Health and Sport Committee

Stage 1 Report on the Carers (Scotland) Bill
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Health and Sport Committee

To consider and report on health policy, the NHS in Scotland, sport and other matters falling within the responsibility of the Cabinet Secretary for Health, Wellbeing and Sport, and measures against child poverty.

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Note: The membership of the Committee changed during the period covered by this report, as follows:
Malcolm Chisholm replaced Richard Simpson on 2 September.
Introduction

Overview

1. The Carers (Scotland) Bill (“the Bill”) was introduced in the Scottish Parliament on 9 March 2015. The Health and Sport Committee (“the Committee”) was designated as lead committee for Stage 1 consideration of the Bill on 18 March 2015. The lead committee is required, under Rule 9.6.1 of the Parliament’s Standing Orders, to report to the Parliament on the general principles of the Bill.

2. The Committee issued a call for written evidence on 25 March 2015, which received a total of 75 submissions.

3. In addition to the formal call for written evidence, the Committee posted a comments box on its webpages. This was promoted through social media and invited individual carers who may not have engaged with the Parliament before to submit their views on certain aspects of the Bill in a less formal way. A total of 21 responses from individual carers were received in this way.

4. The Committee took oral evidence at its meetings on 5, 12 and 26 May and 23 June 2015. The last of these evidence sessions was with Jamie Hepburn, Minister for Sport, Health Improvement and Mental Health, which the Committee agreed to postpone until the 23 June following the decision by the Finance Committee to undertake additional scrutiny of the Bill’s Financial Memorandum.

5. In order to hear the views of those most affected by the Bill, the Committee held a series of informal meetings with individual carers. The first of these took place in Glasgow on 18 May 2015, and was attended by carers from across Scotland with a wide range of caring experience. This was followed by two meetings in the Scottish Parliament with members of the Marie Curie Expert Voices Group for Scotland and a group of young carers from Princess Royal Trust Carers Centre in Falkirk. These took place on 28 May and 18 June 2015, respectively. Those Members that attended each of the meetings reported back to the Committee on the views they had heard on 2 and 23 June 2015.

6. The Committee wishes to thank everyone who provided written and oral evidence and, in particular, those carers who gave up their time to meet with Members of the Committee to share their experiences and views on the Bill.
7. As noted above, the Bill was considered by the Finance Committee, which received 18 written submissions and heard oral evidence on the Financial Memorandum on 13 May 2015. Following this, the Finance Committee agreed to ask the Minister in charge of the Bill to provide written clarification of some of the issues raised in evidence and to give oral evidence on 3 June 2015. The Finance Committee published its report\(^1\) on the Bill's Financial Memorandum on 18 June 2015, ahead of the Health and Sport Committee's final evidence session on 23 June 2015 with the Minister for Sport, Health Improvement and Mental Health.

8. The Bill was also considered by the Delegated Powers and Law Reform Committee\(^2\), which published its report on 28 April 2015.

**Background to the Bill**

9. There are an estimated 745,000 adult carers and 44,000 young carers in Scotland.\(^3\) The value of the care they provide is estimated to be around £10.3bn each year. Caring can have a detrimental effect on the health and wellbeing of a carer and this can subsequently impact on the person that is being cared for.\(^4\)

10. At the moment, local authorities have a duty to assess a carer’s ability to care and the power to provide support where necessary. NHS boards are also required to publish a carer information strategy setting out how carers will be informed of their right to request an assessment.\(^5\)
11. The current Scottish Government and COSLA strategies for adult and young carers in Scotland are ‘Caring Together’ and ‘Getting it Right for Young Carers’. These were published in 2010 and are scheduled to come to an end in 2015.6

12. The Bill’s Policy Memorandum highlights a number of initiatives and funding streams driven by these national strategies, such as the Voluntary Sector Short Breaks Fund and the Carer Information Strategy funding for health boards to improve carer identification and support.7

13. In addition, three pieces of recently enacted Scottish Government legislation have an impact on carers, either directly or indirectly, and provide a large part of the policy context to the introduction of the Bill.8 Brief summaries of these are provided below.

14. The Social Care (Self-directed Support) (Scotland) Act 2013 allows people to choose how their support is provided and gives them a varying degree of control over their individual budget. It also contains a discretionary power to provide support to carers. The Bill’s Policy Memorandum states that “when cared-for people have control over their health and social care and support, this helps to support carers.”9

15. The Public Bodies (Joint Working) (Scotland) Act 2014 provides the framework for the integration of health and social care in Scotland. There are nine national health and wellbeing outcomes which the integration of health and social care aims to achieve. Outcome 6 requires unpaid carers to be “supported to look after their own health and wellbeing, including to reduce any negative impact of their caring role on their own health and wellbeing.”10

16. The Children and Young People (Scotland) Act 2014 contains provisions intended to support children, young people and families. This includes young carers and carers of children with disabilities.11

17. The Policy Memorandum states that “the Bill will complement the three Acts” and, in addition, will “provide a key platform in order to better support carers on a more consistent basis”.12 It also sets out the need to support carers within the context of demographic changes and an expected increased demand for carers as a result of, amongst other things, an aging population and a growing number of children with complex needs being cared for at home.13

Main provisions in the Bill

18. The Policy Memorandum states that the objective of the Bill is to make real the Scottish Government’s ambition for Scotland’s adult and young carers to be better supported on a more consistent basis so that they can continue to care, if they so wish, in good health and to have a life alongside caring. In relation to young carers, the intention is similar to that for adult carers but that young carers should have a childhood similar to their non-carer peers.14
19. The Bill makes a series of provisions about carers, who are defined as individuals (both adults and children) who provide or intend to provide care to other individuals. In particular the Bill—

- sets out the key definitions of adult carers and young carers for the purposes of the Bill;
- makes provision for the preparation of adult carer support plans, which involve identifying the needs and support to be provided to adult carers;
- makes provision for the preparation of young carer statements, which involves identifying the needs and support to be provided to young carers;
- places a duty on local authorities to provide support to carers where local eligibility criteria (to be set by local authorities) are met, including the provision of short breaks;
- makes provision for national eligibility criteria to be set (if the local eligibility criteria appear not to be working);
- requires local authorities and health boards to involve carers in the carer services that they provide;
- requires local authorities to prepare and publish local strategies concerning, among other things, the support they intend to provide to carers;
- requires local authorities to establish and maintain an information and advice service for carers; and
- makes provision for local authorities to charge for services to carers.

**Evidence and recommendations**

**Definition of ‘carer’**

20. Currently, the law recognises a carer as someone who provides, or intends to provide, a substantial amount of regular care to a person who is in receipt of care services. The Bill would remove the requirement for the care to be ‘substantial’ and ‘regular’ and for the cared-for person to be in receipt of care services. In addition to broadening the definition of ‘carer’, it is expected that the Bill would widen the group of people who are considered to be ‘cared for’.

21. Under the Bill, all carers would be entitled to an Adult Carer Support Plan (ACSP) or Young Carer Statement (YCS). The Policy Memorandum states that—

> “The ACSP and YCS will be light-touch as necessary so as not to discourage carers from having an ACSP or YCS as appropriate.”
22. The Scottish Government is of the view that the current uptake of carer assessments is relatively low. This is due to a number of reasons, such as the challenges in identifying carers, for example, which is explored later in this report.

23. Whilst many of the organisations that submitted written evidence supported the broadening of the definition of ‘carer’, some local authorities and health and care partnerships expressed concerns with regards to how they would manage the increased demand for services resulting from this and the statutory entitlement to an ACSP or YCS.

24. Many organisations had concerns regarding the financial resources that would be required to implement the provisions, and this specific issue – including the estimated number of carers that would request an ACSP or YCS – is covered later in this report.

25. More generally, a number of witnesses were of the view that a universal entitlement to an ACSP or YCS may unrealistically raise carers’ expectations of entitlement to further support. Trisha Hall of the Scottish Association of Social Workers told the Committee that it would be “damaging” for social workers to undertake detailed assessments and identify need, only to tell carers that there are not the resources to support them.

26. In addition, several organisations expressed concerns that limited resources could be diverted away from providing care to those most in need in order to meet the statutory duty placed on local authorities to provide all carers with an ACSP or YCS.

27. For example, David Formstone of Social Work Scotland told the Committee that his association was “not in favour of having an unrestricted definition of carers”. He referred to the financial pressures facing councils and, notwithstanding additional funding associated with the Bill, said it was unlikely that they would significantly increase the size of social work teams. Given that situation, he stated that “diverting resources not necessarily towards the cared for person but for the benefit of the carer” would be a concern.

28. In his evidence to the Committee, the Minister for Sport, Health Improvement and Mental Health referred to the “substantial additional resource” set out in the Bill’s Financial Memorandum to support carers. He told the Committee that each local authority is responsible for how it manages its case load and how it handles cases that are deemed to be more urgent. This, he said, could be determined by processes set out locally.

29. However, several organisations shared the view that the Bill would not provide local authorities with the flexibility to manage demand. David Formstone said that “the ability of practitioners carrying case loads to prioritise their work to deal with the people who are most in need and most at risk would be prejudiced.”
30. It was accepted by some organisations that the preparation of an ACSP or YCS would be ‘light-touch’ for many carers.\(^{26}\) Equally, there was a call from some organisations for certain categories of carers to be prioritised.\(^{27}\) More generally, a number of those who provided written evidence called for a ‘reasonable’ timescale for the preparation of all ACSPs and YCSs to be defined.\(^{28}\)

31. Fred Beckett of Glasgow City Council social work services cautioned against becoming “caught up in the processes.” He highlighted the approach taken in his local authority in order to manage demand for carers’ assessments—

> “We responded to demand by providing anticipatory preventative services and creating a type of assessment that was level with the risk. We could not do a comprehensive, eight-page carers assessment for everyone, so we started screening assessments and delivering services in that way.”\(^{29}\)

32. The Minister acknowledged that the broadening of the definition of ‘carer’ and the universal entitlement to an ACSP or YCS presented the need for a system to deal with how cases are prioritised,\(^{30}\) and that the Bill does not prescribe how this will be achieved by each local authority.\(^{31}\)

33. The Minister also recognised that there is an issue regarding the timescale to which assessments would be undertaken.\(^{32}\) He accepted that there were circumstances in which the assessment would need to be done urgently, for example, carers caring for someone at the end of life.\(^{33}\)
34. The Minister stated that, although there is nothing in the Bill at this point regarding timescales for undertaking assessments, the Scottish Government is committed to considering further how the provisions may relate to those caring for people who are at the end of life and whether they, and possibly other subsets of carers, should be prioritised when seeking an ACSP or YCS.

35. The Committee supports the broadening of the definition of ‘carer’ and the provision of a universal entitlement to an ACSP or YCS which will enable more carers to seek support. However we are concerned by witness evidence that this could reduce local authorities ability to prioritise cases which may then result in resources being diverted away from those cared for people most in need.

36. The Committee requests that the Scottish Government provide further clarity as to how local authorities will manage demand for ACSPs and YCSs in a way that is proportionate to each carer’s wishes and level of need. In particular, the Scottish Government should clarify what is meant by ‘light-touch’, as set out in the Policy Memorandum.

37. The Committee notes that the timescale for providing an ACSP or YCS is not specified in the Bill. The Committee agrees with the Minister that there will be cases where the preparation of an ACSP or YCS is more urgent. The Committee recommends that the Scottish Government provide guidance on those situations when carers can expect to have a request for an ACSP or YCP to be prioritised; for example, those caring for someone at the end of life.

38. The Committee also recommends that the Scottish Government issue guidance on the timescales within which all carers in Scotland should expect to have an ACPS or YCS following referral of a request for one. This guidance would provide carers with an understanding of the expected timescales for receiving an assessment and establish a level of consistency across all local authorities.

**Eligibility criteria**

39. Although, at present, local authorities have the power to provide services to meet the identified needs of carers, they are not explicitly required to do so. The Bill would place an explicit duty on councils to provide support to carers that meet eligibility criteria, and provide councils with discretionary power to support carers that do not meet the criteria.

40. Under the Bill, eligibility criteria would be set locally and be agreed by the local authority. The Bill makes provision for Scottish Ministers to set national eligibility criteria in the future if they come to the view that the local eligibility criteria are not working in the intended way. This duty on local authorities to set local eligibility criteria was the part of the Bill that received the most comments in the written evidence received by the Committee.
41. The Committee heard that carers were very strongly in favour of setting eligibility criteria nationally in order to provide equity and a degree of certainty for all carers across Scotland, and to prevent what many described would be a ‘postcode lottery’. Andrew Strong of Health and Social Care Alliance Scotland stated that this is already happening in relation to charging for non-residential social care. He highlighted the Scottish Human Rights Commission’s concerns that setting eligibility criteria locally would affect the portability of care, meaning that a person may be unable to move to a different local authority if it meant they would not receive the same level of services there.

42. A number of respondents to the Committee’s call for evidence expressed concerns that eligibility thresholds may be raised as resources become more constrained. Scott Richardson-Read of the Scottish Transitions Forum drew the Committee’s attention to a report by Scotland’s Commissioner for Children and Young People that he felt suggested local authorities are already changing their eligibility criteria in other areas because of austerity and budgetary concerns.

43. The views the Committee heard in favour of local eligibility criteria came primarily from local authority representatives. Beth Hall of the Convention of Scottish Local Authorities (COSLA) told the Committee why, in COSLA’s view, it was necessary to set eligibility criteria locally—

> “In the context of finite resources and demand that will always outstrip the available resource, there must be some way of deciding who gets what and of prioritising and targeting resources. That needs to be done locally ... councils need to be able to adjust eligibility criteria at a local level in order to manage demand.”

44. In addition, Beth Hall stressed the importance of maintaining local democratic accountability with regard to those services for which local authorities have responsibility. She also expressed concern that by protecting provision in one area, resources may be diverted away from another area.

45. Paul Henderson of Perth and Kinross Council and Beth Hall both felt that the Bill was unclear regarding what was meant by the term ‘eligibility criteria’. They highlighted a possible conflation between how need is categorised, which they described as the ‘criteria’, and the thresholds within each category at which a carer would be entitled to support. They explained that it was important for councils to be able to set their own thresholds – as opposed to what they defined as the criteria, which could be set out nationally as they are in other areas.
46. The carer organisations were keen to stress that they were not seeking to cut across local accountability and the discretion to develop services in different ways. Scott Richardson-Read described eligibility criteria as “gatekeeping tools”, explaining that the aim was “to ensure that the keys to accessing services across the whole of Scotland are equal.”

47. Witnesses agreed that the level and type of services that were delivered to meet the needs of those carers eligible for support would still be different in each local authority. For example, a number of organisations highlighted that rurality can strongly influence the type of services that are provided, and the way in which they are delivered to carers.

48. Ben Hall of Shared Care Scotland argued that national eligibility criteria would provide all carers with a clear and transparent record of what support they were entitled to, making it easier for them to challenge their local authority in relation to how these services were being delivered. In this way, he said, a nationally agreed eligibility framework would still maintain, and perhaps even increase, local democratic accountability in relation to how services were being delivered to those carers entitled to some form of support.

49. Councillor David O’Neill of COSLA highlighted that councils have, in conjunction with service users, been able to design services to meet local needs. He cautioned against setting nationally agreed criteria as it could result in some carers receiving a lesser service than they currently receive.

50. Claire Cairns of the Coalition of Carers in Scotland responded to this view by highlighting that a national eligibility framework would set a minimum standard, and that local authorities would still have the power to support carers over and above that. She also told the Committee that this issue had been discussed with carers and they realised that national criteria could result in their support going down as well as up. Even so, the feedback from carers was that the system should be “fair” and enable them to “know what they are entitled to.”
51. During his evidence, the Minister told the Committee that local decision making with regards to eligibility criteria would be “overlaid by national guidance.” He highlighted the Scottish Government’s plan to consult on the regulations that are intended to guide councils on how they should set local criteria.  

52. The Minister also provided assurances that the Scottish Government would “monitor the implementation of the Bill” and has “retained the ability to set national criteria in regulations, should that be determined necessary.”  

53. However, Fiona Collie of Carers Scotland and Claire Cairns argued that the opportunity should be taken now to start with a national and consistent approach, instead of local authorities developing 32 different frameworks and then waiting up to three years for a review. They highlighted the draft national eligibility framework that is currently being developed by the national carer organisations, which they believed could be taken forward and implemented in partnership with all stakeholders.  

54. Finally, Claire Cairns drew parallels with the Community Care and Health (Scotland) Act 2002, which she argued has a similar provision for the Scottish Government to consider national charging policies. She told the Committee that, currently, charging policies are agreed locally and have resulted in “huge variation” across Scotland. She pointed out that although the option to adopt a national approach exists, the Scottish Government has not taken it. On this basis, her view was that, should the Bill proceed with local eligibility criteria, the likelihood of national criteria being introduced in the future would be “very slim.”  

55. The Committee notes the witness concerns regarding the differing interpretations of the term ‘eligibility criteria’. In its consideration, the Committee has taken this term to mean the way in which need is categorised, and the threshold within each category at which a carer would become entitled to some form of support. A number of witnesses termed the combined categorisation of need and corresponding thresholds for support as an ‘eligibility framework’. They understood ‘criteria’ to mean only the categorisation of need, and not the thresholds at which carers would be eligible for support.  

56. The Committee requests that it is made clear in the Bill and accompanying documents that the provision to set out national eligibility criteria includes the power to set out the way in which need is categorised and the thresholds at which a carer would become entitled to some form of support.  

57. The Committee recognises the concerns, on both sides, with regards to setting out eligibility criteria either locally or nationally. We note the Scottish Government’s intention to provide national direction through guidance to which local authorities must have regard.
58. Whilst the Committee notes the evidence from carers that the Bill should require eligibility criteria to be set out by the Scottish Government on a national basis from the outset, it also recognises the views expressed by local authorities that there is a need to allow them to prioritise in line with local needs.

59. The Committee requests the Scottish Government give further consideration to whether the balance of eligibility criteria between Government and local authorities is appropriate and if so, to provide further detail regarding how it will monitor and assess the effectiveness of eligibility criteria being set at a local authority level and the timescales for its assessment. The Committee also asks the Scottish Government to detail what range of factors would result in the Scottish Government deciding to change its approach and adopt national criteria.

**Short breaks**

60. The Bill would place a duty on local authorities to consider if the support provided to carers should take the form of, or include, a break from caring. It would also require councils to publish a statement on the availability of short breaks. A number of respondents to the Committee’s call for evidence expressed disappointment that the Bill does not place a duty on local authorities to offer short breaks or set out a minimum entitlement and eligibility.\(^{56}\)

61. During informal meetings with carers, the Committee heard how important breaks were in enabling carers to continue in their role in good health. In particular, young carers felt that breaks allowed them to have a life alongside caring similar to their peers. Others argued that all workers have a basic entitlement to time off but this is not routinely and consistently afforded to carers. One carer felt that carers work in “Victorian conditions”.\(^{57}\)

62. Many of the carers that Committee members met with agreed that a break from caring need not be a short holiday or significant time away from their caring role; they said that even very modest breaks from caring, such as a trip to the cinema with friends or a few hours to go shopping, would make a huge difference in their lives.\(^{58}\)
63. Ben Hall told the Committee that, from his experience, the availability of breaks from caring was worsening, with what he described as “increased pressure to move from providing preventative breaks to providing crisis intervention.”

64. The Minister acknowledged that the term ‘short break’ can mean something different to different people, which made it difficult to be “overly prescriptive and definitive” in this regard. However, he reiterated the Scottish Government’s commitment to provide financial resources for short breaks, through the funding of the provisions in the Bill and through the continuation of the short breaks fund.

65. Taking the definition of ‘carer’ set out in the Bill into account, which includes carers that provide one or two hours of care a week, the Minister’s view was that the provision of a short break should be a decision made as part of the assessment process, and not a statutory right for all carers.

66. The Committee believes that short breaks are vital in enabling carers to continue in their caring roles in good health and to maintain a life alongside caring. However, the Committee is concerned that the Bill does not provide enough clarity on what constitutes a short break.

67. The Committee recommends that the Scottish Government provide further clarity on what may be offered to carers under the term ‘short break’, such as a break of a few hours from their caring role facilitated by the provision of the necessary replacement care. It is important to ensure that the needs and aspirations of carers are taken into account by local authorities so that appropriate short breaks are provided. The Committee recommends that the Scottish Government’s guidance to local authorities regarding the provision of short breaks details the importance of ensuring short breaks are tailored to the needs of the carer.

Information and advice services

68. Ben Hall told the Committee that “the single biggest barrier to carers taking a short break was their inability to access information and advice.”

69. Currently, local authorities have a duty to provide carers with information on their right to request an assessment of their ability to provide care. Health boards can also be required by Ministers to prepare a Carer Information Strategy (CIS), which sets out how they will inform carers of their right to an assessment. However, there is no requirement for local authorities or health boards to publish information or advice for carers. In many areas, this type of service is provided by third sector organisations.

70. Section 31 of the Bill places a duty on local authorities to “establish and maintain” an information and advice service for carers in its area. The Bill would also repeal the requirement for health boards to publish a CIS.
71. A number of respondents to the Committee’s call for evidence highlighted that there are many information and advice services already in existence in the third sector, and that the Bill’s focus should be on supporting and resourcing them and only establishing new services where necessary. 66

72. Members of the Committee heard from individual carers themselves how much they value the services provided by third sector carer organisations. The group of young carers that met with the Committee, for example, said that they had very little information about the support that was available to them until they found the Princess Royal Trust for Carers centre in Falkirk. 67

73. These views were echoed by Claire Cairns, who told the Committee—

   “When we talked to carers about the information and advice duty, they were very clear about what they wanted. They wanted an information and advice service that was local, independent and expert – just like the services that are currently provided through local carers services”. 68

74. Heather Noller of the Carers Trust Scotland felt that the Bill and accompanying guidance could be strengthened to recognise the “rounded, holistic service that a bespoke carers service provides”, and ensure that existing services are not replaced by a local authority service. She told the Committee that carer services follow up the information and advice they provide with additional support that is focussed on the individual carer’s needs. She cautioned that if the duty is only to provide information and advice, then that may be all that carers receive from an in-house council service. 69

75. Andrew Strong agreed that carers want practical support and advice, highlighting that much of this is currently provided by third sector organisations as they are often the first point of contact for carers. 70
76. The Committee heard similar views from local authority representatives who saw information and advice services as being a partnership, and not necessarily lying only within local authority services. However, they felt that the provisions in the Bill duplicated existing duties under the Social Care (Self-directed Support) (Scotland) Act 2013, and that information and advice services are already a strategic objective as part of the national carers strategy.

77. Although Beth Hall recognised that local authorities need to get better at providing information and advice, she felt that this could be achieved through greater investment and questioned the necessity for additional layers of statutory duties.

78. In discussing this part of the Bill carer organisations welcomed the guidance within the Bill’s Financial Memorandum for local authorities and health boards “to make the best use of the third sector”. However, they too were concerned that there wouldn’t be adequate funding to meet demand for information and advice services. They were also unclear how the resources set out in the Financial Memorandum would be allocated to third sector organisations.

79. In particular, Andrew Strong referred to research undertaken by the Scottish Council for Voluntary Organisations (SCVO) that found that there were 81 specific carer organisations across the country. This is significantly more than the 50 providers that the Financial Memorandum provides funding for to ensure they have the necessary technical, data collection and IT capacity.

80. Heather Noller highlighted that the costings in the Financial Memorandum are based on there being two information and advice workers per local authority. She told the Committee that, whilst this may be adequate for averagely populated areas, it would not be sufficient to meet the demand in remote and rural areas, or even the larger cities.

81. Penny Nowell of Dumfries and Galloway Council echoing the view that remote and rural areas present a particular challenge, said that “people can be caring for a long time before they find out that a simple service is available.”

82. The Minister provided the Committee with assurances that the information and advice services resulting from the duty contained in the Bill would not necessarily have to be provided directly by the local authority. He told the Committee that—

> “where a well-established local carers centre already provides carers with information, the local authority could discharge its statutory function through pre-existing services.”
83. The Committee welcomes the assurances provided by the Minister that local authorities would be able to meet the duty to provide information and advice services through existing third sector organisations. However, the Committee recommends that this should be made clearer, either through guidance or amendments to the Bill itself. In doing so, the Committee recommends that the focus of the Bill and accompanying guidance should be to support and enhance existing carer information and advice services, and only require the establishment of new services where necessary.

84. The Committee recognises the concerns raised by witnesses in relation to the allocation of resources within the third sector, and of the estimated costs for the necessary provision of information and advice workers. We seek clarification from the Scottish Government as to how the figures set out in the Financial Memorandum take into account the particular challenges and additional costs associated with providing information and advice services in remote and rural areas and larger cities.

85. The Committee recommends that the Scottish Government provides clarification with regards to how the resources for third sector organisations set out in the Financial Memorandum would be allocated, and the basis for funding only 50 providers given the evidence from SCVO that it has identified 81 specific carer organisations across the country.

86. Given this, the Committee recommends that the Scottish Government review the funding that would be provided to meet the provision of information and advice workers.

Identifying carers and the role of the NHS

87. The Bill would repeal the requirement for NHS boards to produce a carer information strategy and instead place a duty on local authorities to prepare a local carer strategy which would include, among other things, how they plan to identify carers in their area.79

88. Some respondents to the Committee’s call for evidence were of the view that the Bill would not do enough to improve the identification of carers. In particular, a number of submissions suggested that there should be a greater role for the NHS in identifying carers and signposting them to services and support. This was viewed as particularly important given the integration of health and social care.80
89. Alison Jarvis of NHS Lothian acknowledged the important role that the health service has in identifying carers.\textsuperscript{81} She highlighted a study in Edinburgh that showed that—

\begin{quote}
“the vast majority of people who were identified as carers did not self-identify; they were identified through opportunistic conversations with a range of people in a practice, such as reception staff, GPs and nurses.”\textsuperscript{82}
\end{quote}

90. In this regard, carer organisations\textsuperscript{83} and local authority\textsuperscript{84} witnesses agreed that there should be a greater role for the NHS in meeting the duties set out in the Bill. The shared view was that this would bring the provisions in the Bill more in line with the current integration of health and social care.

91. Fiona Collie of Carers Scotland called for the duty to prepare a local carer strategy to be shared jointly between local authorities and the NHS. In addition, she told the Committee that the Bill could be used to formalise the use of carers registers, operated by GPs, and specify what support or information should be provided to carers on a register.\textsuperscript{85}

92. In relation to young carers, Lois Ratcliffe of Edinburgh Young Carers Project told the Committee that GPs, hospitals and condition-specific units were key places where young people with caring responsibilities could be identified and referred to carer services at the earliest possible stage.\textsuperscript{86} She agreed that GP registers could improve the identification of hidden young carers.\textsuperscript{87}

93. The Committee heard that a large proportion of young carers, estimated to be about a third of those using young carers services, care for a family member with alcohol or substance misuse issues. The possibility of incorporating the identification of young carers into the proposed Drug & Alcohol Information System (DAISy) was discussed, and Lois Ratcliffe agreed that the system should be used for that purpose.\textsuperscript{88}
In his opening statement to the Committee, the Minister highlighted the crucial role for the Bill to complement wider policies such as the integration of health and social care and the rollout of self-directed support. He also explained that he was not convinced it was necessary to do anything on a legislative basis to improve carer identification.

In relation to identifying young carers through the proposed DAISy programme, the Minister committed to explore this issue.

The Committee agrees with witnesses that the NHS has a vital role in identifying and supporting adult and young carers. The Committee also agrees that the provisions in the Bill should complement the new integrated health and social care arrangements.

The Committee asks the Scottish Government for further information on how it will ensure that the opportunities presented by the integration of health and social care can be utilised in relation to identifying and signposting carers to services and support.

The Committee recommends that there should be a greater emphasis in the Bill on the role of the NHS (along with integrated authorities where appropriate) in the preparation of local carer strategies, and that the duty to consult health boards should make explicit reference to establishing an integrated strategy for identifying and supporting adult and young carers.

The Committee recognises the particularly important role GPs and GP practice staff have in identifying and supporting carers. The Committee requests that the Scottish Government responds to the views expressed by a number of witnesses that the identification of adult and young carers could be greatly improved by requiring GP practices to maintain carer registers.

Regarding the identification of young carers affected by alcohol and substance misuse through the proposals in the DAISy project, the Committee welcomes the commitment made by the Minister to consider this matter further. We request that the outcome of this consideration be included in the Scottish Government’s response to this report.

Hospital admission and discharge procedures

In addition to calling for the strengthening of the role of the NHS in relation to identifying carers, a significant number of written submissions called for the Bill to include a duty on health boards to involve carers in hospital admission and discharge procedures.
102. This issue was raised by the individual carers that met with Committee members in informal meetings. Many had experience of not being consulted when the person they cared for was admitted or, more significantly, discharged from hospital. The carers shared frustrations and concerns that their needs and wellbeing – and those of the person they cared for – were not being considered by hospital staff during these procedures.  

103. Fiona Collie explained that, following hospital discharges, 20 per cent of carers report that the person for whom they care has to be readmitted within one month. Her view was that the discharge policies and protocols that are currently in place do not appear to be working, which made legislating in this area necessary. She went on to say—

“We need to put in place a duty to talk to the carer and ask, before the person being cared for leaves hospital, whether the carer wants and is able to provide care”.  

She expressed concern that—

“Delayed discharge is butting up against our ability to discharge people from hospital safely and in a way that enables carers to provide the support that those people need without detriment to their own health.”

104. Claire Cairns agreed that there was a need to make it a duty to involve carers in hospital discharge procedures. She told the Committee that, in some areas, there is a culture among health professionals that patients should be discharged from hospital as soon as possible and that it is the family’s responsibility to take on that care. She said that “no assumptions should be made in that respect”, highlighting that the failure to have those conversations often leads to a crisis and the cared-for person being readmitted into hospital.

105. In responding on this issue the Minister committed to seriously consider any suggested amendments as the Bill progressed to Stage 2.

106. The Committee shares the concerns of carers and carer organisations that a lack of consultation with carers when the person for whom they are caring is admitted or, more importantly, discharged from hospital could result in crisis situations developing and lead to unnecessary readmissions into hospital.

107. The Committee requests that the Scottish Government sets out how it will ensure that, prior to patients being discharged, hospital staff identify carers and establish that they are “able and willing to provide care”.
108. The Committee recommends that the Scottish Government responds to the calls from carers and carer organisations to include provisions in the Bill that place a duty on health boards to involve carers in hospital admission and discharge procedures.

Young carers

The role of schools

109. Louise Morgan of the Carers Trust told the Committee that one of the biggest challenges in providing support to young carers is being able to identify them. She referred to the Scottish Government estimate of 44,000 young carers in Scotland. Based on survey work undertaken by the Scottish Young Carers Services Alliance, however, she stated her belief that the true figure was “much nearer to 100,000.”

110. Tam Baillie, Scotland’s Commissioner for Children and Young People, emphasised the need to be proactive and systematic in identifying young carers in order to know with more certainty just how many there are across Scotland. He indicated there should be a greater role for those professionals who regularly work with young people, such as teachers, school staff, GPs and social workers.

111. A number of witnesses agreed that not enough was being done in schools to identify and support young people who have caring responsibilities. Although the Committee heard of a number of positive initiatives, there was a shared view that more could be done nationally to improve on the current situation in which “many young carers seem to slip under the radar.”
112. This chimed with the experiences of the young carers and young adult carers with whom Committee members met. Some felt that they had been very well supported, whilst others felt they had been given very little or no support from their school with regards to their caring responsibilities.\textsuperscript{102}

113. Many of these young carers and young adult carers explained that they had been caring for a family member for many years throughout their childhood before they were given any kind of support or, more strikingly, before they even understood that they were a carer.\textsuperscript{103}

114. Several witnesses agreed that not all young carers need a specialist support service, and that often all that may be required is some flexibility at school and an acknowledgement of their caring role.\textsuperscript{104} However, the Committee also heard that young carers often reach a crisis point before they are referred to carer services.\textsuperscript{105}

115. Carer organisations agreed that it was important to work with schools to equip teachers and staff with the knowledge and skills to identify young carers, to provide easy and flexible support for them in school, and to signpost them to other carer services.\textsuperscript{106}

116. In relation to young carers, the Minister accepted that identification was an important issue but he reiterated his view that there wasn’t necessarily a need to legislate for it. He acknowledged the problem concerning people not identifying themselves as carers and referred to “[a variety of national policy initiatives] that support identification of carers by professionals.”\textsuperscript{107}

117. Whilst the Committee recognises the difficulty in legislating for the identification of young carers, it was struck by some of the experiences of the young carers and young adult carers it met with. The Committee shares the concerns that young people, in particular, are less likely to identify themselves as carers and, depending on their age, may not understand that they are a carer.

118. The Committee recommends that the guidance issued to local authorities on the preparation of local carer strategies places a greater emphasis on the role of schools in identifying and supporting young carers. Furthermore, the Committee requests the Scottish Government, in its response to this report, to set out what further action it will take to ensure that young carers are given the support they need at the earliest opportunity.

Interaction with the Children and Young People (Scotland) Act 2014

119. The approach to supporting children and young people in Scotland is guided by ‘Getting it Right for Every Child’ (GIRFEC). This has been Scottish Government policy for a number of years and was recently placed on a statutory footing through the Children and Young People (Scotland) Act 2014 (‘the 2014 Act’).\textsuperscript{108}
120. Provisions within the 2014 Act require that a ‘Child’s Plan’ be provided for any person under 18 years of age who needs a ‘targeted intervention’ in order to meet their ‘wellbeing needs’. A Child’s Plan is only needed when a child’s needs cannot be met through mainstream services. \(^{109}\)

121. The Bill would place a duty on local authorities to provide a ‘Young Carer Statement’ (YCS) for anyone they believe to be a young carer, those who wish to have one, and those who request one. This would be regardless of whether the young person has a Child’s Plan or not. \(^{110}\)

122. The Policy Memorandum sets out the intended benefits of a YCS as allowing the young carer to discuss their personal outcomes and need for support in their caring role. It also highlights that not all young carers will have wellbeing needs and, therefore, need a Child’s Plan but this should not mean that they are not entitled to a YCS. \(^{111}\)

123. However, a number of respondents to the Committee’s call for evidence were of the view that the provision of Young Carer Statements would be inconsistent with the approach that is being implemented as a result of the 2014 Act and is a “duplication of bureaucracy”. \(^{112}\)

124. Beth Hall told the Committee—

> “Having a separate young carer statement will mean that a young person has two parallel plans, which will have an impact on holistic planning and co-ordination of support – everything that GIRFEC is trying to achieve.” \(^{113}\)

125. Several witnesses either had concerns regarding the existence of parallel plans \(^{114}\) or were unclear how they would link together. \(^{115}\) Some shared the view that where a Child’s Plan exists, the YCS should be included as part of it. \(^{116}\) However, several carer organisations said, in that situation, a YCS should be an additional document to ensure that those young people are given support specific to their needs as a carer even when, for example, their Child’s Plan is no longer required. \(^{117}\)

126. There was a range of views expressed in the written and oral evidence regarding the provisions of the Bill that relate to the requirement under the 2014 Act for every child in Scotland, from birth until their 18th birthday (or beyond, if they are still in school), to have a ‘Named Person’ available to them. \(^{118}\) A Named Person acts as the first point of contact for a child and their family should they require any support. \(^{119}\)

127. Where a responsible authority offers a YCS, or where a young person requests one, the Bill would require that the young carer’s Named Person be informed. Furthermore, the Bill would require that the information contained in a YCS be provided to the young carer’s Named Person. \(^{120}\)
128. A number of witnesses were of the view that the young carer should be in control of the information contained in their YCS and of which details are shared with whom. Furthermore, if there is no consent, the information should only be shared if it is deemed that the young person may be at risk.

129. For most young people of school age, the Named Person will be their head teacher. On this issue, Tam Baillie told the Committee that “the messages from young carers are quite mixed”. He said that some want their teachers to know about their caring responsibilities so that they can be given some flexibility and support at school. However, others felt that it was personal family business that they did not want others to know about.

130. The Committee heard a very similar range of views from the group of young carers it met with. Some had had very positive experiences as a result of their school being made aware of their caring role and felt better supported. Others did not want their school to know at all, or did not want it to know the details of their caring role.

131. Carer organisations highlighted the benefits of sharing information about a young person’s caring role with their school to ensure the necessary support is provided. However, they cautioned against this being done without the young person’s consent as it may damage their trust in the process and the people supporting them. It may also discourage young carers from seeking a YCS or other help.

132. Many of the witnesses agreed that there was a need for further consultation with young carers on this issue.

133. In his evidence to the Committee, the Minister acknowledged the concerns regarding the Named Person provisions in the Bill. In particular, he stated that he did “not want to do anything that would reduce the likelihood of a young carer coming forward for assistance” and that he was open to ways to “finesse that provision”.

134. Although the provision of Young Carer Statements is welcomed by the Committee, it requests that the Scottish Government provide further clarity on how a YCS will link to a Child’s Plan, where one exists.
135. The Committee recognises the benefits of Named Persons being provided with information regarding the caring roles of any young people for whom they are responsible. However, the Committee shares the concerns that doing this without the consent of young carers may be seen as a breach of trust and, worse still, may dissuade vulnerable young people from seeking help or support. We welcome the Minister’s comments that he is open to further refinement of these provisions. Given this we recommend that the Scottish Government set out alternative provisions that outline what level of detail of a young person’s caring role would be shared with their Named Person, under what circumstances, and what involvement the young carer would have in those decisions. The Committee recommends that the Scottish Government undertake further consultation with young carers on these provisions before they are implemented.

Pre-school children

136. Several witnesses made specific comments regarding the Bill in relation to pre-school carers.

137. The Policy Memorandum details that—

“...The health board will prepare the [Young Carer Statement] for the estimated 200 pre-school children in Scotland who are young carers, but the emphasis here will be on stopping the caring role and supporting the parent or other cared-for person.”

138. Witnesses were in broad agreement with the view expressed by Tam Baillie that “there should be no acceptance of very young children, in particular, having a caring role.”

139. However, whilst Trisha Hall of the Scottish Association of Social Workers agreed that it was “not acceptable for children to be working” she believed that there should be a sympathetic assessment made of the child’s needs and appropriate support mechanisms put in place.

140. Trisha Hall also told the Committee that she hoped that the Bill would encourage people to seek support, when previously they may not have done due to fear of an assessment resulting in a child being taken into care.

141. Whilst the Committee acknowledges that it is desirable to reduce the caring role for all young children and provide them with better support, we support the Scottish Government’s view that for pre-school children, who are young carers, the emphasis should be placed on stopping their caring role.
142. However, the Committee believes that for those pre-school children in this situation there should be a sympathetic assessment of their needs and appropriate support mechanisms provided to them. The Committee asks the Scottish Government how it will ensure that this Bill encourages individuals to feel comfortable in seeking an assessment for a pre-school child without fear of this resulting in the child being taken into care.

Transition to young adulthood

143. The Bill would ensure that a young carer’s YCS would remain in place after their eighteenth birthday until a time that they have an ACSP.  

144. A number of respondents to the Committee’s call for evidence were of the view that this provision would aid the transition to adult services. However, some expressed concern, suggesting that there should be a defined timescale for the cessation of a YCS.

145. Lois Ratcliffe, and others, highlighted the importance of this stage in a young carer’s life and the need to ensure that they are provided with the same opportunities as their peers to begin a career or enter further education. She told the Committee—

“Quite often, young carers can be pushed into feeling that the only career option that is available to them is to continue caring or to go into a caring role or career. It is important to level the playing field so that they have other options.”

146. Witnesses were broadly supportive of enabling young adult carers who no longer wish to continue their caring role in order to go to college or university, for example, to be able to do so. However, David Formstone of Social Work Scotland, whilst supporting the empowerment of carers in this way, warned of the “harsh reality of limited resources” when seeking to provide replacement care to enable this to happen.

147. On the issue of carers being able to end their caring role if they so wish, the Minister told the Committee—

“We would not want to compel people to undertake caring responsibilities: people must want to continue that caring responsibility.”

148. The Committee welcomes the assurances from the Minister that carers who no longer wished to continue with parts or all of their caring role would be supported to do so. The Committee recognises the particular importance of such support to young carers as they reach the age of eighteen and/or the end of their school life.
149. The Committee requests that the Scottish Government sets out what specific measures it will put in place to ensure that young carers will receive an ACSP timeously after reaching 18 or leaving school. We consider that part of this process should include consideration of young carers being able to end their caring role if they so wish.

Preventative approach

Anticipatory support

150. Several of those who responded to the call for evidence highlighted the importance of adopting a preventative approach to carers’ needs. They were of the view that, for carers with lower levels of need, there should be access to services that will prevent their needs from escalating. Some respondents expressed concern that the Bill would result in resources being directed towards those with more intensive caring roles to the detriment of preventative support.¹⁴¹

151. These views were echoed by Alison Jarvis of NHS Lothian who told the Committee—

“it is always good to support early intervention and it is always good to support anticipatory care. The challenge is that resources get sucked into dealing with crisis care and the people who are most in need.”¹⁴²

152. Local authorities highlighted a number of initiatives – resourced through the change fund and the integrated care fund – aimed at “shifting the balance of care and looking at much earlier intervention.”¹⁴³

153. Carer organisations and local authorities agreed that there are significant long-term benefits, both financially and to service users, of providing relatively low levels of preventative support to avoid crisis situations developing.¹⁴⁴

154. The Committee recognises the importance of providing preventative and anticipatory support to carers, often at relatively low levels, in order to reduce the likelihood of traumatic and costly crisis situations developing at a later stage.

155. The Committee requests that the Scottish Government respond to the concerns that were raised in this regard and sets out how the Bill will support the provision of preventative and anticipatory support for carers particularly those with a lower level of need.

Emergency planning

156. Linked to the issue of preventative and anticipatory support, a number of respondents called for specific provisions with regards to emergency planning.¹⁴⁵
157. The Bill’s Policy Memorandum states that emergency, anticipatory or future planning will be covered in regulations about other information that an ACSP must contain.146

158. Several witnesses and written submissions referred to the Scottish Government response to its consultation on proposals for carers legislation, published in January 2014, which states—

“Since not all adult and young carers will ... require discussion of, and arrangements for, emergency planning, we propose to enable emergency planning to take place on an individual basis. Emergency planning will therefore be covered in regulations.”147

159. Witnesses agreed that the Bill could be strengthened by making the inclusion of emergency planning in ACSPs and YCSs a statutory requirement for all carers. Andrew Strong told the Committee—

“All carers require a discussion of what will happen when they are no longer able to care. If we have not thought about or discussed at all what happens in an emergency, we run the risk that carers will fall through the gaps. Many carers just want peace of mind about what will happen.”148

160. The issue of emergency planning was raised by many of the carers to whom Members of the Committee spoke. Some carers felt, in particular, that there was a lack of coordination between Accident & Emergency and their GP, and that the inclusion of emergency planning in an ACSP or YCS may help to resolve this.149

161. The Committee agrees that all carers should be entitled and encouraged to discuss emergency planning as part of the preparation of an ACSP or YCS.

162. The Committee wishes to see better use of emergency planning and recommends that the Scottish Government brings forward amendments at Stage 2 or includes within regulations a requirement that all ACSPs and YCSs must include consideration of emergency planning arrangements.

Equal opportunities

163. The Committee had the opportunity to meet with and discuss with black and minority ethnic carers the support and services they require to undertake their caring role.150

164. A recurring theme which was also emphasised in MECOPP’s written submission was the importance of ensuring an assessment of carers needs should be ‘culturally competent’ recognising that the nature and extent of care delivered by minority groups may differ from the majority population.151
165. The Committee received evidence on the importance of ensuring that the assessment process for ACSPs should be fit for purpose, interpreters provided where required and cultural sensitivities not overlooked.\(^{152}\)

166. In evidence to the Committee Suzanne Munday of MECOPP explained that it was not just black and minority ethnic carers that should be considered within the context of carers with protected characteristics under the UK Equality Act 2010. She believed that progress needed to be made in supporting carers within the whole range of protected characteristics including, lesbian, gay, bisexual and transgender community and carers with disabilities.\(^{153}\)

167. The Committee believes that it is important that the preparation of Adult Carer Support Plans reflect the needs of carers with protected characteristics. The assessment process must recognise the differing nature and extent of care delivered by minority groups to ensure the assessment process is fit for purpose. The Committee asks the Scottish Government to provide further information on how the guidance it will issue to local authorities on ACSPs will take these issues into account.

### Costs and resources

#### Implementation

168. The Bill’s Financial Memorandum sets out anticipated costs associated with implementation for the period 2017-18 to 2022-23. It assumes that the number of carers with an ACSP or YCS will build up over time, so that by 2021-22, 34 per cent of adult carers will have an ACSP and 64 per cent of young carers will have a YCS. It acknowledges that “the percentage of adult carers with an ACSP might be more than 34 per cent over time but it is very difficult to be accurate about this.”\(^{154}\)

169. With regards to the costs associated with the preparation of ACSPs and YCSs, the Financial Memorandum provides upper and lower estimates based on different unit costs for these. It assumes that the unit costs of the ACSPs and YCSs would be similar to those associated with the current assessments.\(^{155}\)

170. Many of the respondents to the Committee’s call for evidence expressed concerns that the costs set out in the Financial Memorandum may be under-estimated.\(^{156}\) Beth Hall summarised COSLA’s view to the Committee—

> “... we do not agree with the figures in the financial memorandum. There are three main reasons for that: we do not agree with the unit cost of assessment that is presented, we are concerned about the speed at which carers may come forward following the announcement of the new duties, and we are concerned about the total numbers.”\(^{157}\)

171. In relation to the unit costs of assessments, COSLA highlighted that it calculated the average cost of these across councils to be £176. However, the Financial
Memorandum presents this figure as the upper estimate, not the mid-point, which COSLA stated is “not realistic”.  

172. Paul Henderson of Perth and Kinross Council supported this view. He told the Committee that his local authority’s financial modelling of its unit cost for a carer’s assessment produced a figure of £215 - which, compared to the Bill’s Financial Memorandum, “is much higher than the high-level cost that is presented.”

173. On the rate at which demand from carers would build, Beth Hall drew comparisons with the introduction of free personal care and highlighted that “the rise was much sharper than is profiled in the financial memorandum to this bill, where the profile is low and slow.”

174. In response, the Minister stated that he did not agree that the comparison with free personal care was a fair one, as “most of the people who are entitled to it [free personal care] are already known to local authorities.”

175. The rate at which demand would build was also raised by the Finance Committee during its evidence session with the Scottish Government Bill team. A second comparison was drawn with the Care Act 2014, for which the build-up of demand to saturation point is estimated to be within just three years, less than that estimated for the Bill.

176. The Bill team explained to the Finance Committee that the current rate of carers’ assessments being carried out as a proportion of the population is much lower in Scotland than it is in England. Therefore, the Bill team said, it is estimated that the build-up to saturation point will take longer to achieve in Scotland “because the profile starts from such a low base”.

177. However, in its written evidence to the Finance Committee, COSLA stated its view that “there is no evidence presented to support the year-on-year increases [set out in the Financial Memorandum] regarding the speed at which carers will come forward for assessment”.

178. More generally, Penny Nowell of Dumfries and Galloway Council said that it was “really challenging” to model the costs that would result from the Bill as there was uncertainty over the total numbers of carers. For young carers, the Financial Memorandum uses the figure of 44,000, but acknowledges that this “is likely to be an underestimate as young carers in particular may not identify themselves as such in a survey.” As highlighted earlier in this report, some organisations estimate that the actual figure may be more than double this.

179. The national carer organisations shared COSLA’s concern that demand may exceed the estimates set out in the Financial Memorandum. Claire Cairns of the Coalition of Carers in Scotland said that a lack of adequate resources would make it “very difficult for local authorities to implement the duties, and that may result in cuts to other services.”
180. Beth Hall told the Committee that COSLA had asked the Scottish Government to revisit the figures and agree a model for estimating costs. She highlighted that, at the moment, the risk lies with local authorities and with carers. She said—

“We want to monitor the true cost of implementation and for the Scottish Government to fund any excess requirement, if demand exceeds capacity. That would be a more appropriate sharing of risk, but so far we have been unable to secure agreement to all that.”

181. In its evidence session with the Minister on 3 June 2015, the Finance Committee explored the issues that were raised by stakeholders with regards to the estimated costs set out in the Financial Memorandum. The Minister told the Finance Committee—

“I see merit in further work to refine the assumptions set out in the financial memorandum and the underpinning detail. That is why we will set up a finance-led group with key stakeholders, including COSLA and carers organisations. The group will consider cost estimates in further detail. It will also aim to establish a clear understanding of risks and how they can best be mitigated.”

182. In its report, the Finance Committee suggested that the Health and Sport Committee seek clarification on the establishment, membership and deadlines for the work of the finance-led group. The Finance Committee also noted its regret that the group was not established prior to the introduction of the Bill and considered that, had it been, its findings may have let to fewer concerns from stakeholders.

183. During his evidence to the Health and Sport Committee on 23 June 2015, the Minister confirmed that the group had been established, and provided details of the organisations that had been invited to join. Although he did not provide any specific timescales, the Minister told the Committee that he wanted the group to meet and report to him “as soon as possible”.

184. In relation to the particular concerns regarding the unit costs of ACSPs and YCSs, the Minister said that the method for establishing these was “very much steered by COSLA”, and is “based on questionnaire returns from 14 local authorities.”

185. In response to the call for the Scottish Government to commit to funding any additional costs should those set out in the Financial Memorandum be underestimated, the Minister referred to the funding of local authorities through the budget settlement and told the Committee—

“When we have that annual dialogue and discussion with local government about each budget settlement, that is us committing to funding any provisions that we legislate for.”
186. The Committee shares the concerns of many stakeholders that the costs set out in the Financial Memorandum may be underestimated, which may have a detrimental effect on other carer services and mean that the aims of the Bill would not be met.

187. Like the Finance Committee, the Health and Sport Committee regrets that the finance-led group was not established prior to the introduction of the Bill. Similarly, the Committee considers that, had the group been established earlier, its findings may have resulted in there being fewer concerns from stakeholders with regards to the estimated costs of implementation.

188. The Committee believes it would be helpful for the Scottish Government to publish the findings of the finance-led group. It should then either set out revised estimates for the costs associated with implementing the Bill, or commit to providing additional funding in the future should it become apparent that the costs set out in the Financial Memorandum are significantly underestimated.

Waiving of charges

189. At present, regulations under section 87 of the Social Work (Scotland) Act 1968 require local authorities to waive charges for support provided to carers under section 3 of the Social Care (Self-directed Support) (Scotland) Act 2013 and for support provided to young carers under section 22 of the Children (Scotland) Act 1995.  

190. The Bill would amend section 87 of the Social Work (Scotland) Act 1968 and allow local authorities to charge for services provided to support carers under the Bill’s provisions.

191. The Financial Memorandum states—

“it is fully expected that regulations will be made to waive charges for support to carers. It is further expected that the regulations would be different from the present regulations given the current challenges experienced by local authorities.”

192. Many respondents to the Committee’s call for evidence expressed concern that, as it stands, support provided to carers under provisions in the Bill could be charged for.

193. The Finance Committee focussed on the waiving of charges in its evidence session with the Scottish Government Bill team. Of particular concern was the issue of replacement care provided for the cared-for person when their carer takes a short break. The Bill team told the Finance Committee—
“Replacement care could be support primarily for the cared-for person or primarily for the carer, or it could be of benefit to both. As I say, categorising replacement care is challenging.”

194. The Financial Memorandum states that the Scottish Government is working with COSLA to resolve these issues and that this resolution “would be expected to result in a favourable position regarding breaks from caring”. If it is the case that replacement care is categorised as support primarily for the carer – to enable them to take a short break – and regulations are made to waive charges for support to carers, this would have the potential to significantly increase the costs associated with implementing the Bill.

195. The Minister told the Finance Committee that if “any mechanism that we seek to introduce at stage 2 of the bill to do with the waiving of charges has cost implications, the financial memorandum will, of course, be revised to take into account any additional costs.”

196. The Finance Committee, in its report, stated its concern that “the Scottish Government is not yet in a position to provide greater certainty on the issues of replacement care and waiving charges and the potential additional costs that may arise if the issue is not properly resolved.”

197. The Finance Committee called for the Scottish Government to provide clarification of these issues and the nature of any amendments that it intended to bring forward, and for this to be provided before the Parliament is asked to vote on the Bill at Stage 1. Furthermore, the Finance Committee stated its view that sufficient time must be allowed between stages 2 and 3 of the Bill to allow proper scrutiny of a supplementary financial memorandum, should one be brought forward.

198. In his evidence to the Health and Sport Committee, the Minister said that the Scottish Government was continuing to work with local government on the waiving of charges and was committed to the position set out previously that charges will be waived for services provided to support carers.

199. Like the Finance Committee, the Health and Sport Committee is concerned that the Scottish Government is not yet in a position to provide greater certainty on the waiving of charges and replacement care, or provide details of the potential additional costs that may result from these.

200. The Health and Sport Committee agrees with the Finance Committee that, prior to the Parliament being asked to vote on the Bill at Stage 1, the Scottish Government should clarify how charges will be waived for services that support carers, including replacement care to enable carers to take short breaks, and provide details of any amendments it intends to bring forward in this area at Stage 2.
201. The Health and Sport Committee also agrees with the Finance Committee that, should the Bill be agreed at Stage 1, sufficient time must be allowed between stages 2 and 3 to allow proper scrutiny of a supplementary financial memorandum, should one be brought forward.

Consideration by other committees

Finance Committee

202. The Health and Sport Committee considered the issues raised by the Finance Committee in its report and has sought to reflect these throughout this report.

Delegated Powers and Law Reform Committee

203. In its report, the Delegated Powers and Law Reform Committee makes one recommendation: that the power in section 1(3) of the Bill be subject to the affirmative procedure. The Scottish Government has committed to bringing forward an amendment to this effect at Stage 2.\textsuperscript{186}

204. Section 1(1) of the Bill defines what is meant by “carer” for the purposes of the Bill. Section 1(2)(b) provides that the section 1(1) definition does not apply in circumstances where care is or would be provided under or by virtue of a contract or as voluntary work. Where care is provided in those circumstances, the Bill does not apply.
205. Section 1(3) provides that the Scottish Ministers may make regulations which provide that “contract”, in relation to the meaning of “carer” and the circumstances in which the Bill would not apply, does or does not include agreements of a kind specified in the regulations.\textsuperscript{187}

206. We agree with the Delegated Powers and Law Reform Committee recommendation that the power in section 1(3) of the Bill should be subject to the affirmative procedure. We also welcome the Scottish Government’s commitment to bring forward an amendment to this effect at Stage 2.

**Policy and Financial Memorandums**

207. The lead committee is required under Rule 9.6.3 of Standing Orders to report on the Policy Memorandum that accompanies the Bill. The Committee considers that the level of detail provided in the Policy Memorandum on the policy intention behind the provisions in the Bill was useful in assisting the Committee in its scrutiny of the Bill.

208. The same rule requires the lead committee to report on the Financial Memorandum. The Committee has a number of concerns regarding the estimated implementation costs set out in the Financial Memorandum, and the lack of clarity on the waiving of charges and replacement care. The Committee’s findings and recommendations on these issues are set out in this report.

**General principles and recommendation to the Parliament**

209. The Committee recognises the invaluable contribution that carers make to society, and shares the Scottish Government’s vision for them to “enjoy the same opportunities in life as people without caring responsibilities.”

210. The Committee welcomes the Scottish Government’s intention, through the Bill, to better support carers “so that they can continue to care, if they so wish, in good health and to have a life alongside caring.” The Committee agrees that the Bill, if implemented as intended, would significantly contribute to achieving these aims.

211. Although the Committee welcomes the introduction of this legislation, it has a number of concerns that it requests the Scottish Government provides responses to before the Parliament is asked to vote on the Bill at Stage 1.
212. Notwithstanding the concerns set out in this report, the Committee supports the general principles of the Bill and recommends to the Parliament that they be agreed to.
Scottish Parliament Health and Sport Committee. **Official Report, 23 June 2015, Col 7.**
Scottish Parliament Health and Sport Committee. **Official Report, 23 June 2015, Col 7.**
Scottish Parliament Health and Sport Committee. **Official Report, 5 May 2015, Col 16-17.**
Scottish Parliament Health and Sport Committee. **Official Report, 5 May 2015, Col 17.**
SPICe Briefing 15/24.
Health and Sport Committee fact-finding meeting, Scottish Parliament, 18 June 2015.
SPICe Briefing 15/24.
SPICe Briefing 15/24.
Health and Sport Committee fact-finding meeting, Scottish Parliament, 18 June 2015.
Scottish Parliament Health and Sport Committee. **Official Report, 5 May 2015, Col 18.**
SPICe Briefing 15/24.
SPICe Briefing 15/24.
Scottish Parliament Health and Sport Committee. **Official Report, 26 May 2015, Col 60.**
Scottish Parliament Health and Sport Committee. **Official Report, 5 May 2015, Col 4.**
Scottish Parliament Health and Sport Committee. **Official Report, 5 May 2015, Col 4.**
Scottish Parliament Health and Sport Committee. **Official Report, 23 June 2015, Col 5.**
SPICe Briefing 15/24.
Scottish Parliament Health and Sport Committee. **Official Report, 5 May 2015, Col 2.**
Health and Sport Committee fact-finding meeting, Scottish Parliament, 18 June 2015.


Policy Memorandum, paragraphs 75-80.


Policy Memorandum, paragraph 71.


Policy Memorandum, paragraph 68.


MECOPP. Written submission.

Health and Sport Committee fact-finding visit, Glasgow, 18 May 2015 and MECOPP. Written submission.


Policy Memorandum, paragraph 71.
This is a UK Government Act to make provision to reform the law relating to care and support for adults and the law relating to support for carers; to make provision about safeguarding adults from abuse or neglect; to make provision about care standards; to establish and make provision about Health Education England; to establish and make provision about the Health Research Authority; to make provision about integrating care and support with health services; and for connected purposes.


Financial Memorandum, paragraph 13.

Financial Memorandum, paragraphs 88-98.

SPICe Briefing 15/24.
# Annexe A

## Extracts from the minutes of the Health and Sport Committee and associated written and supplementary evidence

### 10th Meeting, 2015 (Session 4), Tuesday 24 March 2015

**Carers (Scotland) Bill:** The Committee agreed its approach to the scrutiny of the Bill at Stage 1.

### 14th Meeting, 2015 (Session 4), Tuesday 5 May 2015

**Carers (Scotland) Bill:** The Committee took evidence from—
- Andrew Strong, Policy and Information Manager, Health and Social Care Alliance Scotland (the ALLIANCE);
- Fiona Collie, Policy and Public Affairs Manager, Carers Scotland;
- Heather Noller, Policy and Parliamentary Officer, Carers Trust Scotland;
- Claire Cairns, Network Coordinator, The Coalition of Carers in Scotland;
- Scott Richardson-Read, Policy and Development Officer, Scottish Transitions Forum;
- Suzanne Munday, Chief Executive, Minority Ethnic Carers of Older People Project (MECOPP);
- Ben Hall, Communications Developer, Shared Care Scotland

### Written Evidence

- Health and Social Care Alliance Scotland (the ALLIANCE)
- Carers Scotland
- Carers Trust Scotland
- Coalition of Carers in Scotland
- MECOPP
- Shared Care Scotland

### 15th Meeting, 2015 (Session 4), Tuesday 12 May 2015

3. **Carers (Scotland) Bill:** The Committee took evidence from—
- Sarah Davies, Director, East Lothian Young Carers, East Lothian Young Carers;
- James Marshall, Development Manager, Young Carers Service, Stirling Carers Centre;
- Louise Morgan, Co-ordinator, Scottish Young Carers Services Alliance, Carers Trust;
- Margaret Murphy, Chief Executive, and Lois Ratcliffe, 16-20 Young Adult Carer Development Worker, Edinburgh Young Carers Project (EYCP).

4. **Carers (Scotland) Bill:** The Committee took evidence from—
Marjory Jagger, Manager, Skye and Lochalsh Young Carers.

Written Evidence
- Scottish Young Carers Services Alliance
- Stirling Carers Centre

17th Meeting, 2015 (Session 4), Tuesday 26 May 2015
2. Carers (Scotland) Bill: The Committee agreed to defer this item and allow members to report back on their fact-finding visit on 18 May at a future meeting.
3. Carers (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—
   Councillor David O’Neill, President, and Beth Hall, Policy manager (Health and Social Care), COSLA;
   Paul Henderson, Service Manager (Perth City, Mental Health, Drug and Alcohol), Perth and Kinross Council;
   Penny Nowell, Joint Planning & Commissioning Manager and Carers Strategy Lead Officer, Dumfries and Galloway Council;
   Alison Jarvis, Community Nursing Programme Manager, NHS Lothian;
   Trisha Hall, Social Worker, Manager, Scottish Association of Social Work (part of British Association of Social Work);
   David Formstone, Convenor, Community Care Standing Committee, Social Work Scotland;
   Fred Beckett, North East Social Work Carer Team Manager, Glasgow City Council Social Work Services;
   Tam Baillie, Scotland’s Commissioner for Children and Young People.

Written Evidence
- COSLA
- Perth and Kinross Council
- Dumfries and Galloway Council
- NHS Lothian
- Social Work Scotland
- Glasgow City Council Social Work Services

Supplementary Written Evidence
- NHS Lothian

18th Meeting, 2015 (Session 4), Tuesday 2 June 2015
Carers (Scotland) Bill: The Committee members reported back on their fact-finding visit on 18 May to meet with carers from across Scotland and its meeting with members of Marie Curie’s Expert Voices Group for Scotland.
21st Meeting, 2015 (Session 4), Tuesday 23 June 2015
Carers (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—
Jamie Hepburn, Minister for Sport, Health Improvement and Mental Health, Dr Maureen Bruce, Deputy Director; Care, Support and Rights Division; Population Health Improvement Directorate, Ruth Lunny, Principal Legal Officer, and Moira Oliphant, Team Leader, Carers Branch, Care, Support and Rights Division, Scottish Government.

22nd Meeting, 2015 (Session 4), Tuesday 1 September 2015
1. Decision on taking business in private: The Committee agreed to take item 7, a draft Stage 1 report on the Carers (Scotland) Bill in private and in private at future meetings.
7. Carers (Scotland) Bill (in private): The Committee considered a draft report. Various changes were agreed to, and the Committee agreed to consider a revised draft, in private, at its next meeting.

23rd Meeting, 2015 (Session 4), Tuesday 8 September 2015
Carers (Scotland) Bill (in private): The Committee considered a draft report. Various changes were agreed to, and the Committee agreed to consider a revised draft, in private, at its next meeting.

Meeting, 2015 (Session 4), Tuesday 15 September 2015
Carers (Scotland) Bill (in private): The Committee considered a revised draft Stage 1 report. Various changes were agreed to, and the report was agreed for publication.
List of other written evidence

- Macmillan Cancer Support
- Interest Link Borders
- East Renfrewshire Community Health and Care Partnership
- Lorraine Allan (Individual)
- Together (Scottish Alliance for Children’s Rights)
- East Dunbartonshire Council
- Scottish Council of Independent School (SCIS)
- West Lothian Council
- Borders Carers Centre
- Marie Curie
- NHS Tayside
- North Lanarkshire Carers Together
- Mental Health Carers Forum
- Carers of West Dunbartonshire
- Scottish Social Services Council
- Scottish Partnership for Palliative Care
- NHS Education for Scotland
- ENABLE Scotland
- Scottish Independent Advocacy Alliance
- Befriending Networks
- Scottish Ambulance Service
- North Ayrshire Health and Social Care Partnership
- Equality and Human Rights Commission
- CHILDREN 1ST
- Scottish Council for Voluntary Organisations
- Royal College of General Practitioners
- Inclusion Scotland
- Coalition of Carers in Scotland's Rural and Remote Carers Working Group
- Autism Rights
- Leuchie House Short Break Care
- Scottish Youth Parliament
- Headway
- Scottish Human Rights Commission
- Aberlour Childcare Trust
- Renfrewshire Carers Centre
- Alzheimer Scotland
- Fife Centre for Equalities
- Donald Macleod (Individual)
- Richard (Individual)
- Tom Guthrie (Individual)
- National Carer Organisations and other organisations who work with carers
- National Carer Organisations
- Care Inspectorate
Scottish Disability Equality Forum
Aberdeenshire Council
Scottish Health Council
NHS Fife, Fife Council, Carers and Voluntary Organisations
NHS Forth Valley
The City of Edinburgh Council
Association of Headteachers and Deputies in Scotland
Brian Murphy (Individual)
South Lanarkshire Council
UNISON Scotland
East Ayrshire Health & Social Care Partnership
Children in Scotland
Parkinson’s UK
The Borders Carers Centre

**Supplementary Evidence**
- National Carers Organisations

**Additional written evidence**
- Scottish Huntington's Association
- Angus Carers Centre
- Fraser MacLean
Annexe B

Report from the Finance Committee and Delegated Powers and Law Reform Committee

Report from the Finance Committee

The Finance Committee report on the Carers (Scotland) Bill can be found on the Scottish Parliament’s website at the following webpage:


Report from the Delegated Powers and Law Reform Committee

The Delegated Powers and Law Reform Committee report on the Carers (Scotland) Bill can be found on the Scottish Parliament’s website at the following webpage:

http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/88962.aspx