

NSW Carers (Recognition) Act 2010

Review Discussion Paper



1 Introduction

The *NSW Carers (Recognition) Act 2010* (the Act) was introduced in 2010 to provide for the recognition of carers. Its purpose is to enact a Carers Charter to recognise the role and contribution of carers to our community and to the people they care for, and to increase the awareness of the valuable contribution that carers make to our community.

The Department of Family and Community Services (FACS) invites carers, community members and other stakeholders to have their say in the review of the Act.

2 Background

2.1 Who are carers?

About one in ten (857,200) people in NSW are carers. A carer is anyone who provides ongoing unpaid support to family or friends who need help because of disability, chronic illness or mental illness or who are frail aged.

Carers come from all walks of life, backgrounds and age groups. Each caring situation is unique, and each carer has individual needs. Carers can be family members, friends, housemates or neighbours.

Carers play an invaluable role by supporting people to live full and independent lives, and to remain in their home and in their community. In 2015 it was estimated it would cost \$60.3 billion to replace the care provided by carers in Australia with formal services.¹

2.2 About the review

The Act says that it must be reviewed after five years, to consider whether the policy objectives of the Act remain valid, and whether the terms of the Act are appropriate for securing these objectives.

The review is being conducted by FACS on behalf of the Minister for Disability Services. A report on the outcome of the review must be tabled in Parliament.

FACS invites the views of carers, community members and other stakeholders. You can have your say by completing the online Have your Say survey

www.haveyoursay.nsw.gov.au

If you wish to make more detailed comments, you can send these to

NSWcarersact@facs.nsw.gov.au

Or

Ageing, Carers and the Disability Council NSW
Family and Community Services
Level 4, 223-239 Liverpool Rd
Ashfield NSW 2131

For more information, or to discuss other options for participating please contact the Carers team by email: NSWcarersact@facs.nsw.gov.au or on 8753 9343.

¹ Deloitte Access Economics, *The economic value of informal care in 2015*, Carers Australia, June 2015, www.carersaustralia.com.au/storage/Access%20Economics%20Report.pdf

2.3 The legislative and policy context

The Act complements other policy, services and legislation that aim to increase carer recognition and support.

The Act and the NSW Carers Strategy 2014-19 are the two key commitments of the NSW Government to carers. The Strategy is a five year plan to improve the position of carers. Its vision is that:

- carers and caring are respected and valued
- carers have the time and energy to care for themselves
- carers have the same rights, choices and opportunities as other members of the community.

The Act underpins services and supports for carers, and complements other legislation which promote carer recognition. Examples include the *Disability Inclusion Act 2014* (NSW), the *National Disability Insurance Scheme Act 2013* (Cth), the *Mental Health Act 2007* (NSW) and the *Anti-Discrimination Act 1977* (NSW).

These and other responses to carer recognition are not the subject of this review. However, their impact on the operation of the Act may be considered in the course of the review.

3 The NSW Carers (Recognition) Act 2010

This paper provides information and discussion questions about the Act to help carers, community members and other stakeholders participate in the review.

It covers the main features of the Act:

- the definition of a carer
- the objects (what it aims to do)
- the NSW Carers Charter
- the role and membership of the Carers Advisory Council
- obligations of NSW public sector agencies.

3.1 Objects

The objects describe what the Act is for, and what it is trying to achieve.

The first object is to “enact a Carers Charter to recognise the role and contribution of carers to our community and to the people they care for”. This will be discussed in the next section.

The second object is to increase the awareness of the valuable contribution that carers make to our community.

Q1. What do you think about the objects of the Act?

Q2. Do you think the Act has increased awareness of the contribution carers make to our community?

Q3. Please provide examples.

3.2 Definition of a carer

Under the Act, a person is a carer if they provide ongoing personal care, support and assistance to any other individual who needs it because that individual:

- is a person with disability within the meaning of the *Disability Inclusion Act 2014*, or
- has a medical condition (including a terminal or chronic illness), or
- has a mental illness, or
- is frail and aged.

A person is not a carer because of the care, support and assistance that they provide:

- a) under a contract of service or a contract for the provision of services, or
- b) in the course of doing voluntary work for a charitable, welfare or community organisation, or
- c) as part of the requirements of a course of education or training.

A person is not a carer of another person just because that person:

- a) is their spouse or de facto
- b) is their parent, guardian, child or other relative
- c) lives with them.

Q4. What do you think about the way the Act defines a carer?

Q5. If you don't agree with the definition of a carer, how do you think it should be changed?

3.3 NSW Carers Charter

The purpose of the NSW Carers Charter (the Charter) is to recognise the role and contribution of carers to our community and to the people they care for. It contains 13 principles.

NSW Carers Charter

- a) The valuable social and economic contribution that carers make to the community and the persons for whom they care should be recognised and supported.
- b) Carers' health and wellbeing are to be given due consideration.
- c) The views and needs of carers and the views, needs and best interests of the persons for whom they care must be taken into account in the assessment, planning, delivery and review of services provided to persons who are cared for.
- d) Carers should be referred to, and made aware of, appropriate services to assist carers in their caring role. Such referrals should be made after an assessment of the needs of carers or as part of the assessment or provision of services to the person being cared for.
- e) The relationship between carers and the persons for whom they care should be respected.
- f) Carers are to be acknowledged and recognised as having their own individual needs within and beyond their caring role. This acknowledgement and recognition is to take into consideration Aboriginal or Torres Strait Islander culture, age, disability, religion, socio-economic status, cultural differences, gender identification and place of residence.
- g) Children and young people who are carers have the same rights as all children and young people.
- h) Children and young people who are carers face additional difficulties and burdens and should be supported in overcoming these difficulties and burdens.
- i) Carers should have the same rights, choices and opportunities as other Australians.
- j) Carers' choices in their caring role should be supported and recognised, including the recognition of carers in the assessment, planning, delivery and review of services that impact on carers and their role as carers.
- k) The additional difficulties faced by remote and rurally based carers caused by isolation should be recognised and acknowledged.
- l) Support for carers should be timely, responsive, appropriate and accessible.
- m) Carers' unique knowledge and experience should be acknowledged and recognised.

Q6. The Charter's purpose is to recognise the role and contribution of carers to our community and to the people they care for. Given this, are you satisfied with the Charter?

Q7. What impact do you think the Charter has had on recognition of the role and contribution of carers?

Q8. In your experience, is the Charter being implemented?

Q9. Do you have any comments or suggestions on the Charter?

3.4 Carers Advisory Council

The Act establishes the Carers Advisory Council. Its role is to promote the interests of carers and to review and make recommendations to the Minister for Disability Services (the Minister) on relevant issues. The Council can also carry out any other carer related function directed by the Minister.

The Council is made up of:

- the Minister, who is the Chair
- other Ministers responsible for key services for carers
- people who the Minister believes have relevant knowledge and experience.

Under the Act, the Minister must ensure that the majority of members are primary carers.

The Act gives the Minister the power to appoint Council members and to decide the length of their term, their remuneration, and Council procedures.

More information about the Council is online at: www.adhc.nsw.gov.au/individuals/caring_for_someone/nsw_carers_advisory_council

Q10. Are you satisfied with how the Act establishes the Carers Advisory Council, for example, its membership and role?

Q11. Please share any comments or suggestions

3.5 Obligations

The Act creates obligations for public sector agencies, such as NSW Government Departments and local Councils. The Act requires them to:

- take reasonable steps to ensure that staff and agents are aware of and understand the Charter
- consult with organisations that represent carers when developing policies that impact on carers, as they consider appropriate
- consider the Carers Charter when developing human resource policies.

The Act places additional obligations on “human service agencies”. Human service agencies are public sector agencies that provide services directed at carers or the people they care for, such as health, disability or care services.

As well as being aware of and understanding the Carers Charter, human service agencies must ensure that all of their staff and agents take action to reflect the principles of the Charter.

Human service agencies must also report on their compliance with the Act in their annual report.

Q12. Do you think these obligations are appropriate, given the purpose of the Act?

Q13. If not, what changes do you suggest?

Q14. What has been your experience of the obligations under the Act?

Q15. Do you think the obligations apply to the right organisations?

Q16. Do you have any comments or suggestions on the obligations?

4 Have your say

Carers, community members, and other stakeholders can respond to the questions in this paper by completing the online Have your Say survey

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If you wish to make more detailed comments, you can send these to

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5 Outcome of the review

FACS will report to the Minister on the outcome of the review. A report will subsequently be tabled in Parliament.