

Free Personal Care for under-65s



Miles Briggs with Amanda Kopel, June 2017 (photo: Andrew Cowan)

A proposal for a Bill to remove the age-limit that currently restricts the right to free personal care to those aged 65 or over

**Consultation by
Miles Briggs MSP, Member for Lothian**

June 2017

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FOREWORD

In 2002 the Scottish Parliament passed ground breaking legislation which saw free personal care being provided for those aged 65 years old and above who required it.

Thanks to campaigns since then – such as those carried out by Gordon Aikman, the Motor Neurone Disease campaigner who died in February 2017 at the age of 31 – we now have an agreement in place between the Scottish Government and COSLA that states that no one under the age of 65 in the last six months of a terminal illness should be charged for the care they receive at home. While this is a welcome improvement, I find it unfortunate that in order to have the charges waived the person requiring care needs to have their prognosis confirmed in writing by either their GP or hospital consultant. I also don't think it goes far enough.

I believe that personal care should be provided free to anyone who is assessed as requiring it, irrespective of their age or their illness or condition. I don't believe that anyone who needs personal care should have to worry about paying for it or struggling to complete forms, nor should that be a battle faced by their loved ones. When Amanda Kopel gave evidence to the Public Petitions Committee in September 2013, she told us about her five years of constant, stressful battles trying to secure the care needed by her husband Frank, the former professional footballer and coach. She explained that the time devoted to this effort took away from the care she wanted to provide for her husband. She said:

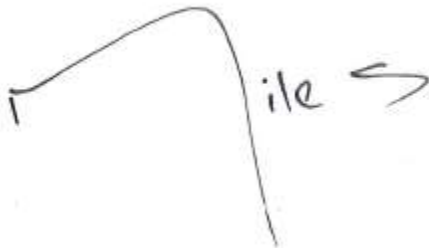
“I, like others in my situation, am asking, begging and pleading for change to enable us to live what precious life we have left together to the full. I am asking for change so that I do not have to make choices, such as whether to take Frankie out for a run in the car—which he enjoys—to get a coffee and cake, or to buy a Kylie [bed pad] so that he does not lie on a urine-soaked bed. Such a change would ensure that our loved ones’ human dignity and safety is not compromised.”

Sadly Frank Kopel is no longer with us, passing away in April 2014, just 19 days after his 65th birthday. However, Amanda continues to campaign to make personal care free to anyone who requires it.

I am pleased that the Scottish Government is conducting a feasibility study on the extension of free personal care. However, should Ministers decide not to legislate, I wish to be in a position to bring forward a Member’s Bill that will make free personal care available to anyone who is assessed as requiring it, no matter what age they are or what illness or condition they may have. That is why I am consulting on a draft proposal now.

My proposed Bill will remove the current financial discrimination faced by those under 65 who need the same level of care as those aged 65 and above but who are required to fund it themselves.

I welcome views from all stakeholders on my proposed Bill and hope that we can make positive changes to the lives of people who are already faced with monumental challenges.



Miles Briggs MSP
June 2017

HOW THE CONSULTATION PROCESS WORKS

This consultation relates to a draft proposal I have lodged as the first stage in the process of introducing a Member's Bill in the Scottish Parliament. The process is governed by Chapter 9, Rule 9.14, of the Parliament's Standing Orders which can be found on the Parliament's website at:

<http://www.scottish.parliament.uk/parliamentarybusiness/17797.aspx>

At the end of the consultation period, all the responses will be analysed. I then expect to lodge a final proposal in the Parliament along with a summary of those responses. If that final proposal secures the support of at least 18 other MSPs from at least half of the political parties or groups represented in the Parliamentary Bureau, and the Scottish Government does not indicate that it intends to legislate in the area in question, I will then have the right to introduce a Member's Bill. A number of months may be required to finalise the Bill and related documentation. Once introduced, a Member's Bill follows a 3-stage scrutiny process, during which it may be amended or rejected outright. If it is passed at the end of the process, it becomes an Act.

At this stage, therefore, there is no Bill, only a draft proposal for the legislation.

The purpose of this consultation is to provide a range of views on the subject matter of the proposed Bill, highlighting potential problems, suggesting improvements, and generally refining and developing the policy. Consultation, when done well, can play an important part in ensuring that legislation is fit for purpose.

The consultation process is being supported by the Scottish Parliament's Non-Government Bills Unit (NGBU) and will therefore comply with the Unit's good practice criteria. NGBU will also analyse and provide an impartial summary of the responses received.

Details on how to respond to this consultation are provided at the end of the document.

Additional copies of this paper can be requested by contacting me, Miles Briggs MSP, at M2.15, The Scottish Parliament, Edinburgh, EH99 1SP, telephone (0131) 348 5945, e-mail: Miles.briggs.msp@parliament.scot.

Enquiries about obtaining the consultation document in any language other than English or in alternative formats should also be sent to me.

An on-line copy is available on the Scottish Parliament's website <http://www.parliament.scot> under Parliamentary Business/Bills/Proposals for Members' Bills/Session 5 Proposals.

AIM OF THE PROPOSED BILL

BACKGROUND

Duty of local authorities to provide adult community care services

The Social Work (Scotland) Act 1968¹ (the 1968 Act) along with the Community Care and Health (Scotland) Act 2002 (the 2002 Act)² are the main pieces of legislation providing the statutory basis for adult community care services. They also form the basis for the various regulations currently governing community care in Scotland.

Specifically, section 12A of the 1968 Act places a duty on local authorities to assess any adult who appears to need community care services. It also places a duty on local authorities to have regard to the results of that assessment and to decide whether or not the person requires the provision of community care services. Community care services are set out in the 1968 Act and include residential care, where care is provided in care homes and nursing homes, and non-residential care where care is provided in the person's own home.

The 2002 Act introduced changes to how residential and non-residential care services in Scotland were delivered. It also provided for the introduction of free personal care for those aged 65 and over and the regulation of charging for care services that are provided in the home through its order making powers. The 2002 Act also contains a power for the Scottish Ministers to regulate charging for 'home care' or non-residential care services themselves; however, current practice is to attempt to achieve a greater level of consistency by encouraging local authorities to self-regulate (as explained further below).

Community care services

The aim of community care services is to enable people to live for as long and as independently as possible in their own homes, or in the community³. The result of the implementation of the policy established in the 2002 Act meant a shift away from hospital or institutionalised care to services being provided in the community and particularly in people's own homes.

While the Scottish Government has responsibility for policy direction and funding mechanisms for community care services, local authorities were given a statutory duty to undertake assessments for need, develop packages of care and to plan and commission community care services. The public, private and third sectors are all involved in the delivery of these services.

¹ <http://www.legislation.gov.uk/ukpga/1968/49/section/12A>.

² <http://www.legislation.gov.uk/asp/2002/5/contents>.

³ http://www.parliament.scot/ResearchBriefingsAndFactsheets/S4/SB_11-43.pdf.

With some exceptions, including personal care for those aged 65 and over, which must be provided free (see below), local authorities may charge for community care services. They are currently empowered by statute to make decisions about whether or not to charge for most community care services and if they choose to, to develop and administer local charging policies. COSLA has developed a national strategy⁴ and guidance on charges applying to non-residential social care services, the purpose of which is to help provide structure and a consistency of approach between all local authorities. The guidance defines the principles that should underpin councils' charging policies for non-residential care.

Free personal care

Prior to 2002 personal care was means tested and only those assessed as needing public funding received free personal care. In 1999 The Royal Commission on Long-Term Care recommended in its report⁵ (the Sutherland Report) that personal care should be available after an assessment, according to need and paid for from general taxation. This recommendation was supported by the Scottish Parliament's Health and Community Care Committee in its report⁶ on its inquiry into the Delivery of Community Care in Scotland in 2000. In 2001 the then Scottish Executive responded⁷ to the Health and Community Care Committee's report and agreed to take forward the work that ultimately led to the introduction of free personal care for those aged 65 and over.

Free personal care (FPC) for those aged 65 and over was introduced in 2002 by a combination of the enactment of the 2002 Act and the Community Care (Personal Care and Nursing Care) (Scotland) Regulations 2002⁸. Section 1 and schedule 1 of the 2002 Act set out four types of social care that local authorities are not allowed to charge for, including personal care. Under the Regulations (paragraph 3), the requirement in the 2002 Act not to charge for three of these types of social care (including personal care) applies only to people aged 65 or over.

Care Information Scotland describes⁹ personal care as 'anything done for you that is of a personal nature'. Its website reflects the contents of Schedule 1 of the 2002 Act:

- personal hygiene – bathing, showering, hair washing, shaving, oral hygiene and nail care;
- continence management – toileting, catheter/stoma care, skin care, incontinence laundry and bed changing;
- food and diet – help with eating, special diets and food preparation;

⁴ <http://www.cosla.gov.uk/> National Strategy & Guidance, Charges Applying to Non-residential Social Care Services, 2016/17.

⁵ Available at: <http://collections.europarchive.org/tna/20081023125241/http://www.archive.official-documents.co.uk/document/cm41/4192/4192.htm>.

⁶ <http://archive.scottish.parliament.uk/business/committees/historic/health/reports-00/her00-16-02.htm#02>.

⁷ <http://www.sehd.scot.nhs.uk/publications/idccrs/idccr-01.htm>.

⁸ SSI 2002/303: <http://www.legislation.gov.uk/ssi/2002/303/introduction/made>.

⁹ <http://www.careinfoscotland.scot/topics/care-at-home/personal-and-nursing-care/>.

- immobility problems – dealing with being immobile or substantially immobile;
- counselling and support – behaviour management, psychological support and reminding devices;
- simple treatments – assistance with medication (like eye drops), application of creams and lotions, simple dressings and oxygen therapy; and
- personal assistance – help with dressing, surgical appliances, prostheses, mechanical and manual aids, help getting in and out of bed and using hoists.

Self-directed social care

The Social Care (Self-Directed Support) (Scotland) Act 2013¹⁰ created a statutory framework around activities already underway in Scotland aimed at supporting independent living. The 2013 Act focused on ensuring that services are planned and delivered around ‘outcomes’ that are shaped by the individual’s needs.

This means that when an individual is assessed to determine whether or not they require community care services, and if so to what extent, an initial financial assessment must be carried out too. If it is established that the individual is eligible for support then the financial assessment will estimate what, if any, personal contribution they will be expected to make.

In its 2016/17 guidance on charging for care services, COSLA sets out information at Annexe A on who will be asked to pay for care charges. The guidance suggests a minimum weekly income threshold below which someone cannot be asked to pay care charges and this is set out in the table below:

	2016/17
Single person under pension qualifying age	£132
Couples under pension qualifying age	£201
Single person over pension qualifying age	£195
Couples over pension qualifying age	£297

Therefore if a person under 65 years old applies to have their care needs assessed and the outcome of that assessment is that care is required, including care that is defined as ‘social or personal care’, they would be required to pay for that if their weekly income was higher than the suggested thresholds i.e. **£132 for a single person or £201 for a couple**. According to COSLA’s guidance, when one member of a couple is in receipt of non-residential services then most Scottish local authorities take account of their joint income and capital when completing the financial assessment.

The guidance also provides recommendations on how to agree the maximum contribution that should be made by those whose income is above the minimum threshold. It recommends local authorities use a ‘taper’ based on a percentage of the ‘excess’ income (that is, the amount of the person’s income that exceeds the threshold

¹⁰ <http://www.legislation.gov.uk/asp/2013/1/contents/enacted>.

figure). In this way, local authorities are able to determine what percentage of any excess income can be required as a contribution. The contribution should never exceed the cost of providing the service(s).

The guidance goes on to explain that the only people who are exempt from paying for care services are:

- people who are terminally ill
- people over 65 who only receive personal care
- People with a mental illness who are subject to a Compulsion Order.

Terminal illness

From 1 April 2015, no one in the last stages of a terminal progressive illness is charged for the care that they receive at home. This change was made following campaigns, including the campaign by Gordon Aikman.

This has been reflected in COSLA's guidance on charges which now recommends that where a person, aged under 65, has a progressive disease which can reasonably be expected to lead to death within 6 months, charges for social care should be waived. The guidance also recommends that the local authority should have the discretion to extend the waiving of charges beyond this period of time, should that be appropriate for the circumstances of each particular case.

Hardship

COSLA's guidance on charging recommends that, where a person has difficulty meeting the cost of the care they require due to their financial circumstances, the local authority should use its existing powers to abate or waive the charges on a case by case basis.

The impact on people and families

Under the current law, a person under 65 years old can be assessed by their local authority as requiring personal care due to the nature of their illness or health condition but then be told that in order to receive the care they need they will be required to fund it themselves. The current law also allows local authorities to charge for this type of care and in practice most do so. One exception to this that I am aware of is Fife Council who, I understand, no longer charge anyone who is assessed as requiring this type of care, regardless of their age.

Finances

Learning to cope with a debilitating illness, whether it is terminal, degenerative or otherwise, is at best challenging for that person and their family. When you then add on top of this the worry and stress caused by the additional financial burden, it can often devastate families who are already struggling to cope. In many cases when the person requiring care is under 65 they will have been working and contributing to the

household income, meaning that the household has already had to cope with the loss of that person's income.

Often the person requiring care is neither eligible for financial support nor able to afford to pay for the care they require. It is often the spouse or partner who ends up bridging this gap by taking on the role of providing this much needed personal care, in many cases at the same time as holding down a job, running the home, bringing up children and trying to support the person requiring care both physically and emotionally. If the spouse or partner also has to give up work, this places an additional financial strain on the couple, but they may still be over the threshold for financial assistance.

At the same time as dealing with a loss of income, families still need to pay everyday bills and meet other ongoing financial commitments such as mortgages or credit cards. A couple may have young children who are financially dependent on them and they may also be faced with increased heating and fuel bills as the person requiring care needs to be kept warm. Other expenses can accrue – for example, if the person requiring care develops incontinence, additional bedding and clothes may be required along with extra laundry, adding to electricity bills.

In a 2015 report¹¹ on Scotland's carers the Scottish Government stated:

“As in other similar studies, our analysis also shows that carers with more significant caring responsibilities are drawn disproportionately from more deprived areas. Caring may therefore stem from lack of choice and unfair circumstances and may be exacerbated by these existing inequalities.”

Often people under the age of 65 can find themselves in the position of not being able to access financial support to meet their care needs due to their partner's income, even though that income is still relied upon to run a home and may not be enough also to pay for the care that is required.

Dignity

In some cases the person requiring care may struggle with accepting certain types of personal care from close family members, such as dealing with incontinence or help to go to the toilet. I have heard anecdotally that having to depend on a spouse/partner or adult child can often take away the person's dignity and that needing to depend on a family member to feed them and help them wash, dress and clean their teeth can also make them feel like that they are a burden on their loved ones, especially if they can see that providing them with this level of care is having a negative impact on the physical and mental wellbeing of the person who is providing the care.

I also take on board that for others, the greater threat to their dignity would come from having to receive personal care from strangers, and that this might make them feel that they are a burden on the taxpayer. However my proposed Bill wouldn't prevent family members continuing to provide care if they are able and willing to so, nor would it

¹¹ <http://www.gov.scot/Publications/2015/03/1081>.

require anyone to accept free personal care if they didn't want it (and preferred to pay for their own care).

Health of the person providing the care

The SPICe briefing¹² for the Carers (Scotland) Bill explains that caring can exacerbate pre-existing health problems and that when a carer's ability to provide care is compromised it may also impact on the health of the cared-for person. The Financial Memorandum (FM)¹³ accompanying the Carers Bill refers to three separate research studies that suggest that poor carer health can result in greater use of health and care services by the cared-for person.

I believe that the physical and mental wellbeing of carers can be negatively affected when they are in the position of having to provide care that neither they nor the cared-for person can afford.

Scottish Government Feasibility Study

Following a Members' Debate¹⁴ on 6 December 2016, the Cabinet Secretary for Health and Sport announced that the Scottish Government would undertake a feasibility study looking at the general issue of charging for personal care for people under 65. The Scottish Government's website states¹⁵ that the aims and objectives of the feasibility study are to "provide robust and credible estimates of the cost to extend free personal care to under 65's in Scotland and assess the potential implications of this policy". The study is accepting contributions until 2 July 2017, and is expected to be completed in the summer.

While I welcome the Cabinet Secretary's decision to undertake this feasibility study, it has inevitably created delay. If the study persuades the Scottish Government to abolish the current age-limit and to extend free personal care to under-65s, they would be able to do this (by means of a statutory instrument) very quickly – and they would have my full backing. But if they decided not to do that, I would wish to be in a position to propose such a change myself, with a Member's Bill. As Bills are much slower ways to change the law than statutory instruments, I am keen to minimise the further delay that would be involved in that scenario. That is why I have lodged a draft proposal now, and am consulting on it, even before the Scottish Government feasibility study has been completed. My aim is simply to ensure that, should I wish to introduce a Member's Bill, I am in a position to do so as soon as possible. People under 65 who need free personal care have already waited long enough.

¹² http://www.parliament.scot/ResearchBriefingsAndFactsheets/S4/SB_15-24_Carers_Scotland_Bill.pdf

¹³ [http://www.parliament.scot/S4_Bills/Carers%20\(Scotland\)%20Bill/b61s4-introd-en.pdf](http://www.parliament.scot/S4_Bills/Carers%20(Scotland)%20Bill/b61s4-introd-en.pdf) – see footnote 23, paragraph 21.

¹⁴ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10673&mode=pdf>

¹⁵ <http://www.gov.scot/Topics/Health/Support-Social-Care/Support/Older-People/Free-Personal-Nursing-Care/Extension-free-personal-care-under65>

WHAT THE BILL WILL DO

Detail of the Bill

The Bill will abolish the current age-limit that restricts the right to free personal care to those aged 65 or over. The effect will be to extend the provision of free personal care to anyone who is assessed as needing it irrespective of their age or condition. The Bill will make no changes to the current statutory provisions in place for those aged 65 or over who require free personal care.

Local authorities already have a duty to assess any adult who appears to need social care services. The Bill will make no changes to the current requirement on local authorities to provide assessments nor will it change the definition of what personal care entails. If a person is assessed as needing personal care then the Bill will ensure it is available to them free of charge.

There will be no negative impact on those aged 65 or over who are currently in receipt of free personal care. There will be a positive impact on those aged under 65 requiring personal care and who are currently required to pay for it if their income is above a certain threshold.

The crucial difference my Bill will make is that, if the local authority provides personal care, it must be free of charge, irrespective of the age of the person.

Improving the wellbeing of the person requiring care

In its submission to the Health and Sport Committee's recent inquiry into the preventative agenda, Parkinson's UK¹⁶ explained the importance of improved access to social care services. The submission states:

"A major area of concern for people with Parkinson's and families, as well as for other disabled people, is the lack of availability of social care services, including lower level interventions that can help people to stay well. Being properly supported at home, particularly with nutrition and adhering to prescribed medication can have a major impact on preventing sudden deterioration."

My Bill would be a step towards ensuring people under 65 are properly supported to enable them to stay at home and be in familiar surroundings and close to family and friends for as long as possible.

It will help the person who is ill to retain as much dignity as possible as they won't have to ask family members for help with intimate personal tasks if they would prefer to have someone else assist them instead.

¹⁶ http://www.parliament.scot/S5_HealthandSportCommittee/Inquiries/PA045_Parkinsons_UK.pdf.

Easing the burden on families

I believe that the provision of free personal care to anyone who is assessed as requiring it will ease the financial burden on families who find themselves not only having to adapt and cope with a loved one's illness or condition, but who may also struggle to afford the care their family member desperately needs.

It will remove a huge amount of stress from families and enable them to make the most of the remaining time they have together with their loved ones.

When Amanda Kopel gave evidence to the Public Petitions Committee on 17 September 2013¹⁷ she spoke of the stress of having to complete forms and battle with various Government agencies over a period of 5 years to try and find a way to help fund the care her husband Frank required. She told the Committee:

“When these things come in day by day ... it takes away from the care that I want to provide for my husband.”

I believe that my Bill will help ease the pressure on families that and that it will also help ease the burden on our young carers and enable them to fulfil more of their potential both socially and educationally.

Integrating health and social care

The current system of community care prioritises caring for people in their own homes for as long as possible rather than the more costly option of a hospital admission. In March 2016 Audit Scotland¹⁸ reported on changing models of health and social care, one of the key findings being that “with the right services many people could avoid unnecessary admissions to hospital, or be discharged more quickly when admission is needed”.

In many cases the person providing the care may not be physically or mentally able to do so at a level that is required to ensure the wellbeing of the person, for example by ensuring they get the correct medicine at the correct time or by managing incontinence hygiene well enough to avoid infections. I believe that by receiving free, appropriate and adequate care in their own homes, people under the age of 65 are less likely to require to be admitted to hospital. Fewer hospital admissions are not only better for the patients, but save money for the NHS, perhaps enough to offset the additional cost of providing free personal care.

¹⁷ <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=8515&mode=pdf>

¹⁸ http://www.audit-scotland.gov.uk/uploads/docs/report/2016/nr_160310_changing_models_care.pdf

IMPLICATIONS OF THE BILL

Financial implications

The most recent statistics¹⁹ on free personal and nursing care in Scotland show that in 2014-15 **46,750** people aged 65 and over received an average of **8.5** hours per week of free personal care at home at a total cost of **£368 million**.

My proposed Bill will clearly lead to additional costs on local authorities that I would expect to be ultimately funded by the Scottish Government. However I feel that any additional costs borne should not be considered in isolation, they must also be considered alongside the improved quality of life that will be available to people who need that care and to their carers.

A 2011 study estimated that the care provided in Scotland by family and friends was worth **£10.3 billion** every year, which was a rise from the 2007 estimate of **£7.6 billion**.²⁰ The FM for the Carers (Scotland) Bill states that 56% of carers are in employment and goes on to say that the estimated public expenditure costs of working-age carers leaving employment as a result of their caring role (in England) is **£1.3 billion per year**, made up of additional payments of the carer's allowance of **£0.3 billion** per year and lost tax revenue of **£1 billion per year**. On a population basis, the equivalent cost in Scotland is likely to be around **£130 million**.

What we do know is that it is unlikely that people will require personal care immediately after receiving a diagnosis of a disabling condition such as dementia. Indeed it may be some years before they or their families require assistance with personal care. Therefore it would not be appropriate to try and establish estimated costs based on the numbers of people being diagnosed with conditions that may ultimately lead to them requiring personal care. Some people may require personal care immediately following an accident that leaves them paralysed and others may require personal care before having a diagnosis confirmed. It is vital to recognise that each person and their circumstances are unique. For the purposes of providing estimated cost we will also need to reflect that under the current regime these people would begin to receive free personal care when they reach the age of 65 so any 'additional' costs would only be for a specific period.

We also sadly need to reflect that for some people a diagnosis of certain conditions, such as motor neurone disease, can mean a much reduced life expectancy whereby the free personal care they need may only be required for a number of months rather than years.

¹⁹ <http://www.gov.scot/Resource/0049/00499751.pdf><http://www.gov.scot/Resource/0049/00499751.pdf>.

²⁰ <http://circle.leeds.ac.uk/files/2012/08/110512-circle-carers-uk-valuing-carers.pdf>.

Equalities

I believe that the current legislation represents age discrimination, and should be ended. I do not believe that people with identical conditions who require similar levels of personal care should be treated differently due to their age.

Any illness or condition that results in a person needing personal care is likely to count as a disability. By providing this care free to under-65s we would be helping such disabled people live fuller lives, while reducing the disadvantage that they currently face compared with non-disabled people of the same age who don't need help with tasks such as washing and dressing.

I also believe the Bill would have a positive impact on younger people who take on a caring role as it would help ensure that they were not being relied upon to provide intimate care such as personal hygiene, changing soiled clothing and bedding or providing medicines. The Bill would help young carers to focus on education or other activities alongside their peers.

Sustainability

Since 56% of unpaid carers are also in employment and therefore contributing to the economy, the provision of free personal care could enable these people to continue to work (or, at least, make it more likely they can work full-time).

It is likely that additional professional carers will require to be employed and trained to provide the free personal care made available by the Bill. While there will be a cost to this, it will also provide additional jobs and the economy as a whole should benefit.

QUESTIONS

ABOUT YOU

1. Are you responding as:

- an individual – in which case go to Q2A
 on behalf of an organisation? – in which case go to Q2B

2A. Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose “Member of the public”.)

- Politician (MSP/MP/peer/MEP/Councillor)
 Professional with experience in a relevant subject
 Academic with expertise in a relevant subject
 Member of the public

2B. Please select the category which best describes your organisation:

- Public sector body (Scottish/UK Government or agency, local authority, NDPB)
 Commercial organisation (company, business)
 Representative organisation (trade union, professional association)
 Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)
 Other (e.g. clubs, local groups, groups of individuals, etc.)

3. Please choose one of the following:

- I am content for this response to be attributed to me or my organisation

Please provide your name or the name of your organisation as you wish it to be published:

Name:

- I would like this response to be anonymous (the response may be published, but no name)
 I would like this response to be confidential (no part of the response to be published)

4. Please provide details of a way in which we can contact you if there are queries regarding your response. (Email is preferred but you can also provide a postal address or phone number. We will not publish these details.)

Contact details:

YOUR VIEWS ON THE PROPOSAL

Aim and approach

1. Which of the following best expresses your view of the proposal to remove the age-limit that currently restricts the right to free personal care to those aged 65 or over?

- Fully supportive
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response.

2. What do you think would be the main advantages, if any, of the proposal?
3. What do you think would be the main disadvantages, if any, of the proposal?

Financial implications

4. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

(a) The Scottish Government and local authorities

- Significant increase in cost
- Some increase in cost
- Broadly cost-neutral
- Some reduction in cost
- Significant reduction in cost
- Unsure

(b) Businesses (including those providing care services)

- Significant increase in cost
- Some increase in cost
- Broadly cost-neutral
- Some reduction in cost
- Significant reduction in cost
- Unsure

(c) Individuals (including those receiving care and their families)

- Significant increase in cost
- Some increase in cost
- Broadly cost-neutral
- Some reduction in cost
- Significant reduction in cost
- Unsure

Please explain the reasons for your response.

5. **Are there ways in which the Bill could achieve its aim more cost-effectively (e.g. by reducing costs or increasing savings)?**

Equalities

6. **What overall impact is the proposed Bill likely to have for the following protected groups (under the Equality Act): race, disability, sex, gender re-assignment, age, religion and belief, sexual orientation, marriage and civil partnership, pregnancy and maternity?**

- Positive
- Slightly positive
- Neutral (neither positive nor negative)
- Slightly negative
- Negative
- Unsure

Please explain the reasons for your response.

7. **In what ways could any negative impact of the Bill on equality be minimised or avoided?**

Sustainability

8. **Do you consider that the proposed bill can be delivered sustainably, i.e. without having likely future disproportionate economic, social and/or environmental impacts?**

- Yes
- No
- Unsure

General

9. **Do you have any other comments or suggestions on the proposal?**

HOW TO RESPOND TO THIS CONSULTATION

You are invited to respond to this consultation by answering the questions in the consultation and by adding any other comments that you consider appropriate.

Format of responses

You are encouraged to submit your response via an online survey (Smart Survey) if possible, as this is quicker and more efficient both for you and the Parliament. However, if you do not have online access, or prefer not to use Smart Survey, you may also respond by e-mail or in hard copy.

Online survey

To respond via Smart Survey, please follow this link:

<http://www.smartsurvey.co.uk/s/FreePersonalCare/>

The platform for the online survey is Smart Survey, a third party online survey system enabling the SPCB to collect responses to MSP consultations. Smart Survey is based in the UK and is subject to the requirements of the Data Protection Act 1998. Any information you send in response to this consultation (including personal data and sensitive personal data) will be seen by the MSP progressing the Bill and by specified staff in NGBU, and may be added manually to Smart Survey.

Further information on the handling of your data can be found in the Privacy Notice, which is available either via the Smart Survey link above, or directly from this link:

<https://www.smartsurvey.co.uk/privacy-policy>

Electronic or hard copy submissions

If possible, please submit your response electronically – preferably in MS Word document. Please keep formatting of this document to a minimum, and avoid including any personal data other than your name (or the name of the group or organisation on whose behalf you are responding).

Any additional personal data (e.g. contact details) should be provided in the covering e-mail (or a covering letter).

Please make clear whether you are responding as an individual (in a personal capacity) or on behalf of a group or organisation. If you are responding as an individual, you may wish to explain briefly what relevant expertise or experience you have. If you are responding on behalf of an organisation, you may wish to explain the role of that organisation and how the view expressed in the response was arrived at (for example, whether it reflects an established policy or was voted on by members).

Where to send responses

Responses prepared electronically should be sent by e-mail to:

miles.briggs.msp@parliament.scot

Responses prepared in hard copy should be sent by post to:

Miles Briggs MSP
Room M2.15
Scottish Parliament
Edinburgh EH99 1SP

You may also contact Miles's office by telephone on (0131) 348 5945.

Deadline for responses

All responses should be received no later than **Friday 6 October 2017**.

How responses are handled

To help inform debate on the matters covered by this consultation and in the interests of openness, please be aware that I would normally expect to publish all responses received on my website at: <https://www.milesbriggs.scot/campaigns/franks-law/>. As published, responses will normally include the name of the respondent, but other personal data (signatures, addresses and contact details) will not be included.

Copies of all responses will be provided to the Scottish Parliament's Non-Government Bills Unit (NGBU), so it can prepare a summary that I may then lodge with a final proposal (the next stage in the process of securing the right to introduce a Member's Bill). NGBU will treat responses in accordance with the Data Protection Act 1998. The summary may cite, or quote from, your response and may name you as a respondent to the consultation – unless your response is to be anonymous or confidential (see below).

I am also obliged to provide copies of all responses to the Scottish Parliament's Information Centre (SPICe). SPICe may make responses (other than confidential responses) available to MSPs or staff on request.

Requests for anonymity or confidentiality

If you wish your response, or any part of it, to be treated as **anonymous**, please state this clearly. You still need to supply your name, but any response treated as anonymous will be published without the name (attributed only to "Anonymous"), and only the anonymised version will be provided to SPICe. If you request anonymity, it is your responsibility to ensure that the content of your response does not allow you to be identified.

If you wish your response, or any part of it, to be treated as **confidential**, please state this clearly. If the response is treated as confidential (in whole or in part), it (or the relevant part) will not be published. However, I would still be obliged to provide a complete copy of the response to NGBU, and a copy of any non-confidential parts (i.e. a redacted copy) to SPICe when lodging my final proposal. As the Scottish Parliament is subject to the Freedom of Information (Scotland) Act 2002 (FOISA), it is possible that requests may be made to see your response (or the confidential parts of it) and the Scottish Parliament may be legally obliged to release that information. Further details of the FOISA are provided below.

In summarising the results of this consultation, NGBU will aim to reflect the general content of any confidential response in that summary, but in such a way as to preserve the confidentiality involved. You should also note that members of the committee which considers the proposal and subsequent Bill may have access to the full text of your response even if it has not been published (or published only in part).

Other exceptions to publication

Where a large number of submissions is received, particularly if they are in very similar terms, it may not be practical or appropriate to publish them all individually. One option may be to publish the text only once, together with a list of the names of those making that response.

There may also be legal reasons for not publishing some or all of a response – for example, if it contains irrelevant, offensive or defamatory statements or material. If I think your response contains such material, it may be returned to you with an invitation to provide a justification for the comments or remove them. If the issue is not resolved to my satisfaction, I may then disregard the response and destroy it.

Data Protection Act 1998

As an MSP, I must comply with the requirements of the Data Protection Act 1998 which places certain obligations on me when I process personal data. As stated above, I will normally publish your response in full, together with your name, unless you request anonymity or confidentiality. I will not publish your signature or personal contact information, or any other information which could identify you and be defined as personal data.

I may also edit any part of your response which I think could identify a third party, unless that person has provided consent for me to publish it. If you specifically wish me to publish information involving third parties you must obtain their consent first and this should be included in writing with your submission.

If you consider that your response may raise any other issues concerning the Data Protection Act and wish to discuss this further, please contact me before you submit your response.

Further information about the Data Protection Act can be found at: www.ico.gov.uk.

Freedom of Information (Scotland) Act 2002

As indicated above, once your response is received by NGBU or is placed in the Scottish Parliament Information Centre (SPICe) or is made available to committees, it is considered to be held by the Parliament and is subject to the requirements of the FOISA. So if the information you send me is requested by third parties the Scottish Parliament is obliged to consider the request and provide the information unless the information falls within one of the exemptions set out in the Act, potentially even if I have agreed to treat all or part of the information in confidence or to publish it anonymously. I cannot therefore guarantee that any other information you send me will not be made public should it be requested under FOI.

Further information about Freedom of Information can be found at:

www.itspublicknowledge.info.