Carers (Scotland) Bill

The City of Edinburgh Council

The City of Edinburgh Council welcomes the opportunity to respond to the Committee’s call for views and evidence on the Carers Bill. As requested, our response addresses the following five questions

1. Do you support the Bill?

The City of Edinburgh Council supports the principle of legislation to enhance the rights of carers so that they “can continue to care, if they so wish, in good health and to have a life alongside caring” and that “young carers should have a childhood similar to their non-carer peers”\(^1\), provided that the legislation is fully funded. The Council recognises that unpaid carers, mainly family members, rather than the State, provide the majority of care which enables people with health and social care needs to continue living at home. Improving support to carers is essential on moral grounds, as well as forming one of the most important elements in prevention strategies for health and social care.

However, the Council is not convinced that the significant sums included in the Finance Memorandum are really sufficient to fully fund the Carers Bill provisions. While we intend to make a submission to the Finance Committee on this issue, we believe this is such a central issue for local government during what is becoming a long period of public expenditure reduction, that it also should influence the Health and Sport Committee’s consideration of the Bill.

There are some aspects of the Bill, as published, that we are reluctant to support, and we have organised our comments under the six summary headings in the Policy Memorandum summary\(^2\) of what the Bill does:

   (a) **“replaces the current carer’s assessment with a new adult carer support plan (ACSP) and provides a young carer statement (YCS) for all young carers”**

The City of Edinburgh Council largely supports the Bill’s proposals in relation to the Young Carer Statement (YCS), provided that implementation guidance sets this within the existing GIRFEC framework in sufficient detail to cover the concerns we raise under Question 3. However, we do not support the new terminology of “Adult Carer Support Plans” (ACSPs) or the change in the definition of carers to delete the reference to providing “a substantial amount of care on a regular basis.”

Community care legislation and extensive case-law clearly distinguish between the assessment of needs, and decisions that such needs “call for the provision of services”\(^3\). Only in the latter case is there a care and support plan.

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\(^1\) Carers Bill Policy memorandum, paragraph 2  
\(^2\) Ibid, paragraph 5, bullets replaced by letters (a) to (f)  
\(^3\) Social Work (Scotland) Act 1968, section 12A, as amended in 1990. See also Scottish Government 2014: Statutory guidance to accompany the Social care (Self-directed Support) (Scotland) Act 2013,
Similar distinctions should apply in the case of carers’ assessments: only eligible needs require support plans.

Instead, the Bill proposes to refer to all adult carers’ assessments as “Adult Carer Support Plans”, even where the assessment finds no eligible needs for support that would require to be planned. More carers are likely to request something, which suggests support is always conjoined with assessment, when they may have low level needs, which are not eligible. Providing all assessed carers with a support plan is not a policy goal capable of being achieved merely semantically.

Carers whose needs are not eligible for support may require sources of advice and information, or better access to mainstream services, or perhaps referral to benefits advice, or to self-help or community groups. Practitioners undertaking carers’ assessment can direct people to such sources, particularly as the Bill also requires information and advice service for carers to be established in each local authority area (although many will already have them). Such actions do not require a “carers’ support plan”.

The other problem is that the Bill proposes to replace the definition of a carer in current legislation as someone who provides, or intends to provide, “a substantial amount of care on a regular basis”, with a much broader definition: “an individual who provides or intends to provide care for another individual (the “cared-for person”)”.

The City of Edinburgh Council shares COSLA’s concern that this change means local authorities will have no way of managing the demand for carer support plans, which will come from among Scotland’s 750,000 unpaid carers. The Bill, if enacted, would create a right to assessment on demand, which local authorities do not have resources to meet.

Scottish Government estimates of the resources required to meet the increased demand for assessments are flawed in two ways – three sets of unit costs for assessment are provided, but only the highest reflects the actual average costs reported by local authorities; second, the estimated percentage of carers likely to request an assessment seems too low.

The 2011 Census shows that 35% of adult carers provide care for 20 or more hours per week. Over time it is likely that most of these carers will require assessment for support, plus a minority of the large number of carers providing fewer hours, once the current “regular and substantial” qualification is removed by the Bill. However, the Finance Memorandum assumes that no more than 16% of the total number of adult carers will be assessed in any given year, and 30% of the total number of young carers, once the new legislation is fully bedded in. While there are many statistics quoted in the paragraphs 7.3-7.5. In practice, local authorities decide which needs require services by reference to eligibility criteria. The Carers Bill adopts a similar approach by requiring local authorities to develop eligibility criteria for support to carers.

4 Carers Bill, section 1(1).
5 For adult carers per assessment: £72 (Option 1), £110 (Option 2), and £179 (Option 3); for young carers: £106, £125, and £167 per assessment.
Finance Memorandum from different carer surveys and research, none of this evidence leads to these particular estimates, or to the "steady state" cumulative estimates (from which they are derived) of 34% of the total number of adult carers ever having had an ACSP, and 64% of young carers ever having had a YCS.

In reality, it is unlikely that a “steady state” will be achieved. As the Policy Memorandum acknowledges (in para 20), the number of carers is likely to increase, albeit at a slower rate than the increase expected in the future numbers of people with health and social care needs. This will mean funding pressures as a result of the Bill that are higher than those shown as flat-lining from 2021-22 in the Financial Memorandum (or from an earlier year if the increase in demand builds up more quickly than the Scottish Government predict, as indeed we expect).

It is essential that further work is done jointly by the Scottish Government, COSLA, and relevant academics to produce a more objective and realistic estimate of the funding required for the Bill. The negative impact of continued austerity on local authority budgets, including those for social care, cannot be over-estimated. New duties that are not fully funded can only be delivered by cutting other services even deeper.

**(b) provides for the establishment of an information and advice service for carers in each local authority area which must include a short breaks services statement;**

The City of Edinburgh Council agrees that carers should have access to information and advice services, which can support them in their caring role. We are less certain that legislation is required to achieve this. However, there is merit in the Scottish Government funding the further development of comprehensive advice and information services in every local authority area in Scotland.

**(c) introduces a duty to support carers whose needs cannot be met by general services in the community (including the information and advice service). The carer’s needs must meet local eligibility criteria in order for the duty to apply;**

The City of Edinburgh Council agrees that the current power to provide support to meet assessed needs of carers should be replaced by a duty, provided this legislative change is fully funded. We agree that this will require the development of local eligibility criteria. We note that the Bill provides the option for a subsequent national eligibility framework to be established via regulations – we do not support that further and arguably unnecessary proposal, which appears to contradict the principles of subsidiarity and localism.

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*We use this term to denote the period after the initial increase in assessment requests following implementation of the Bill. In a steady state the number of new carers = the numbers of carers ceasing to provide care.*
The cost of meeting this new duty is likely to be far larger than anticipated in the Financial Memorandum (FM), which assumes that only 21% of adult carers and 40% of young carers will have eligible needs (FM para 77). The evidence “taken into account” in these estimates includes a finding from one survey that “44 per cent [of carers] on average are positive about feeling supported to continue caring” (FM, para 72). However, the Policy Memorandum quotes from a different survey that “70% of carers said they receive no support with their caring responsibilities” (para 17, fifth bullet).

The evidence “taken into account” in these estimates includes a finding from one survey that “44 per cent [of carers] on average are positive about feeling supported to continue caring” (FM, para 72). However, the Policy Memorandum quotes from a different survey that “70% of carers said they receive no support with their caring responsibilities” (para 17, fifth bullet).

The cost of the new duty to support carers is estimated at £1,000 every three years (£333 pa) per eligible carer. However, one week’s respite currently costs around £1,000, so a unit cost of £333 will not buy much support.

Councils will also not be able to charge carers who can afford to pay something towards their support because The Carers (Waiving of Charges for Support) (Scotland) Regulations 2014, passed under negative procedure in early 2014, made such services free of charge from 1 April 2014. Councils received no additional funding to offset the loss of income.

(d) requires local authorities, in determining which support to provide carers, to consider in particular whether the support should take the form of, or include, a break from caring;

The City of Edinburgh Council agrees with the importance of providing breaks from caring, provided that there is sufficient additional funding to expand such provision. Our reasons for believing that the funding is insufficient in the Financial Memorandum to the Carers Bill have been stated in the previous section.

(e) requires local authorities to prepare local carer strategies for their areas;

In Edinburgh, we have already developed a Joint Carers’ Strategy with six key priorities along with a Joint Strategic Commissioning Plan for Carer Support.

(f) requires local authorities and health boards to involve carers in carer services meaning services provided by the local authority or health board to carers and cared-for persons.

This is already good practice in all or most local authorities in Scotland. In particular, we welcome young carer involvement in the planning, shaping and delivery of services for cared for people, and for support for young carers, and acknowledge that adequate support may be needed to allow young carers to participate.

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7 The City of Edinburgh Council already has an annual loss of income of £0.8m from now being unable to charge for residential respite care provided following a carer’s assessment.
2. What do you feel would be the benefits of the provisions set out in the Bill?

The City of Edinburgh Council supports the overall policy intention of the Bill, and most of the intended benefits described in the Policy Memorandum. As stated in the first paragraph of our response to Question 1, unpaid carers provide the majority of care in our society, not the State. When people are no longer able to provide this care, demand for health and social care services increases. So, sufficient support to Scotland’s 750,000 carers is essential to the sustainability of all social care, by the State as well as by families.

Nevertheless, achieving these benefits will require significant additional local government expenditure. We are not convinced that the benefits outweigh the costs in respect of the changes to the definition of carers, discussed in our response to Question 1. The Policy Memorandum (PM) states that the benefits are twofold:

- It will remove the need for local authorities to assess whether a carer is a “regular and substantial” carer, bringing with it a more consistent approach to eligibility for the ACSP and YCS across local authorities.
- There will also be a wider group of people who are cared-for persons. (PM para 68)

The latter benefit arises because “cared-for persons [will] no longer have to be in receipt of community care services” (PM para 56). However, that requirement is not strictly entailed by deleting reference to “regular and substantial care”, and variation in eligibility can be reduced by guidance. We share COSLA’s concerns that scarce resources spent on additional assessments for carers with lower level needs, and who would not qualify for support, will mean less funding is available for carers who do need support, or for the wider social care system as a whole, which is already under so much pressure.

3. How do you feel the Bill could be amended or strengthened?

Our response to Questions 1 and 2 indicate the need for amendment to the proposed changes in the definition of carers, so that the focus remains on carers with the greatest needs for support. We have also covered the problems with the Bill’s proposes to refer to all carers’ assessments as “Adult Carer Support Plans”, even where the assessment finds no eligible needs for support that require a support plan.

We also share COSLA’s concerns about the Bill’s prescriptions for the form and content for the ACSP and YCS, when normally this is better handled in guidance prepared jointly.

The Council is also concerned that the Bill sees assessments for carers of children with disabilities as separate from the current assessments of need undertaken within Getting It Right for Every Child (GIRFEC), potentially
undermining the holistic, inter-agency approach to children’s needs, and superimposing national eligibility criteria for carers onto local GIRFEC delivery. There should be no need for a separate or additional carer’s assessment if the young carer has been already identified and has been the subject of a GIRFEC assessment.

More generally, the Bill contains several references to Ministerial powers to make further regulations directing local authorities with respect to implementation. These strongly suggest an erosion of local democracy.

4. **Is there anything that you would add to the Bill?**

No, the City of Edinburgh Council does not wish not add anything to the Bill.

5. **Is there anything that you would remove from the Bill?**

Our submission already covers all the issues where some respite from the Bill’s proposals would be welcome.

**The City of Edinburgh Council**