Strengths-based approaches in the Care Bill
The Care Bill

The intention of this briefing is to analyse the changes made to the Bill which intend to introduce strengths-based or asset-based approaches into social care, considering the opportunities and risks which they present. This briefing concludes that these changes are on balance positive for people who use services and family carers and sets out the case for MPs and Peers supporting their retention.

It builds on the partners’ publications over the last couple of years, including Reforming the Front End of Social Care and our published briefing on the Draft Bill.

Introduction

“[I shouldn’t have to spend my life proving that my son can’t do things, to get the support my family needs to help him do things for himself.]” *Unpaid family carer.*

Our approaches to care, support and inclusion demonstrate what is sometimes called a ‘strengths-based’ or ‘asset-based’ approach. Instead of looking only for an individual’s problems, vulnerabilities and at what he or she cannot do, people who take a strengths-based approach look first for what individuals and those close to them can do and at what they have the potential to do with a little help.

Every truly effective social care intervention leaves an individual better informed and connected and more confident. Every intervention should support the individual’s unpaid relationships and informal networks of support and avoid undermining key relationships or isolating the individual from natural support networks.

Current social care law governing assessments and eligibility is set up to focus exclusively on eligible needs and how services alone can meet those needs. Assessments are designed to ‘gate-keep’ services and can require people to go through a demeaning and disempowering process focused entirely on proving their vulnerability, often only to find they are deemed ineligible. Support which is or could be offered by family carers and others is often invisible in the current system, with any needs which are currently being met by carers treated as non-existent.

Over the past two years, seven partner organisations have published three papers setting out why and how this should change, so that the huge contribution of individuals themselves and of family carers and people’s communities becomes more visible and supported.

The government has now published the Care Bill, published in draft form as the Care and Support Bill. The draft Bill set out some positive changes to social care, attempting to make the system more future focused and preventative, with more scope for assessments and processes to consider what people can do for themselves, particularly at an early stage, as well as what services can do for them. We think a system of this kind creates the space for community development
approaches which focus on supporting individual, family and community contributions.

We had a number of conversations about how the Bill could more closely reflect the strengths-based ethos of the recent White Paper with the Minister, the Bill team and the Joint Committee scrutinising the draft Bill, who all made lots of very positive recommendations. The Joint Committee Chair, Paul Burstow, chaired a roundtable at the Royal Society of Arts where we discussed strengths-based approaches and he wrote the foreword to a pamphlet, *the New Social Care: strengths-based approaches*.

**Can strengths-based approaches be found in the Bill?**

In summary: yes. Councils will, in future, have to fund or commission agencies which reduce or delay the risk of people needing care and support (Clause 2). There should be much more useful information provided to anyone at risk of needing a care service (Clause 4). Clauses 9 and 10 have been amended to include, for the first time, the recognition of contributions from family, friends and communities in community care assessments (9.4d and 10.5f), alongside consideration of needs and the potential contribution of services. The Bill and the accompanying explanatory note are clear that the most recent changes are intended to ensure that the Bill represents the bones of an assets or strengths-based approach. This will need to be fleshed out in regulations and guidance which move culture and practice right away from the current gatekeeping-focused assessment system and towards a more holistic and collaborative process, which values (and doesn’t exploit) a wide range of contributions and focuses on achieving outcomes.

**Risks and further work needed**

Perhaps the biggest risk in the current Bill is that it does not go far enough to change culture and practice away from the current deficits-focused system which people currently report finding demeaning and disempowering (reliant on proving the maximum level of dependence) and which contributes to pushing resources away from early interventions and community-development approaches. Some councils have proved themselves adept at assimilating policy changes intended to be empowering into a deficits-focused and paternalistic culture, as can be seen by poor implementation of personal budgets in some areas and for some groups. We think there is more to be done to reduce the over-scrutiny and interference in people’s lives which can occur when people take a personal budget but find their choice-making restricted.

There is also a risk that, given the paternalism and service-focus of the prevailing culture, being directed to recognise unpaid and informal contributions alongside what
services can do, will result only in those contributions being exploited or used as an excuse to cut services, rather than resulting in those contributions being valued and supported, as is the intention.

That risk has been significantly mitigated, however, because there is a vital distinction drawn between a) assessments and b) what support must then be provided. The changes ensure that assessments are as holistic as possible (Clauses 9 and 10), whilst eligibility for services is more narrowly framed around level of need (Clause 13) and the duty to meet needs is based on whether needs meet those eligibility criteria (Clause 18). See analysis of those aspects of the Bill below. The new sub-clauses regarding consideration of non-service contributions also related to achieving outcomes not meeting needs.

To further mitigate that risk, it is essential that the government continues to work closely with people who use services, family carers, commissioners and social care workers, to develop an assessment and planning support system which not only recognises but genuinely supports and values the contributions which individuals, their families and others around them can make.

**Needs assessments**

The assessment system set out in Clauses 9 and 10 is designed to ensure that assessors can look much more holistically at a person’s strengths, capabilities and potential (called “assets” in the explanatory note), as well as at the contributions which those around them make or could make

Assessment of needs is framed in terms of the impact of needs for care and support upon the adult’s wellbeing, which is defined in Clause 1 and includes, not only physical and mental wellbeing, but also “work, education, training or recreation”, social wellbeing (“domestic, family and personal relationships”), housing and active citizenship (“the individual’s contribution to society”). This is a much broader conception of need than that in the current system, which defines need in functional and medical terms, and that change is very positive.

Additionally, alongside the impact of needs, assessments must identify “(b) the outcomes that the adult wishes to achieve in day-to-day life”. This outcomes focus is also very positive and it frames the next two sub-clauses which say that the assessment must consider how services and non-service interventions do and could help the person to achieve the outcomes they have identified. Sub-clause 9.4(d) says assessments will include consideration of whether and how “the adult’s own capabilities and any support available to the adult from friends, family or others” could contribute to achieving the outcomes they have identified, not to meeting their needs. This is important, making it clear that identifying the individual’s assets is for the purpose of meeting their identified outcomes, not for replacing a service response to meeting their needs. This will need careful clarification in regulations.
The balance is well struck between looking at impact of needs, desired outcomes, the role of services and the current and potential capabilities of the individual and their support networks. The intention is clearly to create an assessment process which can facilitate access to services where necessary, but which can also achieve outcomes in itself, including for those people deemed to have ineligible needs. Where all or some of a person’s needs do not meet eligibility criteria (Clause 13iv), those needs will still trigger a response. Where an individual has no eligible needs, they will nevertheless be offered “written advice and information about (a) what can be done to meet or reduce the needs; (b) what can be done to prevent or delay the development of needs for care and support, or the development of needs for support, in the future.” (There is arguably a need or revise “where none of the needs of the adult concerned meet the eligibility criteria” to “where some of the needs of the adult concerned do not meet the eligibility criteria”, in order to guarantee a useful response to those needs deemed ineligible for individuals who have a mixture of eligible and ineligible needs).

Impact upon family carers

Ensuring that all needs are considered in assessments, including those currently being met informally, is an important step forward, particularly for unpaid family carers. Internationally, some social care systems are set up to take informal caring into account when deciding what support to offer and others offer support regardless of the level of family care offered. At present, UK carers have the worst of both worlds: needs which would otherwise be deemed eligible, but which are being met by a carer, are deemed to be ineligible, and thus caring contributions become invisible. The amount of support offered to the individual is nevertheless reduced in comparison to the support that would offered if a carer was not meeting those needs.

The current system, then, perversely incentivises families to minimise the care they are recognised as providing, which thus risks minimising the support they receive to sustain a caring role and to maintain the carer’s own health and well-being.

If a carer stops providing care, a new community care assessment may be needed to establish that the underlying needs are eligible for support. In the new system, all needs will be recognised, along with the contributions made by carers, which will allow regulations and guidance to encourage greater support for those informal contributions and a swifter service reaction if a carer needs to reduce the level of care provided.

Clause 18(7) will ensure that there is no perverse incentive for assessments to ignore caring contributions, by ensuring that needs being met by a carer can be identified without inadvertently creating a duty to duplicate the support already being provided by a carer.
Councils will also always need to take into account the impact upon an individual’s family of their care needs (Clause 12) and it will be possible to link the assessments of different adults within a family, if they wish to, which would make it easier to create whole-family support plans for those families which wanted one.

**Links to prevention**

The duty to consider the contributions which could be made from the full range of formal and informal sources links helpfully to the duty to develop preventative interventions (Clause 2). Preventative interventions, such as those commissioned from voluntary sector organisations, are likely to be amongst those identified as needed by individuals who have needs which are not eligible for traditional services. We recommend that regulations and guidance advise councils to collate information on available and needed community resources which have been recorded in assessments, and feed that information into strategic planning processes (e.g. JSNAs) which will help them to discharge their duties under Clause 2. Clause 2 also places councils under a duty to identify existing interventions which already contribute to or could contribute to prevention, which could strengthen the position of well-targeted voluntary sector services.

**Eligibility and duties to meet eligible need**

In contrast to the more holistic assessment process, the Bill does not move away from a narrow focus upon needs, rather than capabilities, in the parts which set out duties to determine which needs meet eligibility criteria (which will be further defined by national regulations; Clause 13) and to provide a response to those needs. So the Bill is careful not to water down existing entitlements to support.

Indeed, the Bill makes it harder for councils not to

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**A networked model of care**

An older man lives alone with some support from his daughter who works full time. He needs occasional personal care to remain living independently with dignity and it is likely that these needs will increase. At present, the community care assessment process would focus on whether his needs were frequent and acute enough to warrant a support service which may be offered if he could demonstrate the required level of risk and vulnerability. Needs being met by his daughter may be ignored in the assessment and her needs as a carer would be treated separately.

A strengths-based approach to assessment would consider all of his needs, including those being met by his daughter, along with the outcomes he and his daughter wish to achieve. There would be more likelihood of the daughter being valued as a ‘partner in care’, rather than as someone with unrelated support needs. A more holistic assessment would also look at issues such as whether the man was isolated and able to connect with others or be an active citizen. Traditional services are unlikely to be able to tackle those needs, but support to access community groups could be offered alongside the formal services needed to meet personal care needs. Both individuals could opt to plan as a family (or separately if they preferred) and should be able to choose their preferred planning support organisation and professional.
offer to meet people’s eligible needs, even for those people deemed able to pay for services, who are currently sometimes screened out at an early stage. There are clear powers to meet non-eligible needs (Clause 19) and a duty to offer to arrange services for people who have to pay for their own care, rather than send them away with a list of care homes, which sometimes happens now (Clause 18(3)).

Where families are able to meet their own care needs, it will be harder to ignore or refuse to support those contributions, with the first ever legal entitlement to public support for carers (Clause 20), who will be entitled to a carer’s assessment regardless of the level of care they carry out or their level of needs.

A risk of introducing the strengths-focus into assessments (above), is that local authorities place too much emphasis on what an individual could do for themselves, or the potential contributions of carers, volunteers or community groups, rather than looking realistically at what support is needed. Whilst the ultimate decision about what constitutes an appropriate care plan remains with the local authority, the Bill mitigates the risk of a care plan replacing paid with unwelcome unpaid interventions in a number of ways. Clauses 24 and 25 set out duties for local authorities to “take all reasonable steps to reach agreement with the adult or carer for whom the plan is being prepared about how the authority should meet the needs in question”, to “involve” (not just consult) family carers and anyone else whom the individual wishes to be involved, which increases the scope for individuals to involve an advocate. The care plan and decisions made must be shared in writing with all the relevant parties and personal budgets offered including the option to take a Direct Payment (Clauses 25 and 26 and 31 - 33).

If the care and support offered is working or the individual or their advocates do not like it, there is, for the first time, a duty to keep the care plan under review and to review it “on a reasonable request by or on behalf of the adult” (Clause 27). This reduces the risk of a council making plans to use unpaid or informal care to meet eligible needs which turn out to be inappropriate.

It is also worth noting that Clause 2 places councils under a duty to identify adults, including carers, with needs (including ineligible needs) which are not being met, and to develop preventative interventions which respond to those needs.

It will need to be extremely clearly set out in regulations and guidance that the purpose of recognising informal and unpaid contributions in the system for the first time is not to replace paid services with unpaid substitutes, but to meet outcomes which cannot currently be met through a combination of informal and formal support. The box sets out how this ‘networked model of care’ would look in reality.
Whilst it seems likely that eligibility tests will look fairly similar to the current ones, we think there is an opportunity for a more rights-based approach to eligibility, through extending the definitions of well-being in Clause 1, in order to define minimum acceptable levels of well-being (eg is someone safe, able to live with dignity, able to carry out family and parenting roles, able to connect to those around them, able to be an active citizen?). A new approach to eligibility would thus be to offer a service whenever someone is unable to achieve that minimum acceptable level of well-being without a service response.

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ii See footnote i) above.
iii ‘whether, and if so to what extent, other matters (including, in particular, the adult’s own capabilities and any support available to the adult from friends, family or others) could contribute to the achievement of those outcomes.’
iv The threshold for eligibility is still to be decided, but likely to be similar to the current ‘substantial’ threshold.