocation of inadequate resources and a lack of engagement from responsible authorities and information and advice agencies would be barriers to the successful implementation of this Measure.

Question 5: What are the financial implications of the proposed Measure for organisations, if any? In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the proposed Measure.

Citizens Advice Cymru is not well placed to comment on the financial implications of the proposed Measure for organisations in general but envisages no negative financial impact for our own service in Wales

Question 6: Are there any other comments you wish to make about specific sections of the proposed Measure?

The measure declares that it is a ‘measure of the National Assembly for Wales to make provision for and in connection with the publication and implementation of strategies for the provision of information to, and consultation of, carers.’

Implementation is crucial to effectiveness of this measure, a strategy alone will not improve the lives of carers. It is therefore inappropriate that the duty in the measure to implement the strategy is contained in a subsection of section 2, under a heading which merely refers to a ‘Duty to produce strategy’.

Subordinate Legislation:

Questions 7. What are your views on powers in section 8 for Welsh Ministers to make subordinate legislation?; and 8. Question 2(c) above sets out the powers to make regulations (subordinate legislation) that the Proposed Measure would give to the Welsh Ministers. It is proposed that all of these powers would be exercised by the ‘negative resolution procedure’. Has the appropriate balance been struck between the provisions in the Measure and the power delegated to Welsh Ministers, to set out the detail of the requirements to be placed on the relevant authorities in Wales through subordinate legislation? Is the use of the negative procedure appropriate in each case or are any of the powers sufficiently significant for the affirmative procedure to apply?

Citizens Advice Cymru has identified two provisions which we believe are missing from the Measure as it is currently drafted and are too important to be dealt with only by the subsequent regulations.

The definition of ‘appropriate advice and information’ included in the Measure should be amended to include the word ‘independent’. Our preference is for this change to be made to the Measure itself, rather than by an extended definition in subsequent regulations.

In addition, the Measure should contain a requirement for each lead (NHS) authority to submit an annual report to Welsh ministers detailing their carers strategy and their progress against meeting its aims. This requirement would ensure that strategies remain ‘live’ and relevant to those responsible for monitoring and implementing them. It would also allow ministers to gain an overview of the approaches being taken across Wales and for best practice to be identified and disseminated. Citizens Advice believes that this requirement should also feature on the face of the measure, given the importance of monitoring and implementation in the ultimate success of any strategy.