Passage of the

Carers (Scotland) Bill 2015

SPPB 230
Passage of the
Carers (Scotland) Bill 2015

SP Bill 61 (Session 4), subsequently 2016 asp 10

SPPB 230

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Foreword

Purpose of the series

The aim of this series is to bring together in a single place all the official Parliamentary documents relating to the passage of the Bill that becomes an Act of the Scottish Parliament (ASP). The list of documents included in any particular volume will depend on the nature of the Bill and the circumstances of its passage, but a typical volume will include:

- every print of the Bill (usually three – “As Introduced”, “As Amended at Stage 2” and “As Passed”);
- the accompanying documents published with the “As Introduced” print of the Bill (and any revised versions published at later Stages);
- every Marshalled List of amendments from Stages 2 and 3;
- every Groupings list from Stages 2 and 3;
- the lead Committee’s “Stage 1 report” (which itself includes reports of other committees involved in the Stage 1 process, relevant committee Minutes and extracts from the Official Report of Stage 1 proceedings);
- the Official Report of the Stage 1 and Stage 3 debates in the Parliament;
- the Official Report of Stage 2 committee consideration;
- the Minutes (or relevant extracts) of relevant Committee meetings and of the Parliament for Stages 1 and 3.

All documents included are re-printed in the original layout and format, but with minor typographical and layout errors corrected. An exception is the groupings of amendments for Stage 2 and Stage 3 (a list of amendments in debating order was included in the original documents to assist members during actual proceedings but is omitted here as the text of amendments is already contained in the relevant marshalled list).

Where documents in the volume include web-links to external sources or to documents not incorporated in this volume, these links have been checked and are correct at the time of publishing this volume. The Scottish Parliament is not responsible for the content of external Internet sites. The links in this volume will not be monitored after publication, and no guarantee can be given that all links will continue to be effective.

Documents in each volume are arranged in the order in which they relate to the passage of the Bill through its various stages, from introduction to passing. The Act itself is not included on the grounds that it is already generally available and is, in any case, not a Parliamentary publication.

Outline of the legislative process

Bills in the Scottish Parliament follow a three-stage process. The fundamentals of the process are laid down by section 36(1) of the Scotland Act 1998, and amplified by Chapter 9 of the Parliament’s Standing Orders. In outline, the process is as follows:
• Introduction, followed by publication of the Bill and its accompanying documents;
• Stage 1: the Bill is first referred to a relevant committee, which produces a report informed by evidence from interested parties, then the Parliament debates the Bill and decides whether to agree to its general principles;
• Stage 2: the Bill returns to a committee for detailed consideration of amendments;
• Stage 3: the Bill is considered by the Parliament, with consideration of further amendments followed by a debate and a decision on whether to pass the Bill.

After a Bill is passed, three law officers and the Secretary of State have a period of four weeks within which they may challenge the Bill under sections 33 and 35 of the Scotland Act respectively. The Bill may then be submitted for Royal Assent, at which point it becomes an Act.

Standing Orders allow for some variations from the above pattern in some cases. For example, Bills may be referred back to a committee during Stage 3 for further Stage 2 consideration. In addition, the procedures vary for certain categories of Bills, such as Committee Bills or Emergency Bills. For some volumes in the series, relevant proceedings prior to introduction (such as pre-legislative scrutiny of a draft Bill) may be included.

The reader who is unfamiliar with Bill procedures, or with the terminology of legislation more generally, is advised to consult in the first instance the Guidance on Public Bills published by the Parliament. That Guidance, and the Standing Orders, are available free of charge on the Parliament’s website (www.parliament.scot).

The series is produced by the Legislation Team within the Parliament’s Chamber Office. Comments on this volume or on the series as a whole may be sent to the Legislation Team at the Scottish Parliament, Edinburgh EH99 1SP.

Notes on this volume

The Bill to which this volume relates followed the standard 3 stage process described above.

The oral and written evidence received by the Health and Sport Committee at Stage 1 was originally published on the web only. That material, along with extracts of the minutes of the relevant meetings of the Committee, is included in this volume after the Stage 1 Report.

The reports at Stage 1 by the Delegated Powers and Law Reform Committee on the delegated powers provisions in the Bill, and the Finance Committee on the Financial Memorandum, are also included in this volume. Extracts from the minutes and the Official Reports of the relevant meetings are also included. In the case of the Finance Committee report, written evidence by the Committee is also included.

In addition to its report at Stage 1, the Finance Committee considered the financial implications the Bill further at its meeting on 30 September 2015 and undertook subsequent correspondence with the Minister for Sport, Health Improvement and Mental Health. That material is all included in this volume.
The Delegated Powers and Law Reform Committee considered the delegated powers in the Bill after Stage 2, and agreed its report without debate. No extracts from the minutes or the Official Report of the relevant meeting of the Committee are, therefore, included in this volume.

The wording of the motion for a financial resolution on the Bill shown at column 86 of the Official Report of the Meeting of the Parliament on 5 November 2015 is incorrect. The correct wording of the motion for a financial resolution is as shown in column 88 of the same Official Report.
# Carers (Scotland) Bill

[AS INTRODUCED]

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Carers (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to make provision about carers, including the identification of carers’ needs for support through adult carer support plans and young carer statements; the provision of support to carers; the enabling of carer involvement in certain services; the preparation of local carer strategies; the establishment of information and advice services for carers; and for connected purposes.

PART 1

KEY DEFINITIONS

“Carer”, “young carer” and “adult carer”

1 Meaning of “carer”

(1) In this Act “carer” means an individual who provides or intends to provide care for another individual (the “cared-for person”).

(2) But subsection (1) does not apply—

(a) in the case of a cared-for person under 18 years old, to the extent that the care is or would be provided by virtue of the person’s age, or

(b) in any case, to the extent that the care is or would be provided—

(i) under or by virtue of a contract, or

(ii) as voluntary work.

(3) The Scottish Ministers may by regulations—

(a) provide that “contract” in subsection (2)(b)(i) does or, as the case may be, does not include agreements of a kind specified in the regulations,

(b) permit a relevant authority to disregard subsection (2)(b) where the authority considers that the relationship between the carer and the cared-for person is such that it would be appropriate to do so.

(4) In this Part “relevant authority” means a responsible local authority or a responsible authority (see section 36(1)).
2 **Meaning of “young carer”**

In this Act “young carer” means a carer who—

(a) is under 18 years old, or

(b) has attained the age of 18 years while a pupil at a school, and has since attaining that age remained a pupil at that or another school.

3 **Meaning of “adult carer”**

In this Act “adult carer” means a carer who is at least 18 years old but is not a young carer.

4 **“Personal outcomes” etc.**

(1) In this Act “personal outcomes”, in relation to carers, includes outcomes which would, if achieved, enable carers to provide or continue to provide care for cared-for persons.

(2) The Scottish Ministers may by regulations make further provision about personal outcomes, including provision about—

(a) which outcomes may be personal outcomes,

(b) the matters to which a relevant authority is to have regard in considering which outcomes may be personal outcomes.

5 **Meaning of “identified personal outcomes” and “identified needs”**

(1) In this Act “identified personal outcomes”, in relation to a carer, means the personal outcomes which are identified as relevant to the carer.

(2) In this Act “identified needs”, in relation to a carer, means the needs for support (if any) which are identified in order to meet the carer’s identified personal outcomes.

(3) In this section “identified” means identified by virtue of section 7 or 12.

**PART 2**

**ADULT CARER SUPPORT PLANS AND YOUNG CARER STATEMENTS**

**CHAPTER 1**

**ADULT CARER SUPPORT PLANS**

**Duty to prepare adult carer support plan**

(1) In this Act an “adult carer support plan” means a plan prepared by a responsible local authority setting out—

(a) an adult carer’s identified personal outcomes,

(b) an adult carer’s identified needs (if any), and
(c) the support (if any) to be provided by the responsible local authority to an adult carer to meet those needs.

(2) The responsible local authority must prepare an adult carer support plan in relation to a person if subsection (3) or (4) applies.

(3) This subsection applies if—

(a) the responsible local authority identifies a person as an adult carer,

(b) the responsible local authority offers the person an adult carer support plan, and

(c) the person accepts the offer.

(4) This subsection applies if a person who appears to the responsible local authority to be an adult carer requests an adult carer support plan.

(5) For the purposes of this Chapter the “responsible local authority”, in relation to an adult carer, means the local authority for the area in which the adult carer resides.

7 Adult carers: identification of outcomes and needs for support

The Scottish Ministers may by regulations make provision about the identification of adult carers’ personal outcomes and their needs for support, including—

(a) how personal outcomes and needs for support are to be identified,

(b) the process for doing so (including arrangements for the involvement of adult carers and cared-for persons),

(c) who may carry out identification,

(d) the sharing of information about adult carers and cared-for persons for the purpose of identifying personal outcomes and needs for support,

(e) the factors to be taken into account in identifying adult carers’ personal outcomes and needs for support,

(f) the circumstances in which adult carers’ personal outcomes and needs for support should be reviewed.

8 Content and review of adult carer support plan

(1) An adult carer support plan must contain—

(a) information about the adult carer’s personal circumstances at the time of preparation of the plan, including—

(i) the nature and extent of the care provided or to be provided,

(ii) the impact of caring on the adult carer’s wellbeing and day-to-day life,

(b) information about the extent to which the adult carer is able and willing to provide care for the cared-for person,

(c) information about the identification of the adult carer’s personal outcomes, including about the carer’s identified personal outcomes,

(d) information about the identification of the adult carer’s needs for support, including—
(i) if the adult carer has identified needs, those needs,
(ii) if no needs for support are identified, that fact,
(e) information about the support available to adult carers and cared-for persons in the responsible local authority’s area,
(f) if the adult carer’s identified needs meet the local eligibility criteria, information about the support which the responsible local authority provides or intends to provide to the adult carer to meet those needs,
(g) if the adult carer’s identified needs do not meet the local eligibility criteria, information about the support which the responsible local authority provides or intends to provide to the adult carer,
(h) information about whether support should be provided in the form of a break from caring,
(i) information about the circumstances in which the plan is to be reviewed.

(2) Each second and subsequent adult carer support plan must also contain information about the extent to which any support provided under a previous plan has assisted in the achievement of the adult carer’s identified personal outcomes.

(3) The Scottish Ministers may by regulations make provision about—

(a) other information which an adult carer support plan must (or must not) contain,
(b) the form of adult carer support plans.

9 Review of adult carer support plans

The Scottish Ministers may by regulations make provision about the review of adult carer support plans, including—

(a) the circumstances in which plans are to be reviewed,
(b) the frequency of review,
(c) the procedure for review,
(d) arrangements for obtaining the views of adult carers and cared-for persons.

Provision of information about plan

10 Adult carer support plan: provision of information to carer etc.

(1) The responsible local authority must provide the persons mentioned in subsection (2) with the information contained in the adult carer support plan.

(2) Those persons are—

(a) the adult carer to whom the plan relates, and
(b) any other persons the adult carer requests.

(3) Subsection (1) does not apply to the extent that the responsible local authority considers that provision of the information would not be appropriate.

(4) The information is to be provided as soon as practicable after—

(a) the plan is prepared, or
Part 2—Adult carer support plans and young carer statements
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5 (b) in the case of a revised plan, the revised plan is prepared.

CHAPTER 2

YOUNG CARER STATEMENTS

Duty to prepare young carer statement

11 Duty to prepare young carer statement

(1) In this Act a “young carer statement” means a statement prepared by a responsible authority setting out—

(a) a young carer’s identified personal outcomes,
(b) a young carer’s identified needs (if any), and
(c) the support (if any) to be provided by the responsible local authority to a young carer to meet those needs.

(2) The responsible authority must prepare a young carer statement in relation to a person if subsection (3) or (4) applies.

(3) This subsection applies if—

(a) the responsible authority identifies a person as a young carer,
(b) the responsible authority offers the person a young carer statement, and
(c) the person accepts the offer.

(4) This subsection applies if a person who appears to the responsible authority to be a young carer requests a young carer statement.

(5) Subsection (2) applies whether or not the young carer requires a child’s plan in accordance with section 33 of the 2014 Act.

(6) Where—

(a) the responsible authority offers a young carer statement under subsection (3), or
(b) a young carer requests a young carer statement under subsection (4),
the responsible authority must notify the young carer’s named person.

(7) Where the responsible authority, in relation to a young carer, is not the responsible local authority, the responsible authority must not provide the young carer statement to the young carer without the approval of the responsible local authority.

(8) For the purposes of this Chapter—

“responsible authority” has the meaning given by sections 17 and 18,
“responsible local authority” means the local authority for the area in which the young carer resides.

12 Young carers: identification of outcomes and needs for support

The Scottish Ministers may by regulations make provision about the identification of young carers’ personal outcomes and their needs for support, including—

(a) how personal outcomes and needs for support are to be identified,
(b) the process for doing so (including arrangements for the involvement of young carers and cared-for persons),

(c) who may carry out identification,

(d) the sharing of information about young carers and cared-for persons for the purpose of identifying personal outcomes and needs for support,

(e) the factors to be taken into account in identifying young carers’ personal outcomes and needs for support,

(f) the circumstances in which young carers’ personal outcomes and needs for support should be reviewed.

Content and review of young carer statement

13 Content of young carer statement

(1) A young carer statement must contain—

(a) information about the young carer’s personal circumstances at the time of the preparation of the statement, including—

(i) the nature and extent of the care provided or to be provided,

(ii) the impact of caring on the young carer’s wellbeing and day-to-day life,

(b) information about the extent to which the young carer is able and willing to provide care for the cared-for person,

(c) information about the extent to which the responsible authority considers that the nature and extent of the care provided by the young carer is appropriate,

(d) information about the identification of the young carer’s personal outcomes, including about the young carer’s identified personal outcomes,

(e) information about the identification of the young carer’s needs for support, including—

(i) if the young carer has identified needs, those needs,

(ii) if no needs for support are identified, that fact,

(f) information about the support available to young carers and cared-for persons in the responsible local authority’s area,

(g) if the young carer’s identified needs meet the local eligibility criteria, information about the support which the responsible local authority provides or intends to provide to the young carer to meet those needs,

(h) if the young carer’s identified needs do not meet the local eligibility criteria, information about the support which the responsible local authority provides or intends to provide to the young carer to meet those needs,

(i) information about whether support should be provided in the form of a break from caring,

(j) information about the circumstances in which the young carer statement is to be reviewed.
Part 2—Adult carer support plans and young carer statements
Chapter 2—Young carer statements

(2) Each second and subsequent young carer statement must also contain information about the extent to which any support provided under a previous statement has assisted in the achievement of the young carer’s identified personal outcomes.

(3) For the purpose of subsection (1)(a)(ii), the responsible authority is—
   (a) to assess the wellbeing of a young carer by reference to the extent to which the matters listed in section 96(2) of the 2014 Act are or, as the case may be, would be satisfied in relation to the young carer, and
   (b) in doing so, to have regard to the guidance issued under section 96(3) of the 2014 Act.

(4) The Scottish Ministers may by regulations make provision about—
   (a) other information which a young carer statement must (or must not) contain,
   (b) the form of young carer statements.

14 Review of young carer statements
The Scottish Ministers may by regulations make provision about the review of young carer statements, including—
   (a) the circumstances in which statements are to be reviewed,
   (b) the frequency of review,
   (c) the procedure for review,
   (d) arrangements for obtaining the views of young carers and cared-for persons.

15 Young carer statement: provision of information to carer etc.
(1) A responsible authority must provide the persons mentioned in subsection (2) with the information contained in the young carer statement.

(2) Those persons are—
   (a) the young carer to whom the young carer statement relates,
   (b) the young carer’s named person,
   (c) any other person the young carer requests.

(3) Subsection (1) does not apply to the extent that the responsible authority considers that provision of the information would not be appropriate.

(4) The information is to be provided as soon as practicable after—
   (a) the statement is prepared, or
   (b) in the case of a revised statement, the revised statement is prepared.
Continuation of young carer statement

16 Continuation of young carer statement

Despite the fact that a young carer has attained the age of 18 years, any young carer statement prepared in relation to that carer continues to have effect until the carer is provided with an adult carer support plan.

Meaning of responsible authority: young carers

17 Responsible authority: general

(1) For the purposes of this Chapter the “responsible authority”, in relation to a young carer, is—

(a) where the young carer is a pre-school child, the health board for the area in which the child resides,

(b) where the young carer is not a pre-school child, the local authority for the area in which the child resides.

(2) Subsection (1) is subject to section 18.

(3) In this section and section 18 “pre-school child” has the meaning given by section 36(3) of the 2014 Act.

18 Responsible authority: special cases

(1) Where in pursuance of a decision of a local authority or health board a young carer who is a pre-school child resides in the area of a health board which is different to that in which the young carer would otherwise reside, the health board for the area in which the young carer would otherwise reside is the responsible authority in relation to the young carer.

(2) Where the young carer is a pupil at a public school which is managed by a local authority other than the one for the area in which the young carer resides, that other authority is the responsible authority in relation to the young carer.

(3) Where the young carer is a pupil at a grant-aided school or an independent school, the directing authority of that school is the responsible authority in relation to the young carer.

(4) Subsection (3) does not apply where the young carer is such a pupil by virtue of a placement by the local authority for the area in which the young carer resides.

(5) In this section “grant-aided school”, “independent school” and “public school” have the meanings given by section 135 of the Education (Scotland) Act 1980.
PART 3
PROVISION OF SUPPORT TO CARERS

CHAPTER 1
ELIGIBILITY CRITERIA

Local eligibility criteria

19 Duty to set local eligibility criteria

(1) Each local authority must set the local eligibility criteria which it is to apply in its area.

(2) Local eligibility criteria are the criteria by which the local authority must determine whether it is required to provide support to carers to meet carers’ identified needs.

(3) Before setting its local eligibility criteria, a local authority must—

(a) consult such persons and bodies representative of carers as the local authority considers appropriate, and

(b) take such steps as it considers appropriate to involve carers.

(4) A local authority must, when setting its local eligibility criteria, have regard among other things to such matters as the Scottish Ministers may by regulations specify.

20 Publication and review of criteria

(1) Each local authority must publish its local eligibility criteria.

(2) The first local eligibility criteria must be published before the end of the period of 6 months beginning with the day prescribed by the Scottish Ministers by regulations.

(3) Each local authority must carry out a first review of its local eligibility criteria before the end of the period, prescribed by the Scottish Ministers by regulations, beginning with the day on which the criteria are published.

(4) Each local authority—

(a) must thereafter review its local eligibility criteria before the end of the relevant period,

(b) may from time to time carry out such a review.

(5) The relevant period is the period of 3 years beginning with whichever is the later of the day on which the local authority last published—

(a) its local eligibility criteria, or

(b) a statement under subsection (6)(b).

(6) Following a review under subsection (3) or (4), the local authority—

(a) may set revised local eligibility criteria,

(b) must, where it does not set revised criteria, publish a statement to that effect.

(7) Subsection (1) and section 19(4) apply to revised local eligibility criteria set under this section as they apply to criteria set under section 19.
National eligibility criteria

(1) The Scottish Ministers may make regulations setting out national eligibility criteria.

(2) National eligibility criteria are the criteria by which each local authority must assess whether it is required to provide support to carers to meet carers’ identified needs.

(3) Where regulations under this section are made and have not been revoked—
   (a) the national eligibility criteria set out in them apply in place of any local eligibility criteria published under section 20,
   (b) sections 19 and 20 do not apply, and
   (c) references in sections 8(1)(f) and (g), 13(1)(g) and (h) and 22(3) to local eligibility criteria are to be read as references to national eligibility criteria.

(4) Regulations under this section may modify any enactment (including this Act).

CHAPTER 2

Duty to provide support

(1) This section applies where a carer has identified needs which cannot be met by services or assistance provided generally to persons in the area of the responsible local authority.

(2) The responsible local authority must determine whether any of those needs are eligible needs.

(3) A carer’s eligible needs are the carer’s identified needs which meet the local eligibility criteria.

(4) The responsible local authority—
   (a) must provide support to the carer to meet the carer’s eligible needs, and
   (b) may provide support to the carer to meet the carer’s other identified needs.

(5) Subsection (4)(a) applies—
   (a) in the case of an adult carer, whether or not the carer’s eligible needs may also, following assessment under section 12A(1) of the 1968 Act, call for the provision of community care services to the carer under that section,
   (b) in the case of a young carer, whether or not the carer’s eligible needs may also be met by the provision of services to the carer under section 22(1) of the 1995 Act.

(6) In this section the “responsible local authority”, in relation to a carer, means the local authority for the area in which the carer resides.

Provision of support to carers: breaks from caring

(1) A local authority, in determining which support to provide to a carer under section 22(4), must consider in particular whether the support should take the form of or include a break from caring.

(2) The Scottish Ministers may by regulations make provision—
(a) about the form of support that may be provided as a break from caring,
(b) where the regulations provide for a break from caring to take the form of the provision of replacement care or other services or assistance to the cared-for person—
(i) the role of the cared-for person in relation to how that care or those services or assistance are provided,
(ii) whether that care or those services or assistance are to be regarded as support to the carer or to the cared-for person.

(3) Support provided under subsection (1) may be provided on a regular basis or on a temporary basis and may be provided for varying periods of time.

24 Charging for support provided to carers

In section 87 of the 1968 Act (power of local authority to charge for services and accommodation provided under certain enactments)—

(a) in subsection (1), for “section 3(4) of the Social Care (Self-directed Support) (Scotland) Act 2013 (asp 1)” substitute “section 22(4) of the Carers (Scotland) Act 2015”,
(b) in subsection (1A)(a), for “section 3(4) of the Social Care (Self-directed Support) (Scotland) Act 2013 (asp 1)” substitute “section 22(4) of the Carers (Scotland) Act 2015”.

PART 4
CARER INVOLVEMENT

25 Duty to involve carers in carer services

(1) Each local authority must take such steps as it considers appropriate to involve the persons mentioned in subsection (3) in carer services of that local authority.
(2) Each health board must take such steps as it considers appropriate to involve the persons mentioned in subsection (3) in carer services of that health board.
(3) Those persons are—
(a) carers in the area of the local authority or, as the case may be, the health board, and
(b) such persons and bodies representative of carers as the local authority or, as the case may be, the health board considers appropriate.
(4) “Carer services” means services provided, or to be provided, by the local authority or, as the case may be, the health board to—
(a) carers in relation to the care they provide, or intend to provide, for cared-for persons,
(b) cared-for persons in relation to the care they receive.
(5) Subsection (4) does not apply to—
(a) services which are contained in a children’s services plan (within the meaning of section 8 of the 2014 Act) if the persons mentioned in subsection (3) have been consulted in relation to the preparation of that plan,
services provided by virtue of functions which have been delegated under an integration scheme (within the meaning of section 1(3) of the Public Bodies (Joint Working) (Scotland) Act 2014) or which are to be carried out in conjunction with those functions.

(6) “Involvement”, in relation to carer services, includes involvement in considering—

(a) what needs might call for the provision of services,
(b) what services might be provided to meet those needs,
(c) how those services might be provided, and
(d) how the provision of those services might be evaluated.

26 Involvement of, assistance to and collaboration with carers

In section 1(1) of the Social Care (Self-directed Support) (Scotland) Act 2013 (general principles applicable in carrying out certain care functions), after paragraph (c) insert—

“(d) Part 2 or 3 of the Carers (Scotland) Act 2015.”.

27 Care assessments: duty to take account of care and views of carers

(1) Section 12A of the 1968 Act (duty of local authority to assess needs) is amended in accordance with subsections (2) to (4).

(2) In subsection (1)(b)—

(a) for sub-paragraph (i) substitute—

“(i) if an adult carer provides, or intends to provide, care for that person, of the care provided by that carer,”;

(b) in sub-paragraph (ii)—

(i) “both of” is repealed,
(ii) “and of the views of the carer” is repealed,
(iii) “, in either case,” is repealed.

(3) After subsection (1) insert—

“(1A) In subsection (1)(b)(i) and (ia), the reference to the care provided by a carer means—

(a) in the case of an adult carer who has an adult carer support plan, the information about that care set out in that plan,
(b) in the case of a young carer who has a young carer statement, the information about that care set out in that statement.

(1B) In—

(a) assessing the needs of a person for services under subsection (1)(a),
(b) deciding under subsection (1)(b) whether those needs call for the provision of any services, and
(c) deciding how any such services are to be provided,
a local authority must take account of the views of the carer, in so far as it is reasonable and practicable to do so.”.

(4) In subsection (8)—

(a) before the definition of “community care services” insert—

““adult carer” and “adult carer support plan” have the meanings given by the Carers (Scotland) Act 2015,”,

(b) after the definition of “person” insert—

““young carer” and “young carer statement” have the meanings given by the Carers (Scotland) Act 2015.”.

(5) Section 23 of the 1995 Act (children affected by disability) is amended in accordance with subsections (6) and (7).

(6) In subsection (4)—

(a) for paragraph (a) substitute—

“(a) if an adult carer provides, or intends to provide, care for the child, of the care provided by that carer,

(aa) if a young carer provides, or intends to provide, care for the child, of the care provided by that carer,”,

(b) in paragraph (b)—

(i) sub-paragraph (ii) is repealed (together with the “and” immediately before it),

(ii) for “child or carer” substitute “or child”.

(7) After subsection (4) insert—

“(5) In subsection (4)(a) and (aa), the reference to the care provided by a carer means—

(a) in the case of an adult carer who has an adult carer support plan, the information about that care set out in that plan,

(b) in the case of a young carer who has a young carer statement, the information about that care set out in that statement.

(6) In—

(a) determining the needs of a child under subsection (3),

(b) deciding whether to provide any services under section 22(1), and

(c) deciding how any such services are to be provided,

a local authority must take account of the views of the carer, in so far as it is reasonable and practicable to do so.

(7) In this section—

“adult carer” and “adult carer support plan” have the meanings given by the Carers (Scotland) Act 2015,

“young carer” and “young carer statement” have the meanings given by the Carers (Scotland) Act 2015.”.
PART 5

LOCAL CARER STRATEGIES

28 Duty to prepare local carer strategy

(1) Each local authority must prepare a local carer strategy.

(2) A local carer strategy means a document prepared by a local authority setting out—

(a) the authority’s plans for identifying carers in its area and obtaining information about the care they provide or intend to provide,

(b) the authority’s assessment of the demand for support to carers in its area,

(c) the support available to carers in the authority’s area from—

(i) the authority itself,

(ii) the relevant health board,

(iii) such other persons and bodies as the local authority considers appropriate,

(d) the authority’s assessment of the extent to which demand for support to carers in its area is currently not being met,

(e) the authority’s plans for supporting carers in its area,

(f) the authority’s intended timescales for preparing adult carer support plans and young carer statements,

(g) such other information as the authority considers appropriate.

(3) A local carer strategy must contain information relating to the particular needs and circumstances of young carers.

(4) Before preparing its local carer strategy, a local authority must—

(a) consult—

(i) the relevant health board,

(ii) such persons and bodies representative of carers as the local authority considers appropriate, and

(b) take such steps as it considers appropriate to involve carers.

(5) In this Part “relevant health board” means—

(a) if the area of the local authority is the same as that of a health board, that health board,

(b) if the area of the local authority is not the same as that of a health board, the health board within whose area the area of the local authority falls.

29 Preparation of local carer strategy

In preparing its local carer strategy, a local authority must have regard among other things to—

(a) any plans for the provision of services relevant to young carers which are set out in the children’s services plan prepared for the area of the local authority under section 8 of the 2014 Act,

(b) the aims set out in section 9(2) of the 2014 Act,
(c) the criteria for assessing the wellbeing of children and young people set out in section 96 of the 2014 Act,
(d) any national health and wellbeing outcomes prescribed under section 5 of the Public Bodies (Joint Working) (Scotland) Act 2014,
(e) any arrangements for the carrying out of integration functions relevant to carers which are set out in the strategic plan prepared for the area of the local authority under section 29 of the Public Bodies (Joint Working) (Scotland) Act 2014,
(f) any other local or national plans relating to the provision of social work services and health services as the authority considers appropriate.

30  Publication and review of local carer strategy

(1) Each local authority must publish its local carer strategy.
(2) The first local carer strategy is to be published before the end of the relevant period (within the meaning of section 37(10) of the Public Bodies (Joint Working) (Scotland) Act 2014) during which section 28 comes into force.
(3) Each local authority—
   (a) must review its strategy before the end of the period mentioned in subsection (4).
   (b) may from time to time carry out such a review.
(4) That period is the period of 3 years beginning with whichever is the later of the day on which the local authority last published—
   (a) its local carer strategy, or
   (b) a statement under subsection (6)(b).
(5) In reviewing its local carer strategy, section 28(4) applies.
(6) Following a review under subsection (3), the local authority—
   (a) may prepare a revised local carer strategy,
   (b) must, where it does not prepare a revised strategy, publish a statement to that effect.
(7) Subsection (1) and section 29 apply to a revised local carer strategy prepared under this section as they apply to a local carer strategy prepared under section 28.

PART 6

INFORMATION AND ADVICE FOR CARERS

Information and advice service

31  Information and advice service for carers

(1) Each local authority must establish and maintain an information and advice service for carers in its area.
(2) The service must provide information and advice in particular about—
   (a) the rights of carers,
   (b) income maximisation for carers,
(c) education and training for carers,
(d) advocacy for carers,
(e) health and wellbeing (including counselling) for carers.

(3) The information and advice must be accessible to, and proportionate to the needs of, the persons to whom it is provided.

**Short breaks services statements**

32 **Short breaks services statements**

(1) Each local authority must prepare and publish a short breaks services statement.

(2) A short breaks services statement means a statement of information about the short breaks services available in Scotland for carers and cared-for persons.

(3) The information must be accessible to, and proportionate to the needs of, the persons to whom it is provided.

(4) The Scottish Ministers may by regulations make further provision about the preparation, publication and review of short breaks services statements.

**PART 7**

**GENERAL PROVISION**

**Guidance and directions**

33 **Guidance and directions**

(1) Section 5 of the 1968 Act (powers of the Scottish Ministers) is amended as follows.

(2) In subsection (1), after “Children’s Hearings (Scotland) Act 2011 (asp 1)” insert “and the Carers (Scotland) Act 2015”.

(3) In subsection (1B), after paragraph (t) insert—

“(u) the Carers (Scotland) Act 2015.”.

**Financial and other assistance to voluntary organisations etc.**

34 **Financial and other assistance to voluntary organisations etc.**

In section 10(1) of the 1968 Act (financial and other assistance to voluntary organisations etc.), for “and (p)” substitute “, (p) and (u)”.

**Assistance by voluntary organisations etc.**

35 **Assistance by voluntary organisations etc.**

In section 4 of the 1968 Act (provisions relating to performance of functions by local authorities), after “Children’s Hearings (Scotland) Act 2011 (asp 1)” insert “or Part 2, 3, 4, 5 or 6 of the Carers (Scotland) Act 2015”.
PART 8

FINAL PROVISIONS

36 Interpretation

(1) In this Act—

“1968 Act” means the Social Work (Scotland) Act 1968,
“1995 Act” means the Children (Scotland) Act 1995,
“2014 Act” means the Children and Young People (Scotland) Act 2014,
“adult carer” has the meaning given by section 3,
“adult carer support plan” has the meaning given by section 6,
“carer” has the meaning given by section 1,
“directing authority” has the meaning given by section 45 of the 2014 Act,
“grant-aided school” has the meaning given by section 18(5),
“health board” means a health board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978,
“identified needs”, in relation to a carer, has the meaning given by section 5(2),
“identified personal outcomes”, in relation to a carer, has the meaning given by section 5(1),
“independent school” has the meaning given by section 18(5),
“local eligibility criteria” has the meaning given by section 19(2),
“named person”, in relation to a young carer, has the meaning given by section 32 of the 2014 Act,
“national eligibility criteria” has the meaning given by section 21(2),
“personal outcomes” has the meaning given by section 4,
“public school” has the meaning given by section 18(5),
“relevant authority” has the meaning given by section 1(4),
“responsible authority”, for the purposes of Chapter 2 of Part 2 (young carer statements), has the meaning given by sections 17 and 18,
“responsible local authority”—
(a) for the purposes of Chapter 1 of Part 2 (adult carer support plans), has the meaning given by section 6(5),
(b) for the purposes of Chapter 2 of Part 2 (young carer statements), has the meaning given by section 11(8),
(c) for the purposes of Chapter 2 of Part 3 (duty to provide support to carers), has the meaning given by section 22(6),
“young carer” has the meaning given by section 2,
“young carer statement” has the meaning given by section 11.

(2) In this Act references to the provision of support by a responsible local authority include references to support the provision of which is secured by the authority.
37 Regulations

(1) Any power of the Scottish Ministers to make regulations under this Act includes power to make—

(a) different provision for different purposes,

(b) incidental, supplementary, consequential, transitional, transitory or saving provision.

(2) Regulations under—

(a) section 7,

(b) section 12,

(c) section 19(4),

(d) section 21(1),

(e) section 38(1) which add to, replace or omit the text of an Act,

are subject to the affirmative procedure.

(3) All other regulations under this Act are subject to the negative procedure.

(4) This section does not apply to regulations under section 40.

38 Ancillary provision

(1) The Scottish Ministers may by regulations make such incidental, supplementary, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes of, or in connection with, any provision made by or under this Act.

(2) Regulations under subsection (1) may modify any enactment (including this Act).

39 Consequential modifications

The schedule contains modifications consequential on the provisions of this Act.

40 Commencement

(1) This section and sections 36 to 38 and 41 come into force on the day after Royal Assent.

(2) The remaining provisions of this Act come into force on such date as the Scottish Ministers may by regulations appoint.

(3) Different days may be appointed for different purposes.

(4) Regulations under subsection (2) may include transitional, transitory or saving provision.

41 Short title

The short title of this Act is the Carers (Scotland) Act 2015.
SCHEDULE
(introduced by section 39)

CONSEQUENTIAL MODIFICATIONS

Social Work (Scotland) Act 1968

1 (1) The Social Work (Scotland) Act 1968 is amended as follows.
(2) Sections 12AA and 12AB are repealed.

Children (Scotland) Act 1995

2 (1) The Children (Scotland) Act 1995 is amended as follows.
(2) Sections 24 and 24A are repealed.

Community Care and Health (Scotland) Act 2002

3 (1) The Community Care and Health (Scotland) Act 2002 is amended as follows.
(2) Section 9(2) is repealed.
(3) Sections 11 and 12 are repealed.

Social Care (Self-directed Support) (Scotland) Act 2013

4 (1) The Social Care (Self-directed Support) (Scotland) Act 2013 is amended as follows.
(2) In section 1 (general principles)—
   (a) in subsection (1)(b), for “to 24” substitute “and 23”,
   (b) in subsection (6)(a)—
      (i) for “or, as the case may be, section 12AA of that Act or section 23(3) or
      24” substitute “, section 23(3)”,
      (ii) after “1995 Act” insert “or by virtue of section 7 or 12 of the Carers
      (Scotland) Act 2015,”,
   (c) in subsection (6)(b), for “section 3(4)” substitute “section 22 of the Carers
      (Scotland) Act 2015”.
(3) Section 3 (support for adult carers) is repealed.
(4) In section 7 (choice of options: adult carers)—
   (a) in subsection (1), for “(the “supported person”) under section 3(4)” substitute “an
   adult carer or, as the case may be, a young carer under section 22(4) of the Carers
   (Scotland) Act 2015”,
   (b) after subsection (4) insert—
      “(4A) Subsection (4B) applies where the supported person is an appropriate person in
      relation to the young carer.
      (4B) Before making a choice in pursuance of subsection (2) or (3)(b), the supported
      person must, so far as practicable and taking account of the maturity of the
      young carer—
(a) give the young carer an opportunity to indicate whether the young carer wishes to express the young carer’s views,

(b) if the young carer wishes to do so, give the young carer an opportunity to express them, and

(c) have regard to any views expressed by the young carer.”,

(c) after subsection (6) insert—

“(7) In this section—

“the 1989 Act” means the Children Act 1989,


“adult carer” has the meaning given by section 3 of the Carers (Scotland) Act 2015,

“appropriate person”, in relation to a young carer, means—

(a) a parent or guardian having parental responsibilities or parental rights in relation to the young carer under Part 1 of the 1995 Act,

(b) a person in whom parental responsibilities or parental rights are vested by virtue of section 11(2)(b) of the 1995 Act,

(c) a person having parental responsibilities or parental rights by virtue of section 11(12) of the 1995 Act,

(d) a parent having parental responsibility for the young carer under Part 1 of the 1989 Act,

(e) a person having parental responsibility for the young carer by virtue of—

   (i) section 12(2) of the 1989 Act,

   (ii) section 14C of the 1989 Act, or

   (iii) section 25(3) of the Adoption and Children Act 2002,

(f) a parent having parental responsibility for the young carer under Part 2 of the 1995 Order,

(g) a person having parental responsibility for the young carer under Article 12(2) of the 1995 Order,

(h) a person in whom parental responsibilities or parental rights are vested by virtue of a permanence order (as defined in section 80(2) of the Adoption and Children (Scotland) Act 2007),

“supported person” means—

(a) where the support is to be provided to an adult carer, the adult carer,

(b) where the support is to be provided to a young carer—

   (i) if the young carer is under 16 years of age, an appropriate person,

   (ii) if the young carer is 16 years of age or over, the young carer,
“young carer” has the meaning given in section 2 of the Carers (Scotland) Act 2015.”,
(d) the title to that section becomes “Choice of options: adult carers and young carers”.

(5) In section 10 (provision of information: children under 16)—
(a) in subsection (1), for “section 8” substitute “section 7 or 8”,
(b) in subsection (2)—
   (i) before first “child” insert “young carer or, as the case may be,”,
   (ii) before second “child” insert “young carer or”,
(c) in subsection (3), before “child” insert “young carer or”,
(d) in subsection (4), after “meaning” insert “—
   (a) in relation to a young carer, as in section 7(7),
   (b) in relation to a child.”.

(6) In section 11(3) (local authority functions), after “1968 Act” insert “, section 22 of the Carers (Scotland) Act 2015”.

Public Bodies (Joint Working) (Scotland) Act 2014

5 (1) The Public Bodies (Joint Working) (Scotland) Act 2014 is amended as follows.

(2) In Part 1 of the schedule—
(a) in the entry for the Social Work (Scotland) Act 1968, “12AA, 12AB,” is repealed,
(b) in the entry for the Children (Scotland) Act 1995, after “19” insert “to 23, 25”,
(c) after the entry relating to the Social Care (Self-directed Support) (Scotland) Act 2013, insert—
   “Sections 6, 11, 19, 22, 23, 28, 31 and 32 of the Carers (Scotland) Act 2015.”.
Carers (Scotland) Bill
[AS INTRODUCED]

An Act of the Scottish Parliament to make provision about carers, including the identification of carers’ needs for support through adult carer support plans and young carer statements; the provision of support to carers; the enabling of carer involvement in certain services; the preparation of local carer strategies; the establishment of information and advice services for carers; and for connected purposes.

Introduced by: Shona Robison
On: 9 March 2015
Bill type: Government Bill
These documents relate to the Carers (Scotland) Bill (SP Bill 61) as introduced in the Scottish Parliament on 9 March 2015

CARERS (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

As required under Rule 9.3 of the Parliament’s Standing Orders, the following documents are published to accompany the Carers (Scotland) Bill introduced in the Scottish Parliament on 9 March 2015:

- Explanatory Notes;
- a Financial Memorandum;
- a Scottish Government statement on legislative competence; and
- the Presiding Officer’s statement on legislative competence.

A Policy Memorandum is published separately as SP Bill 61–PM.
EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill. They do not form part of the Bill and have not been endorsed by the Parliament.

2. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section, or a part of a section, does not seem to require any explanation or comment, none is given.

THE BILL

3. The Bill comprises 41 sections and is divided into eight parts as follows—
   - Part 1 – Key definitions
   - Part 2 – Adult carer support plans and young carer statements
   - Part 3 – Provision of support to carers
   - Part 4 – Carer involvement
   - Part 5 – Local carer strategies
   - Part 6 – Information and advice for carers
   - Part 7 – General provision
   - Part 8 – Final provisions

4. The Bill also includes one schedule setting out consequential modifications and repeals of other enactments.

BACKGROUND

5. The Scottish Government published, on 22 January 2014, its formal consultation for proposed legislation to support carers and young carers in Scotland. The consultation was open for 12 weeks and closed on 16 April 2014. The Bill takes forward many of the issues that were raised in the consultation document. Explanation of the policy rationale behind the Bill can be found in the Policy Memorandum. The Bill makes provision in relation to the planning and provision of support for carers, about information and advice for carers and to facilitate carer involvement in certain services.

6. Part 1 of the Bill defines key expressions used in the Bill, such as carer, young carer and adult carer, and what is meant by personal outcomes, identified personal outcomes, and identified needs.
These documents relate to the Carers (Scotland) Bill (SP Bill 61) as introduced in the Scottish Parliament on 9 March 2015

7. Part 2 is divided into two chapters. Chapter 1 places a duty on the responsible local authority to prepare an adult carer support plan. In this chapter the responsible local authority is the local authority in whose area the carer resides. The chapter also makes provision about what an adult carer support plan must contain and how this information should be provided to the adult carer.

8. It also gives power to the Scottish Ministers to make regulations about the identification of adult carers’ personal outcomes and needs for support, for the purpose of preparing adult carer support plans, and about the review of adult carer support plans.

9. Chapter 2 places a duty on the responsible authority to prepare a young carer statement. It provides information on which is the responsible authority is in the case of a particular young carer (which may be the local authority, health board or directing authority of a school, depending on the circumstances of the young carer), what a young carer statement must contain and how this information should be provided to the young carer. Provision is also made to allow for any existing young carer statement to continue having effect until the carer is provided with an adult carer support plan.

10. It also gives the Scottish Ministers power to make regulations about how young carers’ personal outcomes and needs for support should be identified and the process by which this should be undertaken, for the purpose of preparing young carer statements, and about the review of young carer statements.

11. Part 3 is divided into two chapters. Chapter 1 places a duty on local authorities to set out the local eligibility criteria by which it must determine whether it is required to provide support to a carer to meet the carer’s identified needs. The chapter places a duty on the local authority so that they must consult and involve carers and bodies representative of carers before setting the local eligibility criteria. Local authorities must also have regard to any matters relevant to setting the local eligibility criteria as set out by the Scottish Ministers in regulations. The chapter also places a duty on the local authority to publish the local eligibility criteria and review them every three years.

12. This chapter also confers a power on the Scottish Ministers to set national eligibility criteria in place of local eligibility criteria set by local authorities.

13. Chapter 2 places a duty on local authorities to support carers whose identified needs cannot be met by general services in the community and which meet the eligibility criteria. The local authority also has power to provide support to meet other identified needs. When determining which support to provide to a carer, the local authority must consider whether the support should take the form of a break from caring.

14. Part 4 requires each local authority and each health board to take appropriate steps to involve individual carers and bodies representative of carers in the design, development, delivery and review of carer services provided by that local authority or health board.
15. Part 5 places local authorities under a duty to prepare a local carer strategy, in consultation with the health board and any other persons and bodies representative of carers and involving carers in such ways as the local authority considers appropriate. It sets out what is meant by a local carer strategy and what the document should contain. It also requires the local authority to publish and review its local carer strategy and to consult with the relevant health board and carers and carers’ representative bodies during the review process.

16. Part 6 requires each local authority and health board to provide and maintain an information and advice service for carers in its area and specifies particular information that must be provided. Part 6 also provides that local authorities must prepare and publish a short breaks services statement, setting out details of the national short breaks services available across Scotland, which may include information about the services available in the local authority’s area as well as in other areas of Scotland.

17. Part 7 contains general provisions relating to guidance and directions and to financial and other assistance to and by voluntary organisations in relation to carers.

18. Part 8 contains final provisions, including general interpretation and commencement.

19. The schedule contains minor and consequential amendments and repeals of other enactments made necessary by the provision made by the Bill.

COMMENTARY ON PARTS

PART 1 – KEY DEFINITIONS

Meanings of “carer”, “young carer” and “adult carer”

Section 1 - Meaning of “carer”

20. Section 1(1) defines a “carer” as an individual who provides or intends to provide care for another individual (a “cared-for person”). Subsection (2)(a) stipulates that subsection (1) will not apply, in the case of a cared-for person under 18 years old, to the extent to that the care is or would be provided by virtue of the person’s age. This is to ensure that parents are not regarded as carers for the purposes of the Bill, except where they are the caring for that child for a reason other than the child’s age. This will include parents of disabled children. Subsection (2)(b) stipulates that subsection (1) will not apply if the care is provided by virtue of a contract or as voluntary work.

21. Subsection (3) gives the Scottish Ministers a regulation-making power to set out what is meant by a contract for the purposes of subsection (2)(b)(i). For instance, this power might be used to provide that an agreement between a local authority and a kinship carer under the Looked After Children (Scotland) Regulations 2009 is not a “contract” for the purposes of subsection (2)(b)(i). That would mean that care provided under such an agreement would fall within the meaning of subsection (1) and the kinship carer would be a carer for the purposes of the Bill.
22. Subsection (3) also allows regulations to permit a relevant authority to disregard subsection (2)(b) if the authority considers it appropriate. For instance, this power may be used to provide clarification in relation to carers who provide elements of both paid care, by way of a contract with the person they care for, and unpaid care to the same person. Regulations under this subsection will be subject to the negative procedure (see section 37).

23. Subsection (4) defines “relevant authority” for the purposes of subsection (3) and of section 4 as including a responsible local authority which may be required to prepare adult carer support plans, and also a responsible authority which may be required to prepare young carer statements, under Part 2 Chapter 1 and Part 2 Chapter 2 of the Bill respectively: namely local authorities, health boards and, where applicable, directing authorities of grant-aided or independent schools.

Section 2 - Meaning of young carer

24. This section defines a “young carer” as a carer under 18 years old or who has reached 18 years while a pupil at school and remains a pupil at that or another school. This mirrors the definition of “young person” in section 22 of the Children and Young People (Scotland) Act 2014 so that the “named person service” under that Act and the provisions for young carers under this Bill can be coordinated. See, for instance, section 15 of the Bill which requires the young carer’s named person to be provided with information contained in the young carer statement.

Section 3 - Meaning of adult carer

25. This section defines an “adult carer” as a carer who is at least 18 years old but who is not a young carer.

Meanings of “personal outcomes” etc.

Section 4 – Meaning of “personal outcomes”

26. Subsection (1) defines “personal outcomes”, in relation to carers, as including outcomes which would, if achieved, enable carers to provide or continue to provide care for the cared-for persons. Personal outcomes are relevant to the assessment of a carer’s needs for support under Part 2 of the Bill.

27. Under subsection (2), the Scottish Ministers have power to make further provision about personal outcomes, including about the things that the relevant authority is to have regard to in deciding which outcomes may count as personal outcomes for the purposes of the Bill. Regulations under this subsection will be subject to the negative procedure (see section 37).

Section 5 - Meaning of “identified personal outcomes” and “identified needs”

28. Subsection (1) defines “identified personal outcomes”, in relation to a carer, as the personal outcomes identified by virtue of the assessment process in Part 2 of the Bill and which are relevant to the carer.
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29. Subsection (2) defines “identified needs”, in relation to carer, as the needs for support (if any) which are identified by virtue of the assessment process in Part 2 of the Bill in order to meet the carer’s identified personal outcomes.

30. Subsection (3) defines “identified” with reference to sections 7 and 12 (under which the Scottish Ministers have powers to regulate the assessment process for identifying carers’ personal outcomes and needs for support).

PART 2 – ADULT CARER SUPPORT PLANS AND YOUNG CARER STATEMENTS

Chapter 1 – Adult carer support plans

Duty to prepare adult carer support plan

Section 6 - Duty to prepare adult carer support plan

31. Subsection (1) defines what an “adult carer support” plan is, namely a plan prepared by a responsible local authority that sets out an adult carer’s identified personal outcomes, identified needs and any support to be provided by the responsible local authority to meet those needs. The assessment process for identifying those outcomes and needs will be set out in regulations under section 7. Section 8 gives more information about the content of the adult carer support plan.

32. Subsection (2) states that a responsible local authority is required to prepare an adult carer support plan for a person if either subsection (3) or (4) applies.

33. Subsection (3) applies if the responsible local authority itself identifies the person as an adult carer, the responsible local authority then offers that person an adult carer support plan and that person accepts that offer.

34. Subsection (4) applies if a person who appears to the responsible local authority to be an adult carer requests an adult carer support plan: that is, if an adult self-identifies as a carer and the responsible local authority agrees that the adult comes within the definition of carer under section 1 of the Bill.

35. Subsection (5) defines the “responsible local authority”, in relation to an adult carer, as the local authority for the area in which the carer lives. This will still be the case where the adult carer lives in a different local authority area to one in which the cared-for person lives.

Section 7 – Adult carers: identification of outcomes and needs for support

36. Under this section, the Scottish Ministers may make regulations about the identification of adult carers’ personal outcomes and need for support. Such regulations could include provision about—

- how personal outcomes and needs for support are to be identified;
- the process for doing so (including arrangements for the involvement of adult carers and cared-for persons);
who may carry out identification;
the sharing of information about adult carers and cared-for persons for the purpose of identifying personal outcomes and needs for support;
the factors to be taken into account in identifying adult carers’ personal outcomes and needs for support; and
the circumstances in which adult carers’ personal outcomes and needs for support should be reviewed.

37. Regulations under this section will be subject to the affirmative procedure (see section 37(2)).

Content and review of adult carer support plan

Section 8 - Content of adult carer support plan

38. Subsection (1) sets out what information the adult carer support plan must contain, namely information about—
- the adult carer’s personal circumstances at the time of preparation of the plan;
- the extent to which the adult carer is able and willing to provide care for the cared-for person;
- the adult carer’s personal outcomes, including personal outcomes identified in the assessment process;
- the adult carer’s needs for support, included needs identified in the assessment process, to meet those outcomes. If no needs are identified, this should be stated;
- the support generally available to the adult carer and the cared-for person in the area of the responsible authority;
- the support that the responsible local authority provides or intends to provide to the adult carer to meet such of the adult carer’s identified needs as meet the local eligibility criteria (set under Part 3 of the Bill);
- the support the responsible local authority provides or intends to provide to the adult carer to meet the adult carer’s other identified needs (that is, the identified needs that do not meet the local eligibility criteria but which the responsible local authority nevertheless plans to meet by virtue of section 22(4)(b));
- whether support provided should take the form of a short break from caring for the cared-for person; and
- the circumstances in which the plan is to be reviewed.

39. Subsection (2) provides that the second and subsequent adult carer support plan prepared for a carer must contain information on the extent to which any support provided under a previous plan has assisted in achieving the carer’s identified personal outcomes.
40. Subsection (3) gives the Scottish Ministers power to make regulations about any other information an adult carer support plan must (or must not) contain, and the form adult carer support plans should take. Such regulations will be subject to the negative procedure (see section 37).

Section 9 - Review of adult carer support plans

41. This section enables the Scottish Ministers to make regulations about the review of adult carer support plans, including circumstances for review; frequency of review; procedure for review; and arrangements for obtaining the views of adult carers and cared for persons. Such regulations could for example include provision for review when the cared-for person is going to be discharged from hospital. Regulations under this subsection will be subject to the negative procedure (see section 37).

Provision of information about plan

Section 10 - Adult carer support plan: provision of information to carer etc.

42. Subsections (1) and (2) require the responsible local authority to provide the information contained in the adult carer support plan to the adult carer to whom the plan relates and to any other person(s) at the carer’s request.

43. Subsection (3) provides that subsection (1) does not apply where the responsible local authority considers that provision of the information would not be appropriate. For instance, the local authority may remove sensitive information relating to the carer or the persons they care for, before providing the adult carer support plan to someone other than the carer.

44. Subsection (4) provides that the information provided under subsection (1) is to be provided as soon as practicable after the plan is prepared or, in the case of a revised plan, as soon as practicable after the revised plan is prepared.

Chapter 2 – Young carer statements

Duty to prepare young carer statement

Section 11 - Duty to prepare young carer statement

45. This section creates an equivalent in relation to young carers as section 6 does in relation to adult carers. Subsection (1) defines what a “young carer statement” is, namely a statement prepared by the responsible authority that sets out a young carer’s identified personal outcomes, identified needs and any support to be provided by the responsible local authority to the young carer to meet those needs. The process for identifying those outcomes and needs will be set out in regulations under section 12. Section 13 gives more information about the content of the young carer statement. Sections 17 and 18 determine who the responsible authority is in relation to a young carer.

46. Subsection (2) requires the responsible authority to prepare a young carer statement if subsection (3) or (4) applies.
47. Subsection (3) applies where the responsible authority itself identifies a person as a young carer, offers the person a young carer statement, and the person accepts the offer.

48. Subsection (4) applies where a person who appears to the responsible authority to be a young carer requests a young carer statement.

49. Subsection (5) provides that subsection (2) will apply whether or not the young carer also requires a child’s plan in accordance with section 33 of the Children and Young People Scotland Act 2014. So a young carer, who may have a child’s plan under that Act because he or she has a wellbeing need, will always have a young carer statement as well, focusing distinctly on the young carer’s needs as a carer.

50. Subsection (6) requires the responsible authority to notify the young carer’s named person when the responsibility authority offers a young carer statement under subsection (3) or a young carer requests a young carer statement under subsection (4). Along with section 15(2)(b) on the provision of the information contained in the young carer statement to the young carer’s named person, this is to ensure a more integrated approach to young carers’ welfare.

51. Subsection (7) provides that where the responsible authority, in relation to a young carer, is not the responsible local authority, the responsible authority must not provide the young carer statement to the young carer without the approval of the responsible local authority. This is because it is the responsible local authority which would actually provide support to the young carer to meet any needs that are identified.

52. Subsection (8) defines “responsible authority” for the purposes of Chapter 2 as having the meaning given by sections 17 and 18. It also defines “responsible local authority” for the purposes of Chapter 2 as the local authority for the area in which the carer resides.

Section 12 – Young carers: identification of outcomes and needs for support

53. This section is equivalent to section 7 in relation to adult carer support plans. Under this section, the Scottish Ministers may make regulations about the identification of young carers’ personal outcomes and their needs for support. Such regulations could include provision about—

- how personal outcomes and needs for support are to be identified;
- the process for doing so (including arrangements for the involvement of young carers and cared-for persons);
- who may carry out identification;
- the sharing of information about young carers and cared-for persons for the purpose of identifying personal outcomes and needs for support;
- the factors to be taken into account in identifying young carers’ personal outcomes and needs for support;
- the circumstances in which young carers’ personal outcomes and needs for support should be reviewed.
54. Regulations under this section will be subject to the affirmative procedure (see section 37(2)).

**Content and review of young carer statement**

**Section 13 – Content of young carer statement**

55. This section is equivalent to section 8 in relation to adult carer support plans. Subsection (1) sets out what information the young carer statement must contain, namely information about—

- the young carer’s personal circumstances at the time of the preparation of the statement, including the impact on the young carer’s wellbeing of caring for the cared-for person;
- the extent to which the young carer is able and willing to provide support for the cared-for person;
- the extent to which the responsible authority considers that the nature and extent of the care provided by the young carer is appropriate;
- the young carer’s personal outcomes, including personal outcomes identified in the assessment process;
- the young carer’s needs for support, included needs identified in the assessment process, to meet those outcomes. If no needs are identified, this should be stated;
- the support generally available to the young carer and the cared-for person in the responsible local authority’s area;
- the support which the responsible local authority provides or intends to provide to the young carer to meet such of the young carer’s identified needs as meet the local eligibility criteria (set under Part 3 of the Bill);
- the support which the responsible local authority provides or intends to provide to the young carer to meet the young carer’s other identified needs (that is, the identified needs that do not meet the local eligibility criteria but which the responsible local authority nevertheless plans to meet by virtue of section 22(4)(b));
- whether support should be provided in the form of a break from caring for the cared-for person;
- the circumstances in which the young carer statement is to be reviewed.

56. Subsection (2) provides that the second and subsequent young carer statement prepared for the young carer must contain information on the extent to which any support provided under a previous statement has assisted in achieving the young carer’s identified personal outcomes.

57. Subsection (3) provides that the responsible authority, in assessing the impact of a young carer’s caring role on the wellbeing of the young carer for the purposes of subsection (1)(a)(ii), must do so by reference to the matters listed in section 96(2) of the Children and Young People (Scotland) Act 2014 and have regard to any guidance issued under section 96(3) of that Act. The matters listed in section 96(2) are the extent to which a child or young person is—
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- Safe,
- Healthy,
- Achieving
- Nurtured,
- Active,
- Respected,
- Responsible, and
- Included

58. Subsection (4) gives the Scottish Ministers a regulation-making power to make provision about other information which the young carer statement must (or must not) contain and the form the young carer statement should take. Regulations under this subsection will be subject to the negative procedure (see section 37).

Section 14 - Review of young carer statements

59. This section is equivalent to section 9 in relation to adult carer support plans. It enables the Scottish Ministers to make regulations about the review of young carer statements, including circumstances for review; frequency of review; procedure for review; and arrangements for obtaining the views of young carers and cared-for persons. Regulations under this subsection will be subject to the negative procedure (see section 37).

Provision of information about statement

Section 15 - Young carer statement: provision of information to carer etc.

60. This section is equivalent to section 10 in relation to adult carer support plans. Subsections (1) and (2) provide that the responsible authority must provide the information contained in the young carer statement to certain persons. They are—

- the young carer to whom the young carer statement relates,
- the young carer’s named person, and
- any other person the young carer requests.

61. Subsection (3) provides that subsection (1) will not apply where the responsible authority considers that provision of the information would not be appropriate. As with section 10, this could, for example, be a situation where the young carer requests certain information, possibly sensitive information, be removed from the young carer statement before it is provided to someone other than the young carer or their named person.

62. Subsection (4) requires the information to be provided as soon as practicable after the statement has been prepared, or in the case of a revised statement, after the revised statement is prepared.
Continuation of young carer statement

Section 16 - Continuation of young carer statement

63. This section provides that if a young carer has reached 18 years, any young carer statement prepared will continue to have effect until the carer is provided with an adult carer support plan. The purpose of this is to ensure that there will be no gap in statement/plan coverage or a break in the continuation of support where the young carer’s needs for support continue.

Meaning of responsible authority: young carers

Section 17 - Responsible authority: general

64. Subsection (1) sets out who the “responsible authority” is in relation to a young carer. Where the young carer is a pre-school child, the responsible authority will be the health board for the area in which the child resides. In any other case, the responsible authority will be the local authority for the area in which the young carer resides.

65. Subsection (2) provides that subsection (1) is subject to section 18 – Responsible authority: special cases.

66. Subsection (3) provides what this section and section 18 mean by “pre-school child”. This is defined by reference to section 36(3) of the Children and Young People (Scotland) Act 2014 and means—

- a child who has not commenced attendance at a primary school, or
- if the child is of school age, a child who has not commenced attendance at a primary school because the relevant local authority has consented to the child’s commencement at primary school being delayed.

67. A child is of school age if the child has attained the age of five years but is under the age of 16 years (see section 31 of the Education (Scotland) Act 1980).

Section 18 - Responsible authority: special cases

68. Subsection (1) provides that where a young carer who is a pre-school child resides in the area of a health board, by virtue of a placement by another health board or local authority, the health board for the area in which the young carer resided immediately before that placement is the responsible authority in relation to the young carer. “Pre-school child” has the meaning given by section 17(3).

69. Subsection (2) provides that where the young carer is a pupil at a public school which is managed by a local authority other than the one for the area in which the young carer lives, the other authority is the responsible authority in relation to the young carer.

70. Subsection (3) provides that where the young carer is a pupil at a grant-aided school or an independent school, the directing authority of that school is the responsible authority in relation
to the young carer. “Directing authority” is defined in section 36(1) as having the same meaning as in section 45 of the Children and Young People (Scotland) Act 2014, that is, the managers of a grant-aided school or the proprietor of an independent school.

71. Subsection (4) provides that subsection (3) will not apply where the young carer is a pupil by virtue of a placement by the local authority for the area in which the young carer lives.

72. Subsection (5) sets out that “grant aided school”, “independent school” and “public school” have the meanings given by section 135 of the Education Scotland Act 1980, as follows—

- “grant-aided school” means, with the exceptions specified there, a school in respect of which grants are made by the Scottish Ministers to the managers of the school;
- “independent school” means a school at which full-time education is provided for five or more pupils of school age (whether or not such education is also provided for pupils under or over that age), not being a public school, a grant-aided school, or a self-governing school under the Self-Governing Schools etc (Scotland) Act 1989;
- “public school” means any school under the management of an education authority, that is a local authority.

PART 3 – PROVISION OF SUPPORT TO CARERS

Chapter 1 – Eligibility criteria

Local eligibility criteria

Section 19 - Duty to set local eligibility criteria

73. Subsection (1) requires the local authority to set the local eligibility criteria which it is to apply for its area. The local eligibility criteria are defined by subsection (2) as the conditions which a local authority must use to establish whether it is required to provide support to a carer to meet the carer’s identified needs.

74. Subsection (3) makes provision about who a local authority must involve and consult before setting its eligibility criteria. It must consult such persons and bodies representative of carers as considered appropriate by the local authority and it must take the steps it considers appropriate to involve carers.

75. Subsection (4) states that a local authority must have regard to such matters as the Scottish Ministers may by regulations specify, when setting its local eligibility criteria. Regulations under this section will be subject to the affirmative procedure (see section 37(2)).

Section 20 - Publication and review of criteria

76. Subsection (1) requires each local authority to publish its eligibility criteria. Publication must be in accordance with the timescales prescribed in regulations made under subsection (2). It is intended that they will be used to require local authorities to have eligibility criteria in place.
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before section 22 (which imposes the duty to support) is commenced. Those regulations will be subject to the negative procedure.

77. The local authority is required to review its eligibility criteria in accordance with subsections (3) to (5). Regulations subject to the negative procedure will set the time frame within which the first review must be undertaken. It is intended that this will be used to bring timing of reviews of eligibility criteria into line with reviews of local carer strategies under Part 5 of the Bill. Following a review, the local authority may set revised local eligibility criteria or publish a statement explaining that it does not intend to revise the criteria on this occasion. If the local authority revises the local eligibility criteria, it must have regard to the matters specified in regulations under section 19 and must publish the revised criteria.

National eligibility criteria

Section 21 - National eligibility criteria

78. Subsection (1) confers a power on the Scottish Ministers to make regulations setting out national eligibility criteria. Regulations under this subsection will be subject to affirmative procedure (see section 37(2)).

79. Subsection (2) provides that the national eligibility criteria are the criteria by which each local authority must assess whether it is required to provide support to carers to meet their identified needs.

80. Subsection (3) sets out that, where regulations are made under this section and have not been revoked, the national eligibility criteria set out in them apply in place of any local eligibility criteria published under section 20. In such a situation, references elsewhere in the Bill to local eligibility criteria are to be read as references to the national eligibility criteria.

Chapter 2 – Duty to provide support to carers

Section 22 - Duty to provide support

81. Where a carer has needs which have been identified in the course of preparing an adult carer support plan or a young carer statement and which cannot be met through the provision of general services in the responsible local authority’s area, for example information and advice, this section requires the authority to apply its local eligibility criteria. The needs which meet the local eligibility criteria are referred to as “eligible needs”. Subsection (6) sets out that the responsible local authority is the local authority for the area where the carer resides.

82. Subsection (4)(a) places a duty on the responsible local authority to provide support to the carer to meet those eligible needs. The responsible local authority also has a power under subsection (4)(b) to provide support to meet needs which do not meet the eligibility criteria.

83. Subsection (5) applies where a carer’s eligible needs might also be met through community care services assessed under section 12A of the Social Work (Scotland) Act 1968 or services for children and their families under section 22 of the Children (Scotland) Act 1995. If
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the needs meet the eligibility criteria, then the duty in subsection (4)(a) applies regardless of whether the needs may also be met under the 1968 or 1995 Acts.

84. Subsection (6) sets out that the “responsible local authority” in relation to a carer, means the local authority for the area in which the carer resides.

Section 23 - Provision of support to carers: breaks from caring

85. Subsection (1) requires a local authority to consider whether any support provided under section 22 should include support which provides a break from caring.

86. Subsection (2) confers a power on the Scottish Ministers to make regulations (subject to the negative procedure) about the forms of support that would constitute a break from caring. Such regulations may make specific provision to deal with cases where the support is delivered through the provision of replacement care or other services or assistance to the cared-for person. This includes provision about the role of the cared-for person in relation to how that care or those services or assistance are provided and whether that care or those services or assistance are to be regarded as support to the carer or to the cared-for person.

Section 24 - Charging for support provided to carers

87. This provision amends section 87 of the 1968 Act. It allows local authorities to make charges when providing services which support carers under section 22(4) of the Bill. Such charges cannot exceed what is practicable for a person to pay if the person satisfies the local authority that the person’s means are insufficient to meet the charge that would otherwise be made. Charges are also subject to any regulations made by the Scottish Ministers under section 87(5) of the 1968 Act. Such regulations are subject to the negative procedure. They may modify or adjust charges or require them to be waived altogether.

PART 4 – CARER INVOLVEMENT

Section 25 - Duty to involve carers in carer services

88. Subsections (1) and (2) require each local authority and health board to take steps to involve the persons mentioned in subsection (3) in carer services.

89. Subsection (3) defines those persons as carers in the area of the local authority or health board, and such persons and bodies representatives of carers as the local authority or health board considers appropriate.

90. Subsection (4) defines what is meant by “carer services” provided by the local authority or health board. It covers all services provided by the local authority or health board to carers (in their role as such) and cared-for persons (in relation to care which they receive). Subsection (5) makes two exceptions. Subsection (4) does not cover services set out in a children’s services plan under the Children and Young People (Scotland) Act 20142014, provided that consultation with the same persons has been carried out in connection with that plan. Nor does it cover services which are provided in pursuance of functions included in an integration scheme under
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the Public Bodies (Joint Working) (Scotland) Act 2014. That Act places other obligations on integration authorities about carrying out such functions which include obligations to involve carers and organisations representing carers.

91. Subsection (6) sets out what amounts to “involvement” in relation to carer services.

Section 26 - Involvement of, assistance to and collaboration with carers

92. This section requires a local authority to have regard to the general principles in section 1 of the Social Care (Self-directed Support) (Scotland) Act 2013 when exercising functions under Part 2 (adult carer support plans and young carer statements) and Part 3 (provision of support to carers) of this Bill.

93. These general principles are that the carer must have as much involvement as he or she wishes in relation to the preparation of the adult carer support plan or young carer statement and the provision of support under section 22 of the Bill, and that the local authority must collaborate with the carer in respect of those matters. The carer must also be provided with any assistance reasonably required in order to be able to express views or make an informed choice about options for self-directed support.

Section 27 - Care assessments: duty to take account of care and views of carers

94. This section makes consequential amendments to section 12A of the 1968 Act and section 23 of the 1995 Act, which concern assessments of people in need of community care services and of children affected by disability respectively. The amendments require the authority preparing such assessments to take into account the care which is provided, or to be provided by any carer. Where the carer has an adult carer support plan or young carer statement, that care is to be identified by reference to the information contained in the plan or statement.

95. This section also inserts a new subsection (1B) into section 12A of the 1968 Act and a new subsection (6) into section 23 of the 1995 Act. Those new subsections require the local authority to take into account the views of the carer, so far as it is reasonable and practicable to do so, when determining the needs of the person being assessed and deciding what services to provide and how to provide them. These new subsections replace narrower obligations about taking a carer’s views into account in the current assessment provisions.

PART 5 – LOCAL CARER STRATEGIES

Section 28 - Duty to prepare local carer strategy

96. Subsection (1) provides that each local authority must prepare a local carer strategy.

97. Subsection (2) sets out what the strategy is and what information it must contain. This must include—

- the local authority’s plans for identifying carers in its area and how it will obtain information about the care they provide or intend to provide;
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- the authority’s assessment of the demand for support to carers in its area;
- the support which is available to carers in the authority’s area, whether from the authority itself, the relevant health board or any other persons or bodies that the local authority deems appropriate;
- the authority’s assessment of the extent of unmet need for support in the area;
- the authority’s plans for supporting carers in its area;
- the authority’s intended timescales for preparing adult carer support plans and young carers statements; and
- any other information that the authority considers to be appropriate.

98. Subsection (3) requires that a local authority’s local carer strategy must contain information relating to the particular needs and circumstances of young carers in its area.

99. Subsection (4) requires that, before preparing its local carer strategy, a local authority must consult with the relevant health board and such persons and bodies representatives of carers as the local authority considers appropriate. It must also take steps as it considers appropriate to involve carers. Subsection (5) defines what is meant by “relevant health board”.

Section 29 - Preparation of local carer strategy

100. This section sets out a non-exhaustive list of factors to which the local authority must have regard in preparing its local carer strategy. For instance, this includes the aims set out in section 9(2) of the 2014 Act. They are—

(a) that children’s services are provided in a way which—
- best safeguards, supports and promotes the wellbeing of children in the area concerned,
- ensures that any action to meet needs is taken at the earliest appropriate time and that, where appropriate, action is taken to prevent needs arising,
- is most integrated from the point of view of recipients, and
- constitutes the best use of available resources, and

(b) that services are provided in the way which, so far as consistent with the objects and proper delivery of the service concerned, safeguards, supports and promotes the wellbeing of children in the area concerned.

101. The list of factors also includes, amongst other things, the national health and wellbeing outcomes that are prescribed under section 5 of the Public Bodies (Joint Working) (Scotland) Act 2014.

Section 30 - Publication and review of local carer strategy

102. Subsection (1) requires each local authority to publish its local carer strategy.
103. Subsection (2) sets the date by which the first local carer strategy must be published. This is the date by which the integration authority relevant to the local authority in question must publish its next strategic plan under the Public Bodies (Joint Working) (Scotland) Act 2014. The timing for the publication of the strategic plans under that Act is determined by reference to the date (the “integration start day”) on which the health and social care integration arrangements take effect: this date has been prescribed by the Public Bodies (Joint Working) (Prescribed Days) (Scotland) Regulations 2014 as 1 April 2016.

104. Subsection (3) requires the local authority to review its local carer strategy at least every three years. By virtue of subsection (5), the same obligations to consult and involve carers set out in section 28(4) also apply when the local authority reviews its strategy. Following a review, subsection (6) provides that the local authority may decide to prepare a revised strategy or to publish a statement to the effect that it is not revising the strategy. Where the local authority prepares a revised strategy, subsection (7) requires it to take into account the factors specified in section 29 and to publish the revised strategy.

PART 6 – INFORMATION AND ADVICE FOR CARERS

Information and advice service

Section 31 - Information and advice service for carers

105. Subsection (1) provides that each local authority must establish and maintain an information and advice service for carers in its area.

106. Subsection (2) (a) to (e) sets out in general terms the sort of information and advice that the service must provide.

107. Subsection (3) provides that the information and advice must be provided in a manner that it is accessible to, and proportionate to the needs of, the persons to whom it is provided.

Short breaks services statements

Section 32 - Short breaks services statements

108. Subsection (1) requires each local authority to prepare and publish a short breaks services statement. Subsection (2) defines what a “short breaks services statement” means: that is a statement setting out the short break services available in Scotland for carers and cared-for persons.

109. Subsection (3) requires the short breaks services statement to be published in an accessible format and that the information contained within it should be relevant to the persons within the local authority area. This means that the statement does not need to contain information relating to every short break service in Scotland, only those relevant to the persons who live in that area.

1 SSI 2014/284
110. Subsection (4) gives the Scottish Ministers a regulation-making power to make further provision about the preparation, publication and review of short breaks services statements. Regulations under this subsection will be subject to the negative procedure (see section 37).

PART 7 – GENERAL PROVISION

Guidance and directions

Section 33 - Guidance and directions

111. This section amends section 5 of the 1968 Act so that the Scottish Ministers may issue guidance or directions to local authorities about the exercise of functions under this Bill. Guidance and directions about the exercise of functions under the Bill will be issued in accordance with the procedures as laid out in section 5 of the 1968 Act.

112. Subsection (3) adds the Bill to the list of enactments in section 5(1B). This has a number of consequences. First, the Scottish Ministers may issue directions to local authorities under section 5(1A) of the 1968 Act about the manner in which they are to exercise their functions under the Bill. Second, a local authority’s social work complaints procedure under section 5B of the 1968 Act must allow any person to make representations (including complaints) in relation to the discharge of, or failure to discharge, functions under the Bill. The power of the Scottish Ministers to cause inquiries to be held under section 6A of the 1968 Act and the power of a local authority to cause inquiries to be held under section 6B of the 1968 Act are also extended so that they cover inquiries into the functions under the Bill.

Assistance to and by voluntary organisations etc.

Section 34 - Financial and other assistance to voluntary organisations etc.

113. This section amends section 10 of the 1968 Act, to allow grants and loans to be made to voluntary organisations in connection with things they do which assist local authorities in exercising their functions under this Bill. The effect of the amendment is also that local authorities will be able to provide non-financial assistance to voluntary organisations, such as allowing them the use of premises.

Section 35 - Assistance by voluntary organisations etc.

114. This section amends section 4 of the 1968 Act to ensure Parts 2 to 6 of this Bill are considered as part of provisions relating to the performance of functions by local authorities for the purposes of that section. This will then allow local authorities to make arrangements with voluntary organisations so that such organisations can provide assistance to local authorities exercising functions under the Bill.
PART 8 – FINAL PROVISIONS

Section 36 - Interpretation

115. This section defines terms that are used frequently in the Bill. For example “1968 Act” means the Social Work (Scotland) Act 1968; “1995 Act” means the Children (Scotland) Act 1995; “2014 Act” means the Children and Young People (Scotland) Act 2014.

116. Subsection (2) defines support provided by a responsible local authority as including support that the authority secures from another service provider.

Section 37 - Regulations

117. Subsection (1) provides that any power of the Scottish Ministers to make regulations under this Bill includes power to make different provision for different purposes and to make incidental, supplementary, consequential, transitional, transitory or saving provision.

118. Subsection (2) provides that regulations under sections 7, 12, 19(4) and 21(1) are subject to the affirmative procedure. Regulations under section 38(1) which add to, replace or omit the text of an Act are also subject to that procedure.

119. Subsection (3) provides that all other regulations under this Bill are subject to the negative procedure. But subsection (3) does not apply to commencement regulations under section 40 (see subsection (4)). Such commencement regulations will be subject to no parliamentary procedure.

Section 38 - Ancillary provision

120. This section gives the Scottish Ministers a freestanding regulation-making power to make incidental, supplementary, consequential, transitional, transitory or saving provision that they consider necessary or expedient for the purposes of or in connection with the Bill. Such regulations may modify any enactment (including in the Bill itself). Regulations under this section which amend the text of primary legislation will be subject to the affirmative procedure (see section 37(2)). Otherwise they will be subject to the negative procedure (see section 37(3)).

Section 39 - Consequential modifications

121. This section introduces the schedule, which contains amendments and repeals of other legislation that are consequential on the provisions of this Bill.

Section 40 - Commencement

122. Subsection (1) provides that this section and sections 36 to 38 and 41 come into force on the day after Royal Assent. The remainder of the Bill comes into force on the day or days appointed by the Scottish Ministers in regulations made under subsection (2). Subsection (4) provides that commencement regulations may also include transitional, transitory or saving
These documents relate to the Carers (Scotland) Bill (SP Bill 61) as introduced in the Scottish Parliament on 9 March 2015

provision. Such regulations will be subject to no parliamentary procedure, as is normal for subordinate legislation commencing Acts of the Scottish Parliament (see section 37(4)).

Section 41 - Short title

123. This section provides that the Bill, if passed, will be referred to as the Carers (Scotland) Act 2015.

SCHEDULE – CONSEQUENTIAL MODIFICATIONS

124. The schedule to the Bill makes consequential amendments and repeals of other enactments to take account of the provisions of the Bill. The enactments affected include—

- the Social Work (Scotland) Act 1968;
- the Children (Scotland) Act 1995;
- the Community Care and Health (Scotland) Act 2002;
- the Social Care (Self-directed Support) (Scotland) Act 2013; and
- the Public Bodies (Joint Working) (Scotland) Act 2014.

125. Sections 12AA and 12AB of the Social Work (Scotland) Act 1968, and sections 24 and 24A of the Children (Scotland) Act 1995, and subsequent revisions under sections 9(2), 11 and 12 of the Community Care and Health (Scotland) Act 2002 are repealed. The functions covered by those sections, relating to the assessment of adult carers and young carers needs, are replaced by the provisions contained within Part 2 of the Bill (adult carer support plans and young carer statements).

126. The amendments to section 7 of the Social Care (Self-directed Support) (Scotland) Act 2013 made by paragraph 4 of the schedule have the effect that any support provided under section 22 of the Bill may be provided through whichever of the options for self-directed support is chosen by a carer.

127. The amendments to the Public Bodies (Joint Working) (Scotland) Act 2014 have the effect that the functions of preparing an adult carer support plan or a young carer statement, providing support to carers, preparing local carer strategies, providing an information and advice service and publishing short breaks statements are capable of being delegated under an integration scheme under that Act.
FINANCIAL MEMORANDUM

INTRODUCTION

1. This Financial Memorandum has been prepared by the Scottish Government to satisfy Rule 9.3.2 of the Parliament’s Standing Orders. It does not form part of the Bill and has not been endorsed by the Parliament.

2. The purpose of this Financial Memorandum is to set out:
   - the best estimates of the costs associated with implementation of the range of duties and powers in the Carers (Scotland) Bill (“the Bill”), as well as likely efficiency savings;
   - the best estimates of the timescales over which the costs and savings are expected to arise; and
   - an indication of the margins of uncertainty in these estimates.

3. The specific areas covered in this Memorandum are:
   - duties to prepare and review the adult carer support plan (ACSP) for adult carers;
   - duties to prepare and review the young carer statement (YCS) for young carers;
   - duties to establish and maintain an information and advice service for all carers and young carers in the local authority area;
   - duties to provide support to both adult and young carers where needs fall within local eligibility criteria; powers to provide support where needs do not fall within local eligibility criteria;
   - duties to prepare a local carer strategy;
   - waiving of charges for support to carers;
   - training and development of the statutory health and social care, third sector, and education workforce (capacity building); and awareness-raising with carers and young carers; and
   - the implications flowing from the regulations and guidance underpinning the Bill.

4. Most duties fall on local authorities. Two duties are for health boards and one for a directing authority. The expectation is that all functions created under this Bill which relate to

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1 Adult carers are aged 18 and over for the purposes of the Bill.
2 Young carers are mostly aged under 18 for the purposes of the Bill. However, if a young person has attained the age of 18 years while a pupil at a school, and since attaining that age has remained a pupil at that or another school, he or she will be a young carer.
3 Where the child is a pupil at a grant-aided or an independent school, the directing authority of that school is the responsible authority in relation to the child. Directing authority under the Children and Young People (Scotland) Act 2014: “directing authority” means: (a) when used generally, each of the following: (i) the managers of each grant-aided school, (ii) the proprietor of each independent school, and (iii) the local authority or other person who manages each residential establishment which comprises secure accommodation, (b) when used in relation to a
the delivery of services to adult carers will require to be delegated under integration schemes under the Public Bodies (Joint Working) (Scotland) Act 2014, (“the Public Bodies Act”) and all local authority or health board functions relating to carers under the age of 18 will be capable of being delegated if the local authority and health board so choose. Accordingly, the Scottish Government anticipates that functions may be exercised in practice by local authority or health board officials (or both), depending on the decisions of the individual integration authority. Where a local authority delegates functions under an integration scheme, it must set out the method it will use to determine the sums required to enable the functions to be exercised. It will then pay the sums over to the integration authority which will in turn determine how they are to be applied.

5. Furthermore, in relation to some of the duties, the Scottish Government’s view is that the functions can be delivered, in whole or in part, by relevant third sector organisations. This will apply in particular to preparing the ACSP and the YCS, to contributing to the information and advice service and to supporting carers and young carers.

6. The analysis and estimates contained in this Financial Memorandum draw on a variety of sources including consideration of the outcome of questionnaires issued to local authorities, health boards and the third sector; an analysis requested of NHS Education for Scotland (NES) and the Scottish Social Services Council (SSSC) on the costs of workforce development; and a number of survey and research publications. The Memorandum should be read in conjunction with the Policy Memorandum, which sets out more fully the reasoning behind the Bill and a range of non-financial benefits associated with it. The Policy Memorandum also sets out how the Bill, including financial costs, will be monitored and evaluated.

7. The Scottish Government’s best estimates of costs are provided in this Financial Memorandum. It is recognised, however, that it is challenging to predict the demand profile with complete accuracy. The Scottish Government is, therefore, very willing to work in partnership with COSLA if any new information comes to light about the cost estimates. The Scottish Government would be prepared to consider any such information.

8. The Financial Memorandum is structured as follows:

   Part 1: Purpose, statistics and research;
   Part 2: Costs on the Scottish Administration (including cost implications to the Scottish Government);
   Part 3: Recurrent and non-recurrent cost implications to local authorities from the provisions in the Bill; and

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6 20 questionnaires returned to COSLA (and sent on to the Scottish Government) and 1 returned directly to the Scottish Government
7 Nine questionnaires returned to the Scottish Government
8 The Carers Trust and the Coalition of Carers in Scotland (COCIS) circulated and analysed a questionnaire sent to carers centres in Scotland
Part 4: Recurrent and non-recurrent cost implications to other bodies from the provisions in the Bill.

9. This Memorandum distinguishes between the costs associated specifically with the Bill and with wider financial support which the Scottish Government is providing to translate the Bill’s principles and aims into tangible changes to the experiences of carers and young carers. The main cultural transformation will be in three main areas:

(i) with the carrying out of the new YCS and its links with the child’s plan under the Children and Young People (Scotland) Act 2014;

(ii) with planning and delivering innovative and creative approaches to the provision of short breaks; and

(iii) with delivering sustainable personal outcomes for carers and young carers within the wider context of public service reform including the integration of health and social care and children’s services planning.

10. These three areas are either new policy developments (the YCS) or are an essential component of the wider transformative programme of reform so that public services enhance quality of life for carers, young carers and the people they care for. The Scottish Government expects that the key to achieving cultural transformation in this area will be through workforce development and leadership. This Financial Memorandum covers training and development.

PART 1: PURPOSE, STATISTICS AND RESEARCH

11. The purpose of this Bill is to ensure better and more consistent support for both adult and young carers so that they can continue to care, if they so wish, in better health and to have a life alongside caring. This is to be achieved by building on existing legislative rights for carers and young carers. There will also be better linkages with the assessment processes for cared-for persons and with the services for cared-for persons (both adults and disabled children). Implementation of the Bill’s provisions will complement and enhance the actions in the Scottish Government’s and COSLA’s national Carers and Young Carers Strategy, Caring Together and Getting it Right for Young Carers, 2010-2015.8

Bill Content

12. The Bill contains provisions placing duties primarily on local authorities concerning:

(i) strategic planning (preparation of local carer strategies; and carer, young carer and third sector organisation involvement in the planning, shaping, delivery and review of services); and

(ii) operational delivery (the ACSP and YCS; information and advice; support to eligible carers and young carers; and carer and young carer involvement in decisions regarding support for themselves and, as appropriate, with regard to the cared-for person).

These documents relate to the Carers (Scotland) Bill (SP Bill 61) as introduced in the Scottish Parliament on 9 March 2015

Statistics

13. There are currently around 745,000 identified adult carers and 44,000 identified young carers in Scotland. This equates to around 17 per cent of Scotland’s population who are in an adult caring role and around 5 per cent of children and young people aged four to seventeen who are in a caring role as a young carer. The number of young carers is likely to be an underestimate as young carers in particular may not identify themselves as such in a survey.

14. In terms of carers not currently being supported – an important consideration for the analysis of costs for this Financial Memorandum – 70 per cent of carers say that they do not receive any form of support. However, those providing more hours of caring are more likely to receive support. Nonetheless, 42 per cent of carers who provide 35 hours or more of care say that they do not receive any support.

Impact of caring on wellbeing

15. Around one-third (32 per cent) of carers who responded to the recent Scottish Health and Care Experience Survey reported that caring had a negative impact on their own health and wellbeing. Since over a third of carers who responded were older at aged 65 or over (with 42 per cent being aged 50 to 64) generally speaking, it is more likely that caring would impact detrimentally on their own health and wellbeing (in comparison with younger carers). It is less likely that caring would impact on having the right balance with other things in carers’ lives including the ability to work.

16. The Scottish Health and Care Experience Survey also found that, in general, those who provided more hours of care were more negative about the balance of caring in their lives, being able to spend time with others and the impact of caring on their wellbeing compared to those providing fewer hours. For example, the balance in life gets worse as hours of caring increases – 4 per cent of carers who care for up to four hours per week responded negatively, whilst this increased to 20 per cent for those who care for more than 50 hours per week.

17. The intensity, duration and complexity of the caring situation influences carers’ health and wellbeing. The Scottish Health and Care Experience Survey also found that those in the middle groups by hours of caring – providing between five and 49 hours – were slightly more

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9 Source - Scottish Health Survey (SHeS). The number of carers identified through the Scottish Health Survey is much higher than the number identified through the Census 2011. That figure stands at 492,231 carers and young carers combined. It is believed that the difference is due primarily to the SHeS being an interview survey where each adult answers the question separately, rather than one person answering for the whole household. This question is: “Do you look after, or give any regular help or support to family members, friends, neighbours, or others because of either a long-term physical, mental ill-health or disability; or problems related to old age?”

10 Scottish Health Surveys 2012 and 2013
11 Scottish Health Surveys 2012 and 2013
12 Scottish Health Surveys 2012 and 2013
13 Scottish Health Surveys 2012 and 2013
14 Scottish Health Surveys 2012 and 2013
15 Scottish Health and Care Experience Survey 2013-14, Volume 1, National Results, A National Statistics Publication for Scotland published by the Scottish Government. Over 100,000 individuals registered with a GP practice in Scotland responded to the Survey, of whom 15% (15,000) responded as carers.
negative around the co-ordination of services and support to continue caring compared to those in the bottom (up to four hours) and top groups (over 50 hours). This may be due to the middle group of carers juggling both employment and caring responsibilities who may receive less support from services or others to continue caring.

18. This analysis of survey work shows that the Scottish Government is not starting from the premise of supporting all existing carers (and indeed young carers) in order to achieve the outcome of all carers feeling supported to continue caring and being able to achieve a good balance between caring and other things in their lives. This is because, according to the Scottish Health and Care Experience Survey, some of the cohort (44 per cent) either strongly agree or agree that they feel supported to continue caring, 38 per cent were neutral and 18 per cent indicated that they were not supported to continue caring. Some (42 per cent) did not experience a negative impact on their health and wellbeing as a result of caring, 25 per cent were neutral and 32 per cent indicated that caring had a negative impact. Nonetheless, locally, local authorities with their partners need to be alert to potential changes in carers’ circumstances requiring support in the future.

Wider demographic context

19. There is a number of factors regarding the wider demographic context that have a bearing on the cost of support in the future. These factors are naturally occurring and not attributable to the provisions in the Bill. However, it is appropriate to set out the wider context to illustrate the challenges of population change for statutory and non-statutory services. The factors are set out below:

(i) support provided to carers, some of it through self-directed support,\(^\text{16}\) aims to improve outcomes for those requiring support and to ensure better value for money. However, demand for support is increasing as the demography of Scotland changes. Projections suggest that the number of people (including carers) aged 75 and over is projected to increase by around 28 per cent from 0.42 million in 2012 to 0.53 million in 2022. The numbers in the same age category will continue rising, reaching 0.78 million in 2037, an increase of 86 per cent over the 25 year period. The number of people aged 80 and above is projected to more than double by 2037 (an increase of about 105 per cent) and the number of centenarians is projected to rise from 800 to 7,800 by 2037, more than an eightfold increase.\(^\text{17}\) Therefore, the ageing of large cohorts of baby-boomers will greatly expand the number and proportion of people requiring both formal care and care by unpaid carers. The table below (Scottish

\(^{16}\) Where some or all of the needs of a carer or young carer (as identified and agreed through the CSP or YCS) meet the eligibility criteria, the local authority must provide support to meet the needs. However, the eligibility criteria will not apply to universal services or support which the local authority is obliged to provide to the public at large (eg library services), to all carers (eg information and advice) or to the cared-for person in consequence of a community care assessment/assessment for disabled child, all of which might also meet needs identified in a CSP or YCS. Where the eligibility criteria apply, the local authority must offer the carer or young carer the choice of the four self-directed support options in relation to the provision of the support. The self-directed support options are: **Option 1**: direct payment; **Option 2**: the carer/young carer directs the available support; **Option 3**: the local authority arranges the support; and **Option 4**: a mix of Options 1, 2 or 3 for each type of support.

\(^{17}\) National Records of Scotland, Projected Population of Scotland (2012-based), National population projections by sex and age, with UK comparisons – published on 6 November 2013 (with subsequent corrections), a National Statistics Publication for Scotland.

Health Survey) shows that, whilst presently the highest proportion of carers is in the age bracket 55 to 64, 30 per cent are aged 65 and over;

(ii) due to population increases, to medical advances and to increased rates of diagnosis and reporting, there are more children with complex and exceptional needs being cared for at home by parent carers. According to the most recent Census in 2011, there were 43,943 children in Scotland aged 15 years and under who reported a health problem or disability which limits their day-to-day activities either a lot or a little. This represents 5 per cent of 0 to 15 year-olds inclusive in Scotland or 1 in 20 children. For around 15,000 children, (1.7 per cent of children) the health problem or disability limits them a lot;

(iii) there are nearly 10,000 identified children with autism in Scotland. Some of this group will be included in the Census 2011 figure quoted in sub-paragraph (ii) above. These children will have parents or guardians, more of whom will see themselves as carers year by year;

(iv) there are also increasing numbers of young adults with life-limiting conditions who are living for longer and who require care and support both from the paid health and social care workforce and from carers;

(v) whilst the number of carers has remained relatively steady over the last 10 years, the trend in the same period is for more intensive caring by hours of caring. The proportion of carers caring for 20 or more hours each week has increased from 37 per

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18 The term ‘parent carers’ is generally used in respect of parents of children and young people who are carers. It is sometimes used in respect of parents of adults who are carers. The term is not included in the Carers Bill.

19 The figure of nearly 10,000 children with autism is from the Pupil Census published by the Scottish Government, where data on additional support needs, including the number of pupils on the autism spectrum given as a reason for additional support, is published. The actual figure is 9,946 in 2013.

20 For example, as at December 2014 there were 41 young adults over the age of 21 supported by the Children’s Hospice Association Scotland (CHAS). There will be more young adults with life-limiting conditions who are not using CHAS services.
These documents relate to the Carers (Scotland) Bill (SP Bill 61) as introduced in the Scottish Parliament on 9 March 2015

cent (in 2001) to 45 per cent (in 2011). The number of carers (including young carers) might grow to an estimated 900,000 by 2037 with three out of five people becoming carers at some point in their lives. This will be due primarily to the rapidly growing older population suggesting that the demand for carers will increase in the coming years. However, the number of carers required might fall short of the number of carers available. The Policy Memorandum sets out the implications of this projected gap in carers.

Long-term recurring costs and savings

20. There is a number of areas for recurring costs associated with the Bill’s provisions. These relate mainly to the new ACSP and YCS in order to embed a new-style, outcomes-focused and co-produced assessment and support plan; the information and advice service geared up to providing personalised, timely and co-ordinated information and advice; and the duty to support adult and young carers.

21. In terms of recurring savings, or, more accurately, the potential for avoided costs, there is evidence of savings in health and social care when both cared-for persons and carers are not admitted to hospital. Three separate research studies suggest that poor carer health can result in greater use of health and care services by the cared-for person, particularly older people, for example, through admission and readmission to hospital; delayed discharge; referral to a day hospital or geriatric unit; and admission to institutional care.

22. Over half (56 per cent) of carers are in employment, compared to 58 per cent of non-carers. At this high level, the employment status of carers and non-carers is not that different. However, with regard to the different levels of caring, 69 per cent of those caring for between one and 19 hours a week are in employment, 56 per cent of those caring for between 20 and 34 hours a week are in employment and 35 per cent of those caring for 35 or more hours a week are in employment. There are potential cost savings by carers being in employment. Research has estimated that the public expenditure cost of working age carers leaving employment as a result of their caring role (in England) is £1.3 billion per year. This comprises additional payments of the carer’s allowance of £0.3 billion per year and forgone tax revenue of £1 billion per year. It is not straightforward to link this research to the impact of the Bill but tentatively it can be assumed that a proportion of carers who might otherwise give up paid work will in the future be supported to maintain employment. If the Bill’s provisions as implemented prevented, for illustrative purposes, 10 per cent of carers currently in employment from giving up work, based on the

21 Census 2001 and 2011 data
22 Carers UK estimate
24 Census 2011 data
research’s financial findings (pro-rata for Scotland), cost savings to the public purse would be in the region of £13 million per year. This is a speculative saving, some of which would accrue to HM Treasury and some to the Scottish Parliament when powers over the carer’s allowance are devolved.26

23. The literature discusses the hidden costs of unpaid caring.27 These hidden costs relate to both public expenditure and private or individual expenditure. Hidden public expenditure costs of caring include, for example, costs to the NHS incurred by carers; costs to the Department for Work and Pensions (DWP) arising from increased benefits and pensions paid to carers; and lost income to HM Treasury arising from the lower employment rates of carers. Hidden individual costs of caring include the opportunity costs of caring i.e. the alternatives forgone by the carer as a result of taking on a caring role, such as employment opportunities and leisure.

PART 2: COSTS ON THE SCOTTISH ADMINISTRATION

24. The Scottish Government would cover all the costs set out in the tables below. The total estimated costs across all bodies are a minimum of £17.53 million in 2017-18 rising to a minimum of £76.81 million in 2021-22. The maximum costs in the same years are £19.40 million rising to £88.52 million. The difference in the minimum and maximum estimated costs is due to minimum and maximum unit costs used for the adult carer support plan and young carer statement. These are discussed and set out in paragraphs 48 to 54 and 63.

25. All of the expenditure set out in Tables 2 to 6 below is new expenditure either directly or indirectly associated with the Bill’s provisions. Table 1 contains no expenditure figures as the Scottish Government will absorb the costs it will incur in relation to the preparation of regulations and guidance and publicity associated with the Bill.

26. In 2011-12 the Scottish Government added £2.82 million per annum to the local authority block General Revenue Grant up to 2015 for delivering the Manifesto commitment to maintain an extra 10,000 respite weeks. The estimates provided in paragraph 79 for the duty to support carers do not take this into account as the addition of £2.82 million to the block General Revenue Grant stops in 2015.

27. There is a Manifesto commitment that at least 20 per cent of the Scottish Government’s Reshaping Care for Older People Change Fund will support carers. This is at least £60 million between 2011 and 2015. The total Change Fund of £300 million was made available to health and social care partnerships (local authorities and health boards). The estimates provided in the Financial Memorandum regarding ACSPs/YCSs, information and advice and support to carers do not take this into account as the funding stops in 2015.


28. The new integrated care fund of Scottish Government funding of £100 million in 2015-16 for health and social care partnerships will support partnerships to focus on prevention, early intervention and care and support for people with complex and multiple conditions, particularly in those areas where multi-morbidity is common in adults under 65, as well as in older people. The partnerships have prepared their plans. Some of the funding will support carers. This figure cannot be quantified. The estimates in the Financial Memorandum regarding ACSPs/YCSs, information and advice and support to carers do not take this into account as the funding of the integrated care fund is for one year only.

29. Local authorities support carers using funding provided through the local government finance settlement. It is not known on a Scotland-wide basis what funding is supporting carers. This is for a number of reasons including: some local systems not developed to capture the data; carers benefitting indirectly from services for cared-for people but lack of data in some areas on the funding of these services; and challenges with disaggregating the expenditure locally (for example, some carers are also service users and they might receive a service which supports them both as a carer and service user).

30. The Scottish Government has, however, considered the questionnaire returns received from local authorities to help inform this Financial Memorandum. It is estimated that approximately £1.1 million is supporting carers in 15 local authority areas with the carer’s assessment. It is also estimated that about £5 million is supporting carers in 12 local authorities with direct support including advocacy, short breaks, counselling, training and information and advice. Local authorities are also supporting carers indirectly by services put in place for the cared-for person. The estimates set out in this Financial Memorandum take into account estimates of numbers of carer’s assessments currently undertaken (paragraph 55) and estimates of carers who are currently supported (paragraphs 74 to 77) but do not relate these directly to current local authority expenditure on supporting carers. It would be challenging to do this. Moreover, since the Change Fund comes to an end in 2015 and since the sums for direct support are, on the whole, relatively modest, these are reasons not to take the existing expenditure into account in the Financial Memorandum.

31. The Scottish Government presently funds health boards at £5 million per annum for supporting carers. This funding comes to an end in 2016. This Financial Memorandum makes clear that the £5 million will be required from the date of Bill commencement to support the information and advice service and duty to support provisions of the Bill. This is the case even though the duties fall on local authorities. Funding will be made available to local authorities too.

32. The Scottish Government presently funds the third sector organisations Shared Care Scotland and the Family Fund at £3 million per annum in total for the provision of the voluntary sector short breaks fund. This funding comes to an end in 2016. Subject to Spending Review decisions, this funding would continue for short breaks. The estimates provided in paragraph 82 for the duty to support carers, including the short breaks component, do not take into account this potential funding for the third sector.

33. The Scottish Government presently funds NES (and the College Development Network) for workforce development so that the paid workforce is trained to support carers. The NES
These documents relate to the Carers (Scotland) Bill (SP Bill 61) as introduced in the Scottish Parliament on 9 March 2015

funding is £172,000. The funding set out in Table 5 below would be new funding associated both with the direct and indirect costs of Bill implementation.

34. The Scottish Government presently funds the national carer organisations (NCOs) at over £4 million in total (between 2007 and 2015). The funding set out in Table 6 is for the indirect costs of Bill implementation and could be disbursed to local and national third sector organisations.

35. The tables below summarise the recurrent and non-recurrent costs of the Bill’s provisions.

Table 1

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<th>Scottish Administration</th>
<th>2017-18</th>
<th>2018-19</th>
<th>2019-20</th>
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<td>Para 25</td>
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*If the Bill is passed, it might commence in April 2017.

Table 2

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<th>Costs directly associated with Bill implementation - summary of local authority expenditure (£m)</th>
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<tr>
<td>a) Costs directly associated with Bill implementation</td>
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<tr>
<td>Local authorities</td>
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<td>Para 56 Table 1</td>
</tr>
<tr>
<td>adult carer support plan (ACSP) recurring from 2021-22</td>
</tr>
<tr>
<td>Min 0.74 Max 1.82                                Min 2.35 Max 5.75                                Min 3.42 Max 8.37                                Min 6.64 Max 16.24                                Min 7.71 Max 18.86                                Min 7.71 Max 18.86</td>
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<td>Para 64 Table 1</td>
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<tr>
<td>young carer statement (YCS) recurring from 2021-22</td>
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<td>Min 0.13 Max 0.21                                Min 0.27 Max 0.43                                Min 0.50 Max 0.80                                Min 0.74 Max 1.16                                Min 0.97 Max 1.53                                Min 0.97 Max 1.53</td>
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<tr>
<td>Para 70</td>
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<tr>
<td>Information and advice service</td>
</tr>
<tr>
<td>Min 3.30 Max 3.04                                Min 3.04 Max 3.04                                Min 3.04 Max 3.04                                Min 3.04 Max 3.04</td>
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32
<table>
<thead>
<tr>
<th>Costs directly associated with Bill implementation - summary of local authority expenditure (£m)</th>
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<tbody>
<tr>
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<td>Para 86 Table</td>
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These documents relate to the Carers (Scotland) Bill (SP Bill 61) as introduced in the Scottish Parliament on 9 March 2015

Table 3

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Table 4

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Table 5

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<th>2018-19 Option A</th>
<th>2018-19 Option B</th>
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<td>NES and SSSC</td>
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<td>1.42</td>
<td>0.69</td>
<td>1.39</td>
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<td>Para 110</td>
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Table 6

<table>
<thead>
<tr>
<th>Costs indirectly associated with Bill implementation – summary of third sector expenditure</th>
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<tr>
<td>Third sector</td>
</tr>
<tr>
<td>Transformation funding</td>
</tr>
<tr>
<td>2017-18</td>
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<td>Transformation funding</td>
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<tr>
<td>0.50</td>
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PART 3: RECURRENT COST IMPLICATIONS TO LOCAL AUTHORITIES FROM THE PROVISIONS IN THE BILL

Duties to prepare and review the Adult Carer Support Plan (ACSP) for adult carers

36. The Bill requires local authorities – in practice care managers or social workers – to prepare the ACSP with individual adult carers. The ACSP will replace the current carer’s assessment available to carers of any age (i.e. including young carers) who undertake a substantial amount of care on a regular basis.

37. The total estimated costs to local authorities are a minimum of £11.303 million in 2017-18 rising to a minimum of £71.791 million in 2021-22. The maximum costs in the same years are £12.463 million rising to £83.501 million. The difference in the minimum and maximum estimated costs is due to minimum and maximum unit costs used for the adult carer support plan and young carer statement.

38. One methodology used is to aim to establish the level of recurring costs based on the following:

- the potential increase in demand for the ACSP following the commencement of the Bill’s provisions by considering the range of factors which would result in increased demand whilst taking into account estimates of those carers who would not want an ACSP if they are content with their current support arrangements;

- the estimated additional cost of an ACSP compared with a carer’s assessment;
assumptions about transitional arrangements regarding introduction of the ACSP when the Bill is commenced.

39. The Scottish Government, using a questionnaire issued by COSLA, consulted with local authorities, many of whom thought that there would be an increase in demand for the ACSP with 10 stating that the increase would happen immediately after commencement of the Bill. Six councils thought that the increased demand would happen at a later date due to the need for awareness-arising and staff training. One council thought that there would be no increased demand because the ACSP is similar to the assessment and support arrangements that it already uses in its area.

40. There are carers who decline the offer of a carer’s assessment for a number of different reasons including: stigma associated with assessment and social work involvement; getting assessed through the community care assessment/disabled child’s assessment; lack of workforce skills in offering an empathetic and outcomes-focused assessment (as acknowledged by some local authorities themselves); not receiving adequate follow-up support quickly; and carers saying they are coping and confident in their caring role. It is not certain whether all or some of these carers would want the new ACSP. The numbers of carers who have previously declined the offer of a carer’s assessment who may now want an ACSP are few and will not materially affect the calculations.

41. The Scottish Government is removing the present legal requirement that all carers must provide, or intend to provide, a substantial amount of care on a regular basis in order to access the carer’s assessment. Of the 21 returns received to the questionnaire to councils, eight councils said that they used the regular and substantial test, 10 stated that they did not use the test and two councils sometimes used it. One council did not know whether it used it or not. Two health boards with lead responsibility for carers (one, parent carers of disabled children and one for carers of adults and children) do not use the regular and substantial test.

42. The Scottish Government’s view is that removal of this test will not, in itself, result in a large increase in the numbers of carers requesting the ACSP. Most of the councils who do use the test did not know how many carers fell short of the regular and substantial threshold for access to the carer’s assessment.

43. The Law Commission Report on Adult Social Care in England, published in 2011, stated that the substantial and regular test “arguably creates inefficiency by requiring local authorities to undertake pre-assessments to decide whether a carer satisfies the substantial and regular requirement”. The Scottish Government agrees with this as clearly questions need to be asked of the carer to establish whether or not the carer does provide a substantial amount of care on a regular basis. In order to ensure greater consistency across Scotland in the application of the substantial and regular test, Scottish Ministers issued the Carer’s Assessment (Scotland) Directions 2014 which came into force on 1 April 2014. The Directions direct local authorities to have regard to the relevant sections of Circular CCD2/2003 which set out a number of key principles that ought to be taken into account when assessing whether a carer is caring for a

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29 The Law Commission (Law Com 326), Adult Social Care, 10 May 2011
http://lawcommission.justice.gov.uk/docs/lc326_adult_social_care.pdf
These documents relate to the Carers (Scotland) Bill (SP Bill 61) as introduced in the Scottish Parliament on 9 March 2015

person on a substantial and regular basis. Despite this Guidance and Directions, inconsistency in the conduct of the assessment process remains. Therefore, removal of the substantial and regular test should in itself lead to more efficient processes for assessment.

44. Moreover, there is no reason to believe that removal of the substantial and regular test will result in neighbours who carry out odd jobs for neighbours requesting an ACSP. Such people will tend to opt out of requesting the ACSP - research by MORI (2010) found that “the public want public services to be based on notions of the public good, rather than just what’s good for me”. Furthermore, 225,000 (30 per cent) of carers aged 16 and over care for up to four hours each week. Again, it is highly unlikely that all of these carers would seek an ACSP. One council said in its questionnaire return that, “it should also be acknowledged that many families (and carers) will manage their caring role without the need for additional support from NHS or SWS. They capably manage their caring role without the need for additional support.”.

45. The returns from local authorities show that, overall, a small number of carers relative to the known caring population in the local authority areas (Census 2011 data) receive the carer’s assessment. The figures range from between less than 1 per cent and 6 per cent. However, when carer self-assessments, adult community care assessments and disabled child assessments with carer components are taken into account, the per cent assessment for carers rises to 12 per cent relative to the known caring population. Nonetheless, even when there has been a policy impetus through the national Carers Strategy and in some local areas to increase the numbers of carer’s assessments, growth on the whole has been modest. The Scottish Government does not, therefore, anticipate that an increase in the ACSP will rise sharply within a short space of time from commencement of the Bill. Rather, it is more likely to grow gradually over three or four years or over a longer period.

46. The number of people caring for 20 or more hours a week increased by 25 per cent from 175,500 (Census 2001) to 218,900 (Census 2011). The Scottish Health Survey 2013 shows that 13 per cent of carers had been caring for less than one year and a further 41 per cent had been caring for between one and five years. A significant proportion (46 per cent) of carers had been caring for five years or more and 7 per cent of these had been caring for more than 20 years.

47. The transitional arrangements for the ACSP will have an impact on demand. These will be set out in regulations which will be subject to consultation. The Scottish Government’s initial view, however, is that all newly identified carers would be eligible for an ACSP on commencement of the Bill. Moreover, where a local authority has begun or recently completed a carer’s assessment (perhaps within six months) then the local authority might take this to be the ACSP under the Bill, provided that the carer’s needs or other circumstances have not changed and provided also that the carer agrees. Where a carer’s needs or circumstances have changed, an ACSP would be put in place.

31 Scottish Health Surveys 2012 and 2013
48. The estimated average unit cost of carrying out a carer’s assessment is £176. There is a cluster of five local authorities where the unit cost is between £150 and £200. The unit cost in one of the largest predominantly urban local authorities is around £260. The unit cost will vary according to a number of different factors including rurality, level/grade of staff involvement, whether the assessment is carried out by the third sector and the degree to which assessments are carried out with the most vulnerable and isolated carers.

49. Some local authorities and third sector organisations undertake the carer’s assessment in three to five hours whilst two take at least a day. Where it takes longer to undertake an assessment, the reasons are due to complexity of need, rurality and liaison with other agencies.

50. The average unit cost in 2011 in Surrey County Council (the one council used by the Department of Health when considering the cost of assessments under the Care Act 2014) was £100. There is also at least one council in Scotland that undertakes a proportion of its assessments by telephone at a unit cost of £9. A telephone conversation would be acceptable as an ACSP in limited circumstances (including for some carers in island communities) as the relevant information can be gathered and an outcomes-focused conversation can take place by phone. Taking all these factors into account, a unit cost of £110 as one of the unit cost options has also been set.

51. Individual councils use different types of staff (for example, social worker, social care assistant, council-employed occupational therapist, delegation to third sector staff) in different mixes for the undertaking of the carer’s assessment. Complex assessments will need the specialist knowledge and skills that qualified and experienced social workers can provide. Contributions from other staff, in supporting more routine assessments, providing information, and working on reviews, can release professional resources for complex assessments and reviews. The largest cost element in assessments and reviews is the pay of the professionally-qualified, and other, staff who carry them out. The biggest contribution to reducing the costs of the ACSP might come from considering changes to the mix of staff grades and skills.

52. The average unit cost of preparing the ACSP should be approximately the same as the unit cost of the carer’s assessment. The ACSP is to be light-touch as and when required. The carer’s assessment should be reviewed with the carer as and when appropriate but this is not always done. The ACSP will need to be reviewed as agreed with the carer and at set points, for example, when the cared-for person is discharged from hospital. The ACSP, however, is very much the same as a good quality carer’s assessment i.e. considering personal outcomes – what is important to the carer and what the carer wants to change/maintain; considering assets – what is already in place that supports the carer in the caring role; and considering what other support/resources the carer might need to help either work towards or maintain the carer’s personal outcomes, such as confidence in managing the caring role or maintaining the carer’s own health and wellbeing. As now, the local authority will need to have regard to the results of the ACSP in undertaking any assessment of a cared-for person.

32 The average unit cost was calculated by looking at the unit cost of completing a carer’s assessment in 14 local authorities. The Scottish Government removed from the calculation the lowest and highest unit costs in two local authorities in order to provide a level of confidence with the figures as both the lowest and highest unit costs were extreme by comparison with the unit costs for the 14 local authorities. Even then, the average unit cost is between £72 and £342. One local authority also carried out assessment by telephone (as well as the usual carer’s assessment) and this was costed at £9 per assessment.
53. There could be costs for some local authorities in ensuring robust contracts with the third sector for the undertaking of the ACSP and monitoring arrangements so that they can assure themselves that delegated functions are carried out appropriately and that there is no conflict of interest. These costs should be absorbed by local authorities and will be offset by savings, given third sector involvement in the ACSP process. Local authorities may also commission the third sector to provide support to carers and the costs of the contract arrangements should also be absorbed by local authorities.

54. The Scottish Government’s approach to estimating the unit cost for the ACSP is to take a range of costs as set out below:

| Unit cost for the current carer’s assessment | £72 (at the lower end) | £110 (see paragraph 50 above for explanation) | £176 (average based on LA returns) |

55. If the Bill provisions are commenced in April 2017, then the cost implications for the transitional years of 2017-18 and 2018-19 have to be considered. The assumption is that a proportion of newly identified carers will access the ACSP, as will a proportion of carers who know they are a carer but who have not previously requested a carer’s assessment. However, the fact that an estimated 12,000 carer’s assessments are carried out in a year Scotland-wide now will also have a bearing on the assumptions as it will not be possible for local authorities to increase this number dramatically in the first year of implementation. The Scottish Government envisages that those carers who have been assessed through a carer’s assessment, community care assessment or other assessment will not be immediately eligible for the ACSP unless there has been a change in their circumstances.

56. For estimating the numbers of carers who will request or be offered an ACSP in 2017-18 through to 2021-22 at peak volume, Table 1 below shows three options based on differing unit costs. The costs would be recurring from 2021-22 and would fall mostly on local authorities. The estimate is that over time 34 per cent of adult carers will be the highest percentage of carers who will have an ACSP. This is based on a number of factors relating to the evidence including the fact that 44 per cent of carers currently feel supported to continue caring (Scottish Health and Care Experience Survey) but that some who do not feel supported will opt out of the ACSP because they want more support from family and friends: 32 per cent of carers reported that caring had a negative impact on their health and wellbeing (same survey); and 42 per cent of carers who provide 35 hours or more of care do not receive any support (Scottish Health Surveys 2012 and 2013). Moreover, some carers will continue to be assessed through the community care assessment/disabled child’s assessment and other assessments and will not want the ACSP. Table 2 illustrates the build-up over five years to 34 per cent of adult carers with an ACSP. It has to be acknowledged 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.

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The Scottish Government does not formally collect data from local authorities on the numbers of carer’s assessments. However, from the local authority (and NHS Boards) completed questionnaires submitted to help inform this Financial Memorandum, nearly 9,000 adult carers have received a carer’s assessment in 2013-14. This is increased to an estimated 12,000 adult carers to take into account potential carer’s assessments completed in the local authorities that did not submit returns.
Table 1 – Estimated cost of duty provide ACSP - three options

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<tr>
<td>745,000 carers in total</td>
<td>% adult carers receiving ACSP</td>
<td>ACSPs per annum</td>
<td>Additional ACSPs per annum</td>
<td>Option 1 Unit Cost of £72 (£m)</td>
<td>Option 2 Unit Cost of £110 (£m)</td>
<td>Option 3 Unit Cost of £176 (£m)</td>
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<td>Current recurring cost for 12,000 carer’s assessments</td>
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<td></td>
<td>0.86</td>
<td>1.32</td>
<td>2.1</td>
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<td>Additional cost (non recurring)</td>
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<td>2017-18</td>
<td>3%</td>
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<td>10,350</td>
<td>0.745</td>
<td>1.138</td>
<td>1.821</td>
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<td>2018-19</td>
<td>6%</td>
<td>44,700</td>
<td>32,700</td>
<td>2.354</td>
<td>3.597</td>
<td>5.755</td>
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<td>2019-20</td>
<td>8%</td>
<td>59,600</td>
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<td>2020-21</td>
<td>14%</td>
<td>104,300</td>
<td>92,300</td>
<td>6.645</td>
<td>10.153</td>
<td>16.244</td>
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<td>2021-22 (recurring)</td>
<td>16%</td>
<td>119,200</td>
<td>107,200</td>
<td>7.718</td>
<td>11.792</td>
<td>18.867</td>
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<tr>
<td>2022-23</td>
<td>16%</td>
<td>119,200</td>
<td>107,200</td>
<td>7.718</td>
<td>11.792</td>
<td>18.867</td>
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Table 2 – Cumulative number of adult carers with an ACSP

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<tr>
<td>Year</td>
<td>Annual number of adult carers assessed</td>
<td>Turnover of 13%</td>
<td>Renewals of 20%</td>
<td>Cumulative number of adult carers with ACSP</td>
<td>% Total carers</td>
</tr>
<tr>
<td>2017-18</td>
<td>22,350</td>
<td>-</td>
<td>-</td>
<td>22,350</td>
<td>3%</td>
</tr>
<tr>
<td>2018-19</td>
<td>44,700</td>
<td>-2,906</td>
<td>-4,470</td>
<td>59,674</td>
<td>8%</td>
</tr>
<tr>
<td>2019-20</td>
<td>59,600</td>
<td>-7,758</td>
<td>-8,940</td>
<td>102,577</td>
<td>14%</td>
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<tr>
<td>2020-21</td>
<td>104,300</td>
<td>-13,335</td>
<td>-11,920</td>
<td>181,622</td>
<td>24%</td>
</tr>
<tr>
<td>2021-22</td>
<td>119,200</td>
<td>-23,611</td>
<td>-20,860</td>
<td>256,351</td>
<td>34%</td>
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</table>

34 Additional ACSPs per year = figure in column 3 less the 12,000 plans already in the system
35 Per cent turnover is based on numbers of new carers (Scottish Health Survey) and assumed number of leavers because the caring situation has come to an end or for other reasons. The calculation = 13% of the previous year’s cumulative number of carers with an ACSP as in column 5.
36 Renewals are the estimated per cent of carers who will have a revised ACSP in a year. The calculation = 20% of the previous year’s figure in column 2.
37 Cumulative number of carers = figure in column 2 added by year less figures in columns 3 and 4
Duties to prepare and review the young carer statement (YCS) for young carers

57. A number of different types of assessment are undertaken with young carers. They include the child’s plan, children’s plan, integrated comprehensive assessment and third sector assessment. Only a few councils undertake the carer’s assessment with young carers. Overall, an estimated 4,000 young carers receive an assessment or plan per year.

58. Many young carers do not present themselves as such for fear of stigmatisation and family break-up. Some councils are moving towards family-based approaches for young carers to provide a holistic assessment of family need. Part of the rationale is to reduce or stop the young carer’s caring role. Equally, however, many young carers want to care, providing this is not detrimental to their health and wellbeing.

59. Some local authorities choose themselves to provide assessments and support for the most vulnerable young carers with complex needs whilst commissioning the third sector to undertake assessments and to provide support on a more preventative basis. Where there is a local carers centre or young carers project, more young carers are identified each year. This is evidenced in the local authority questionnaire returns.

60. The YCS is to be available to all identified young carers of adults and disabled siblings. There will, however, be a cohort of young carers who will not want the YCS because they are managing their caring role well and their health, education, friendships and so on are not affected – they are having a childhood. In relation to the numbers of young carers who already receive support, the number of young carers supported in dedicated young carers’ services (e.g. the Edinburgh Young Carers Project) is about 3,500. The number of young carers receiving a good service from mainstream services (such as schools and youth clubs) is not known but an estimate is 3,000 young carers. This leaves an estimated 37,500 young carers, about 60 per cent of whom over time might want the YCS.

61. The YCS together with the introduction of the named person service, and further awareness around self-directed support should combine to build up momentum and increase the numbers of young carers coming forward for the YCS.

62. There are challenges in estimating the average unit cost of a carer’s assessment (or other assessment) for young carers. The higher costs submitted by local authorities are not taken into account in the estimates below as they encompass comprehensive integrated assessments which

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38 Approximately 1,500 young carers in eight local authorities, including three of the largest by population, receive a carer’s assessment or other assessment/plan. The figure of an estimated 4,000 young carer’s assessments or other assessment/plan across all of Scotland is grossed up from 1,500.


40 The named person service is introduced by section 19 of the Children and Young People (Scotland) Act 2014. It makes available an individual from within named person service providers who carry out the functions in order to promote, support or safeguard the wellbeing of the child or young person. They will do this through a number of activities, including: advising, informing or supporting the child or young person or their parent; helping them to access a service or support; or discussing or raising a matter about that child or young person with a service provider or relevant authority.
will be more costly than a YCS. This is because the comprehensive integrated assessment tends
to address all the needs of a child and the capacity of his or her parents to respond appropriately
to these needs within the wider family and community context. There are interviews with the
child and its family. The YCS addresses the caring situation only on a personal outcomes basis.

63. Three options for the estimated average unit cost of the YCS are set out below.

| Unit cost for the current carer’s assessment for young carers | £106 (at the lower end) | £125 (average across five local authorities with a unit cost of less than £200) | £167 (average across seven local authorities with a unit cost of less than £300) |

64. The YCS should not cost more than the carer’s assessment for young carers. For estimating the numbers of young carers who will request or be offered a YCS in 2017-18 through to 2021-22 at peak volume, Table 1 below shows three options based on differing unit costs and making assumptions about volume and demand. The costs would be recurring from 2021-22. Table 2 illustrates the build-up over five years to over 60 per cent of young carers with a YCS.

Table 1 - Estimated cost of duty to provide YCS - three options

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<tr>
<th>1</th>
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<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
</tr>
</thead>
<tbody>
<tr>
<td>44,000 young carers in total</td>
<td>% young carers receiving a YCS</td>
<td>YCS per annum</td>
<td>Additional YCS per annum</td>
<td>Option 1</td>
<td>Option 2</td>
<td>Option 3</td>
</tr>
<tr>
<td>Current recurring cost for 4,000 assessments for young carers</td>
<td></td>
<td></td>
<td></td>
<td>Unit cost of £106 per annum (£m)</td>
<td>Unit cost of £125 per annum (£m)</td>
<td>Unit cost of £167 per annum (£m)</td>
</tr>
<tr>
<td>Additional cost (non recurring)</td>
<td></td>
<td></td>
<td></td>
<td>0.424</td>
<td>0.500</td>
<td>0.668</td>
</tr>
<tr>
<td>2017-18</td>
<td>12%</td>
<td>5,280</td>
<td>1,280</td>
<td>0.135</td>
<td>0.160</td>
<td>0.213</td>
</tr>
<tr>
<td>2018-19</td>
<td>15%</td>
<td>6,600</td>
<td>2,600</td>
<td>0.275</td>
<td>0.325</td>
<td>0.434</td>
</tr>
<tr>
<td>2019-20</td>
<td>20%</td>
<td>8,800</td>
<td>4,800</td>
<td>0.508</td>
<td>0.600</td>
<td>0.801</td>
</tr>
<tr>
<td>2020-21</td>
<td>25%</td>
<td>11,000</td>
<td>7,000</td>
<td>0.742</td>
<td>0.875</td>
<td>1.169</td>
</tr>
<tr>
<td>2021-22 (recurring)</td>
<td>30%</td>
<td>13,200</td>
<td>9,200</td>
<td>0.975</td>
<td>1.115</td>
<td>1.536</td>
</tr>
<tr>
<td>2022-23</td>
<td>30%</td>
<td>13,200</td>
<td>9,200</td>
<td>0.975</td>
<td>1.115</td>
<td>1.536</td>
</tr>
</tbody>
</table>

Additional YCS per year = figure in column 3 less the estimated 4,000 assessments/plans already in the system
These documents relate to the Carers (Scotland) Bill (SP Bill 61) as introduced in the Scottish Parliament on 9 March 2015

Table 2 – Cumulative number of young carers with a YCS

<table>
<thead>
<tr>
<th>1 Year</th>
<th>2 Annual Number of Young Carers</th>
<th>3 Turnover of 20%&lt;sup&gt;42&lt;/sup&gt;</th>
<th>4 Renewals of 20%&lt;sup&gt;43&lt;/sup&gt;</th>
<th>5 Cumulative Number of Young Carers&lt;sup&gt;44&lt;/sup&gt;</th>
<th>6 % Total Young Carers</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017-18</td>
<td>5,280</td>
<td>-</td>
<td>-</td>
<td>5,280</td>
<td>12%</td>
</tr>
<tr>
<td>2018-19</td>
<td>6,600</td>
<td>-1,056</td>
<td>-1,056</td>
<td>9,768</td>
<td>22%</td>
</tr>
<tr>
<td>2019-20</td>
<td>8,800</td>
<td>-1,954</td>
<td>-1,320</td>
<td>15,294</td>
<td>35%</td>
</tr>
<tr>
<td>2020-21</td>
<td>11,000</td>
<td>-3,059</td>
<td>-1,760</td>
<td>21,476</td>
<td>49%</td>
</tr>
<tr>
<td>2021-22</td>
<td>13,200</td>
<td>-4,295</td>
<td>-2,200</td>
<td>28,180</td>
<td>64%</td>
</tr>
</tbody>
</table>

Duties to provide an information and advice service

65. Local authorities are to establish and maintain an information and advice service for carers in their area. The service can contain any information and advice relevant to carers and young carers but must provide information and advice on carers rights, income maximisation, advocacy, training, short breaks and health and wellbeing. The information and advice is to be provided in an accessible format. As part of the information and advice service, local authorities must prepare and publish a short breaks services statement.

66. The new information and advice service should be co-ordinated and accessible. It should be proportionate. This means that an information leaflet may be sufficient for some people but for others face-to-face discussion will be required.

67. With the exception of the short breaks services statement, the provisions of the Bill with regard to the information and advice service are intended to update existing duties<sup>45</sup> rather than to hugely expand their scope or place specific additional requirements on local authorities. There must, however, be sufficient capacity amongst advice services to avoid over-reliance on on-line channels and to ensure greater accessibility.

68. The publication of short breaks services statement will require local authorities to provide accessible, up-to-date information regarding types of short break, access to short breaks and availability of short breaks. There are short breaks bureaux in about six local authority areas

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<sup>42</sup> Per cent turnover is based on numbers of new young carers and assumed number of leavers because the caring situation has come to an end or for other reasons. The calculation = 20% of the previous year’s cumulative number of young carers with a YCS as in column 5. The turnover of 20% is higher than the 13% turnover for adult carers. This is a best estimate and takes into account the fact that a higher percentage of young carers are likely to have been caring for less than a year and are more likely to stop being a young carer in that they become an adult carer.

<sup>43</sup> Renewals are the estimated per cent of young carers who will have a revised YCS in a year. The calculation = 20% of the previous year’s figure in column 2.

<sup>44</sup> Cumulative number of young carers = figure in column 2 added by year less figures in columns 3 and 4

<sup>45</sup> Duty of local authorities to provide information to carer (section 12AB of the Social Work (Scotland) Act 1968 and section 24A of the Children (Scotland) Act 1995) and Provision of information about self-directed support and provision of information: children under 16 (sections 9 and 10 of Social Care (Self-directed Support) (Scotland) Act 2013)
with one under development. They provide information on short breaks and other short breaks services too. They are all funded and modelled in different ways. Where they exist, they can be used to help ensure the availability of the right information on local authority websites so that the information presented in the statement is immediately accessible to carers and young carers.

69. One local authority has confirmed that about 40 per cent of its annual spend on its short breaks bureau (£27,500) is attributed to the provision of information. Using a proportion of this, the estimated cost of populating a short breaks services statement is £13,000 per local authority (part-time post). There will be annual maintenance costs on a recurring basis.

70. The estimated recurring costs of the information and advice services are set out below:

<table>
<thead>
<tr>
<th>Local authorities</th>
<th>2017-18 (£m)</th>
<th>2018-19 (£m)</th>
<th>2019-20 (£m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advice worker and support in each local authority area @ £45,000 (estimate provided by some local authorities). Cost based on 64 information and advice workers.</td>
<td>2.88 (recurring)</td>
<td>2.88</td>
<td>2.88</td>
</tr>
<tr>
<td>Short breaks services statement</td>
<td>0.42 (set-up costs)</td>
<td>0.16 (recurring)</td>
<td>0.16</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>3.30</strong></td>
<td><strong>3.04</strong></td>
<td><strong>3.04</strong></td>
</tr>
</tbody>
</table>

Duties and powers to provide support to both adult and young carers

71. There will be duties on local authorities to support carers who have eligible needs. Local authorities will be required to consider, in particular, whether the support should take the form of, or include, a break from caring. The eligibility criteria will be locally determined but overlaid by matters set out in regulations which the local authority must have regard to. They will include the desirability of providing support to meet carers’ needs at a stage where doing so is likely to prevent those needs from escalating.

72. Not all 745,000 adult carers and 44,000 young carers will need targeted or bespoke support – i.e. support that is not information and advice, services or assistance provided generally and services put in place for the cared-for person. The table below illustrates in relation to adult carers that about 44 per cent on average are positive about feeling supported to continue caring.

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46 Information on numbers of short breaks bureaux and funding obtained from Shared Care Scotland
47 Scottish Health and Care Experience Survey 2013-14
These documents relate to the Carers (Scotland) Bill (SP Bill 61) as introduced in the Scottish Parliament on 9 March 2015

<table>
<thead>
<tr>
<th>I feel supported to continue caring</th>
<th>Positive (strongly agree/agree)</th>
<th>Neutral (neither agree/disagree)</th>
<th>Negative (disagree/strongly disagree)</th>
</tr>
</thead>
<tbody>
<tr>
<td>up to 4 hours</td>
<td>45</td>
<td>44</td>
<td>11</td>
</tr>
<tr>
<td>5-19 hours</td>
<td>36</td>
<td>43</td>
<td>21</td>
</tr>
<tr>
<td>20-34 hours</td>
<td>42</td>
<td>36</td>
<td>22</td>
</tr>
<tr>
<td>35-49 hours</td>
<td>44</td>
<td>32</td>
<td>23</td>
</tr>
<tr>
<td>50 + hours</td>
<td>50</td>
<td>30</td>
<td>21</td>
</tr>
</tbody>
</table>

73. Carers were, however, most negative about the impact of caring on their health – 32 per cent indicated that caring had a negative impact.

74. A number of carers will benefit from access to good quality information and advice. The literature\(^{48}\) shows that information can be effective in developing carers’ knowledge and skills in caring. Informed carers are more confident in their caring and it also alleviates their concerns about providing good care. Recent research on short breaks in Scotland\(^{49}\) also shows that lack of information is one of the biggest barriers to accessing short breaks - not knowing how to access short breaks was the most common barrier across the different caring situations (e.g. caring for a partner, child, parent etc.) and across the categories of cared-for person (e.g. physical disability, learning disability, long-term condition, old age etc).

75. Therefore, access to accessible and good quality information and advice, including through the short breaks services statements, will support a proportion of carers without them requiring to access targeted or bespoke interventions.

76. Moreover, discussions with the managers of three carers centres in Scotland have shown that carers centres are skilled at enabling carers to have access to local community based services.\(^{50}\) This assets-based approach to supporting carers is crucial in the years ahead.

77. Taking all of the above factors into account, there would be an estimated 21 per cent of adult carers and 40 per cent of young carers eligible for targeted or bespoke support which does not include the support or services which are provided to members of the public or adult and young carers generally, or are being met through services provided to the cared-for person. The local authority must determine which of a carer’s identified needs are eligible needs. A carer’s eligible needs are the carer’s identified needs that meet the eligibility criteria. Proportionately more young carers than adult carers would be eligible for this type of support as it is very unlikely that the percentage of young carers who feel supported now would match the percentage of adult carers who feel supported.

\(^{48}\) For example, Yeandle et al. (2007)


\(^{50}\) Example of assets-based approach – carer (mother) has a keen interest in gardening/horticulture but has no time to pursue this interest. The carers centre matched the carer with a local charity who was improving gardened areas in the local community. The carers centre managed to agree a flexible approach around the daughter’s (cared-for person) schedule so that the carer could pursue her interest with the local charity. This did not cost anything and the carer was much better supported and had improved health and wellbeing.
These documents relate to the Carers (Scotland) Bill (SP Bill 61) as introduced in the Scottish Parliament on 9 March 2015

78. The average amount spent on carer-specific support is assumed to be in the region of £1,000 per carer over the duration of a caring spell which is assumed to be between two to three years – i.e. every two-three years, the carer would receive support worth about £1,000 or £333 per year.\textsuperscript{51} This will, however, vary according to the individual circumstances of carers.

79. It is challenging to estimate how quickly an increase in ACSPs and YCSs and provision of bespoke support might occur. It will largely depend on the time it takes local authorities and the third sector to recruit additional staff to prepare the ACSP and YCS. However, estimated costs to local authorities are set out in the table below.

<table>
<thead>
<tr>
<th>Year</th>
<th>Adult carers</th>
<th>% of Adult carer support plan holders</th>
<th>Cost of support to adult carers @ £333 unit cost (£m)</th>
<th>Young Carers</th>
<th>% of Young carer statement holders</th>
<th>Cost of support to young carers @ £333 unit cost (£m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017-18</td>
<td>11,175 (2%)</td>
<td>50%</td>
<td>3.721</td>
<td>2,200 (5%)</td>
<td>42%</td>
<td>0.732</td>
</tr>
<tr>
<td>2018-19</td>
<td>29,837 (4%)</td>
<td>50%</td>
<td>9.935</td>
<td>4,400 (10%)</td>
<td>45%</td>
<td>1.465</td>
</tr>
<tr>
<td>2019-20</td>
<td>51,288 (7%)</td>
<td>50%</td>
<td>17.079</td>
<td>8,800 (20%)</td>
<td>57%</td>
<td>2.930</td>
</tr>
<tr>
<td>2020-21</td>
<td>108,973 (15%)</td>
<td>60%</td>
<td>24.808</td>
<td>13,200 (30%)</td>
<td>61%</td>
<td>4.395</td>
</tr>
<tr>
<td>2021-22 (recurring)</td>
<td>153,811 (21%)</td>
<td>60%</td>
<td>51.218</td>
<td>19,500 (40%)</td>
<td>69%</td>
<td>6.493</td>
</tr>
<tr>
<td>2022-23</td>
<td>153,811 (21%)</td>
<td>60%</td>
<td>51.218</td>
<td>19,500 (40%)</td>
<td>69%</td>
<td>6.493</td>
</tr>
</tbody>
</table>

80. The Bill provides for a local authority, in determining which support to provide to adult and young carers to consider in particular whether the support should take the form of, or include, a break from caring. The above calculations cover all forms of targeted or bespoke support to carers, including short breaks. However, there is a need to build in a further financial estimate regarding short breaks. This is due to the Bill’s provisions and also because short breaks are required by some carers.

\textsuperscript{51} Survey by PRTC quoted without reference in Department of Health impact assessment for Care Act. A more recent Carers Trust review of personal budgets and direct payments to carers in England shows wide variation in the financial amounts carers receive. However 19 out of 30 authorities reported a maximum of between £250 and £500. This information is extracted from page 8 of “Progressing Personalisation, A Review of Personal Budgets and Direct Payments for Carers” (2012). An assumed unit cost of £333 would therefore appear reasonable and is known to be more than some of the Time to Live grants which carers in Scotland receive directly from organisations which have been funded by the Scottish Government via Shared Care Scotland. http://www.carers.org/sites/default/files/progressing_personalisation.pdf
81. Whilst the Scottish Health Surveys 2012 and 2013 show that only 4 per cent of carers aged 16 and over said they receive short breaks or respite care, this cannot be interpreted as 96 per cent needing short breaks. Certainly, not all carers need or want a costly short break intervention. Furthermore, the Scottish Health Survey indicates that a large number of carers (225,000 or 30 per cent of carers aged 16 and over) care for between one and four hours per week. It is unlikely that these carers would want a short break.

82. The Scottish Health and Care and Experience Survey shows that 70 per cent of carers were positive that they had a good balance between caring and other things in their lives, 17 per cent were neutral and 13 per cent were negative. Using this as a proxy for short breaks enabling the balance between caring and other things in their lives, then one assumption is that 20 per cent (13 per cent negative and 7 per cent of the neutral) would require short breaks. A further assumption is that 15 per cent of the 20 per cent is covered in the estimates in the table above. Therefore, at a unit cost of £300 for short breaks’ provision in a year and using 5 per cent of 745,000 adult carers and 5 per cent of 44,000 young carers (39,450 in total) this would result in an additional £11.8 million required by 2021-22. This would work out at an extra £2.36 million per year, or support for an additional 7,866 carers each year (adult and young carers combined), over and above the number of carers receiving support as set out in the table above.

83. The Bill also has a power for local authorities to support carers who do not meet the eligibility for support. The resources for implementation of the power can be found from within the resources that the Scottish Government is making available to local authorities for the Bill’s provisions.

**Duty to prepare local carer strategies**

84. Local authorities will be under a duty to prepare and publish a local carer strategy. In the main, this duty will formalise what most local authorities are presently doing with regard to preparing local strategies. There will be an explicit obligation for the local carer strategy to include specific consideration of the needs and circumstances of young carers in the area.

85. In the local authority questionnaire returns, a few local authorities were content to absorb the costs of preparing the local carer strategy whilst others saw significant additional costs. In at least two cases, the costs of preparing the local carer strategy now is met by the health board using carer information strategy (CIS) funding. Some authorities do not prepare young carer strategies, some do whilst others include young carer issues within wider children’s plans. Exact figures for all three approaches are unknown.

86. There will be some additional costs of preparing the local carer strategies to ensure robust methodology on data gathering and analysis. The estimated costs for local carer strategies are set out below:
2017-18 to 2019-20 (duration of strategy) | (£m)
---|---
NB: Not all first statutory local carer strategies will be prepared and published in 2017-18 as the timing is dependent on the date by which the next review of the strategic plan under the Public Bodies (Joint Working) (Scotland) Act 2014 takes place. | 0.32
 (£10,000 to each local authority)

2021 -22 to 2023-24 | 0.16
 (£5,000 to each local authority recurring every three years. Data collection and methodology will be embedded in local authority practice)

Implications flowing from regulations and guidance

87. There are a number of regulation-making powers in the Bill. These include making provision about the form of adult carer support plans and young carer statements and matters relevant to setting of local eligibility criteria. The costs to local authorities would be minimal because the regulations are mainly concerned with refinement of provisions in the Bill. The regulations about review of adult carer support plans and young carer statements might, however, incur minimal cost which should be absorbed by local authorities.

Waiving of charges for support to carers

88. Under section 3 of the Social Care (Self-directed Support) (Scotland) Act 2013 (“the SDS Act”), local authorities have a power to provide support to adult carers following an assessment completed under section 12AA of the Social Work (Scotland) Act 1968 and under section 24 of the Children (Scotland) Act 1995.

89. Section 18 of the SDS Act brings support to carers within the scope of 87 in the 1968 Act, which covers the circumstances where local authorities can charge for the services they provide. Since carers and young carers are not to be charged for the support they receive, regulations made under section 87(5) of the 1968 Act require local authorities to waive charges for the support provided to carers under section 3 of the 2013 Act and for support provided to young carers under section 22 of the 1995 Act.

90. Implementation of the regulations was to ensure a consistent approach across the country, than might otherwise be the case, to the circumstances where charges are waived. Charges are not to be made for support provided to carers either directly by local authorities or commissioned by the local authority through other statutory, independent and third sector bodies.

91. The Scottish Government issued statutory guidance\textsuperscript{53} to accompany the regulations. Paragraph 8.8 of this guidance states that “local authorities might decide to arrange replacement care for a cared-for person as part of the support which they provide to a carer under section 3 of the SDS Act in order to give a break from caring. Where replacement care is provided as support under section 3 in order to meet the carer’s needs, the local authority must waive charges for the cost of the replacement care.”.

92. The Scottish Government is aware that local authorities are experiencing challenges in implementing the regulations. The main challenge is the categorisation of replacement care provided to a cared-for person at the point when a carer takes a break. It is not always clear if replacement care is provided to the carer following a carer’s assessment in order to meet the needs of the carer (where charges would be waived) or provided to the cared-for person in order to meet their assessed needs (and, therefore, chargeable). It is understood that this may have an impact on the extent to which some areas are able to exercise the power to support carers.

93. Where local authorities are supporting carers using the power in section 3 of the SDS Act or young carers under section 22 of the 1995 Act, the charges are waived. This means that carers and young carers are not paying directly for the support they receive. Although the Scottish Government does not have figures, it is understood that more local authorities are not using the powers than using the powers. A report on self-directed support by the Learning Disability Alliance Scotland\textsuperscript{54} suggests that six councils are using the powers to support carers in the first few months after commencement of the SDS Act.

94. This does not mean that carers are not being supported in areas where local authorities are not using the powers. In these areas, carers can be supported by the third sector. It might be the case that some third sector organisations request tokenistic contributions from carers towards the cost of support such short breaks or ‘pampering sessions’ but the Scottish Government does not know the extent of this.

95. Given the challenges for local authorities in implementing the regulations, the Scottish Government is working with COSLA to resolve the difficulties. Resolution would be expected to result in a favourable position regarding breaks from caring. It is not possible to set out in this Financial Memorandum the position that the Scottish Government and COSLA are working towards as the position has not been finalised and would be subject to further discussion with key interests.

96. In moving forward on what is a challenging issue for local authorities, with repercussions for carers, any cost implications of changes to the waiving of charges regulations would be considered by the Scottish Government. It is not possible to provide further information in this Financial Memorandum as discussions between the Scottish Government and COSLA are ongoing.

\textsuperscript{53} http://www.gov.scot/Resource/0044/00447402.pdf
97. The Bill amends section 87 of the Social Work (Scotland) Act 1968. It allows local authorities to make charges when providing services which support carers under the Bill. Charges are also subject to any regulations made by the Scottish Ministers under section 87(5) of the 1968 Act. They may modify or adjust charges or require them to be waived altogether.

98. 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. If there are cost implications to the Scottish Government arising from the regulations, the Scottish Government would present these in a revised Financial Memorandum.

PART 4: RECURRENT AND NON-RECURRENT COST IMPLICATIONS TO OTHER BODIES FROM PROVISIONS IN THE BILL

Health Boards

99. It is difficult to estimate the costs to health boards of carrying out the ACSP. From the eight returns received to the questionnaire issued by the Scottish Government, two health boards carry out a limited number of the carer’s assessments. It is not possible to predict the future involvement of health boards. Local authorities will be able to involve health boards in the undertaking of the ACSP or health boards can prepare the ACSP as an integration function.

100. The funding for any future health board involvement can be met from the CIS funding proposed in this Financial Memorandum to fund Bill provisions where there is a key role for health boards.

101. The health board as responsible authority has a duty to prepare the YCS where the young carer is a pre-school child, although responsibility for approving the YCS rests with the local authority for the area in which the young carer resides. It is not known exactly how many young carers are pre-school children. The estimate is less than 200. Most young carers at pre-school will be aged four and five. There will also be young carers of this age in primary school. The social work response in relation to very young carers will primarily be to ensure that adequate services are in place for the cared-for person in order to stop or to minimise the caring. It is also likely that young carers of this age will have a child’s plan because of other issues in their lives.

102. However, where the health board does prepare a YCS, costs will be incurred. This is estimated to be around £1,800 in 2017-18, £2,250 in 2018-19, £3,000 in 2019-20, £3,750 in 2021-22 and £4,500 in 2021-22 on a recurring basis. (This is a maximum 120 YCS in 2021-22 and on a recurring basis from 2021-22 @ £125 unit cost assuming that a proportion of young carers in pre-school will not have a YCS.)

103. Health boards have a key role in the provision of information and advice and many fund the third sector to provide information and advice in carers centres, young carers projects and in hospitals. The existing CIS funding allocated by the Scottish Government to health boards is £5 million per annum. Health boards on the whole cannot distinguish their expenditure on information and advice from other support they fund. However, where they can distinguish the
amounts, the expenditure on information and advice ranges from about 10 per cent of the CIS allocation up to 70 per cent.

104. Assuming on average that about 40 per cent of this is attributed to information and advice, then this equates to the round figure of £2 million per annum. Although the duty to provide the information and advice service falls on local authorities, the £2 million is required to ensure a fully effective service. Continuation of this funding will support the development of information and advice locally and will be particularly beneficial in complementing the funding to be provided to the larger local authorities for the information and advice service.

105. The duty to provide support to adult and young carers is for local authorities. However, since health boards have been allocated £5 million per year for carer information strategies up to 2016, and since the policy is to continue this funding given the outcomes achieved, the estimates below also include £3 million for support from health boards. This £3 million will provide further impetus to the implementation of the duty to support carers. The remainder (£2 million) is included in the information and advice provisions.

106. All of the estimated costs to health boards associated with preparation of the young carer statement, the information and advice service and the duty to support carers are set out in the table below.

<table>
<thead>
<tr>
<th></th>
<th>2017-18 (£m)</th>
<th>2018-19 (£m)</th>
<th>2019-20 (£m)</th>
<th>2020-21 (£m)</th>
<th>2021-22 (£m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Young carer statement</td>
<td>0.0018</td>
<td>0.0022</td>
<td>0.0030</td>
<td>0.0037</td>
<td>0.0045</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(recurring)</td>
</tr>
<tr>
<td>Information and advice services</td>
<td>2.0 (recurring)</td>
<td>2.0</td>
<td>2.0</td>
<td>2.0</td>
<td>2.0</td>
</tr>
<tr>
<td>in local adult carer and young</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>carer services and in primary</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>and acute services</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Support to carers</td>
<td>3.0 (recurring)</td>
<td>3.0</td>
<td>3.0</td>
<td>3.0</td>
<td>3.0</td>
</tr>
<tr>
<td>TOTAL</td>
<td>5.0018</td>
<td>5.0022</td>
<td>5.0030</td>
<td>5.0037</td>
<td>5.0045</td>
</tr>
</tbody>
</table>
NES and SSSC - Workforce development

107. Costs arising from training and awareness raising would cover specific Bill-related training and awareness raising in the wider workforce.

108. NHS Education for Scotland (NES) and the Scottish Social Services Council (SSSC) could deliver on both fronts, including an intensive training and continuous professional development programme in 2017-18 and 2018-19. It would build on the Equal Partners in Care (EPiC) workforce initiative currently underway. Each Health and Social Care Partnership would be funded for a ‘Carer Champion/Ambassador’ for two years. These costs would be spread over two years (2017-18 and 2018-19) as these would be the key years for preparation for, and then enactment of, the Bill. These costs arise directly from the Bill as they are essential to ensuring that the relevant professionals know about the duties being placed on them and are aware of how they should be fulfilled. It is anticipated that the post-holders would cascade information relating to the Bill.

109. They would also deliver and co-ordinate locally the training for professionals on the ACSP and YCS. They would develop resource materials to support education and training on the ACSP and YCS and other Bill provisions. NES and SSSC would ensure national leadership and co-ordination. There are two models with regard to the workforce development set out here - one based on full-time staff in the Health and Social Care Partnerships and within NES and SSSC and the second on part-time staff. It will be essential for the workforce development to encompass staff within schools as well as staff in the statutory health and social care services and in the third sector. This is because some teachers will have responsibility for the YCS. Given the potential breadth of the workforce development, both models would need to be revisited to see if they could be adapted and configured in different ways.

110. The costs set out in the table below are based on figures provided by NES and include staffing costs within NES, SSSC and the Health and Social Care Partnerships and a wide range of education and training activity.

### COSTS ON OTHER BODIES – NES AND SSSC

<table>
<thead>
<tr>
<th>Workforce development</th>
<th>2017-18 (£m)</th>
<th>2018-19 (£m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Option A (part-time staff)</td>
<td>0.71</td>
<td>0.69</td>
</tr>
<tr>
<td>Option B (full-time staff)</td>
<td>1.42</td>
<td>1.39</td>
</tr>
</tbody>
</table>

Directing authority

111. The directing authority as responsible authority will prepare the YCS with young carers in independent and grant-aided schools. It is not known how many young carers are in these schools.

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56 Under section 37 of the Children and Young People (Scotland) Act 2014, where the child is a pupil at a grant-aided school or an independent school, the directing authority of that school is the responsible authority in relation
sectors nor the proportion of young carers who would want a YCS. The Scottish Council of Independent Schools (SCIS) represents over 70 member schools which educate more than 31,000 children. The assumption is that about 2 per cent of these children could be young carers – lower than the Scottish average of 5 per cent. This is because it is unlikely that pupils in the 18 boarding schools and in the special needs schools will be young carers – at least the numbers would be minimal. Therefore, on the basis of 620 (2 per cent) pupils being young carers, the cost of preparing the YCS to be approved by the local authority would be £77,500 using the unit cost of £125. For simplicity, the costs can be allocated evenly in each year at £15,500 per year. The Scottish Government would meet the costs incurred by this sector.

Third sector

112. There are no direct duties on third sector providers such as local carer organisations in the Bill and, therefore, no direct costs on them arising from it. The Scottish Government does, however, encourage local authorities and health boards to make the best use of the third sector, to work in partnership with the sector on all aspects of the Bill’s provisions and to fund the sector accordingly. It is clear that local carer organisations are facing financial pressure and experiencing capacity challenges due to increasing referrals of carers and stand-still or reduced budgets in some cases.\(^57\) If the third sector is commissioned as intended by local authorities and health boards to help prepare the ACSP and the YCS, to provide information and advice and to support carers, then, in addition to the financial support from local authorities and health boards that must flow to the third sector to allow this to happen, there will be a requirement for additional resources. It is expected that transformation costs for this sector will centre around systems (such as IT, accounting, data collection, data protection and recording). The workforce development strand can be covered by NES and SSSC. It would help support the third sector in the time of change for the Scottish Government to allocate resources to help the third sector deliver increased capacity and transformation amongst providers that support carers. The intention is to equip providers to be personalised, flexible and transformative in approach. The allocation is estimated at £500,000 per annum in each of 2017-18, 2018-19 and 2019-2020. This would help support about 50 providers in each of the three years at £10,000 each. Some of the 50 providers might work across local authority boundaries as some third sector organisations do this in any event. As stated, the funding would not be to support carers but to ensure that providers have the technical, data collection and IT capacity.

SCOTTISH GOVERNMENT STATEMENT ON LEGISLATIVE COMPETENCE

On 9 March 2015, the Cabinet Secretary for Health, Wellbeing and Sport (Shona Robison MSP) made the following statement:

“In my view, the provisions of the Carers (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

On 9 March 2015, the Presiding Officer (Rt Hon Tricia Marwick MSP) made the following statement:

“In my view, the provisions of the Carers (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”
CARERS (SCOTLAND) BILL

POLICY MEMORANDUM

INTRODUCTION

1. This document relates to the Carers (Scotland) Bill (“the Bill”) introduced in the Scottish Parliament on 9 March 2015. It has been prepared by the Scottish Government to satisfy Rule 9.3.3 of the Parliament’s Standing Orders. The contents are entirely the responsibility of the Scottish Government and have not been endorsed by the Parliament. Explanatory Notes and other accompanying documents are published separately as SP Bill 61–EN.

POLICY OBJECTIVES OF THE BILL

2. It is the intention of the Scottish Government that Scotland’s estimated 745,000 adult carers and 44,000 young carers should 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. The objective of the Bill is to make real this ambition by furthering the rights of both adult and young carers.

3. The Scottish Ministers view the Bill as an important opportunity to extend and enhance the rights of both adult and young carers in Scotland. This means empowering carers themselves to exercise their rights. It also means enabling professionals to make this happen. In relation to young carers, this complements the provisions in the Children and Young People (Scotland) Act 2014 (“the CYP Act”) requiring the Scottish Ministers to promote public awareness and understanding of the rights of children and young people.

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1 Scottish Health Survey (SHeS). The number of carers identified through the SHeS is much higher than the number identified through the Census 2011. That figure stands at 492,231 adult carers and young carers combined. We believe that the difference is due primarily to the SHeS being an interview survey where each adult answers the question separately, rather than one person answering for the whole household: this more readily helps people to identify themselves as carers. The question is: “Do you look after, or give any regular help or support to family members, friends, neighbours, or others because of either a long-term physical condition, mental ill-health or disability; or problems related to old age?”

2 A forthcoming Scottish Government publication will include data for carers in different age categories. This data is presented on the basis of under 16s and over 16s as the weighting in the SHeS is designed for this age split Since the Bill’s definition of young carer relates to under 18s mostly (see footnote 3), the figures presented here make an estimate, based on the data, for 16 and 17 year-olds. The forthcoming publication will also contain a slightly different figure for the total of young and adult carers.

3 In the Bill “adult carer” means a carer who is at least 18 years old but who is not a young carer. “Young carer” means a carer who (a) is under 18 years old, or (b) has attained the age of 18 years while a pupil at a school, and has since attaining that age remained a pupil at that or another school. The term “carer” is also assigned a meaning in the Bill and is used as an umbrella term for both adult and young carers.
4. The Bill sets out the legislative provisions which, once implemented, will further support both adult and young carers in Scotland. For the purposes of this Policy Memorandum, the term “carers” is used to refer to both adult and young carers unless they are being discussed separately. Then the terms “adult carers” and “young carers” are used.

5. Specifically, the Bill does the following, amongst other things—

- replaces the current carer’s assessment with a new adult carer support plan (ACSP) and provides a young carer statement (YCS) for all young carers;
- provides for the establishment of an information and advice service for carers in each local authority area which must include a short breaks services statement;
- introduces a duty to support carers whose needs cannot be met by general services in the community (including the information and advice service). The carer’s needs must meet local eligibility criteria in order for the duty to apply;
- requires local authorities, in determining which support to provide carers, to consider in particular whether the support should take the form of, or include, a break from caring;
- requires local authorities to prepare local carer strategies for their areas; and
- requires local authorities and health boards to involve carers in carer services meaning services provided by the local authority or health board to carers and cared-for persons.

BACKGROUND

6. In addressing the 2nd annual Carers Parliament on 1 October 2013, the former First Minister, Alex Salmond MSP said in support of introducing legislation to further support carers—

“My assessment is that there are overwhelming grounds, socially, economically, morally, for seeking to build on the work that has been started and the work that has been done.”

7. The Bill proposal was subsequently included in One Scotland: the Government’s Programme for Scotland 2014-15 published on 26 November 2014. The First Minister, Nicola Sturgeon MSP said—

“In the coming year, we will extend support through a Carers Bill. The Bill won’t just give carers support – it will also give them a say. The Bill will ensure that they are involved in the planning and delivery of the services that affect them.”

8. Carers have always been an integral part of society, caring for family, friends and neighbours who are affected by physical or mental illness, disability, frailty or substance misuse. Most people are likely to have caring responsibilities at some stage in their lives, to know carers or to be cared-for persons. Sometimes there are mutual caring relationships where two people are both service user and carer for each other in an interchangeable way. The “turnover” in the

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This document relates to the Carers (Scotland) Bill (SP Bill 61) as introduced in the Scottish Parliament on 9 March 2015

carer population means that caring will touch the lives of most people. About three in five people will be carers at some point in their lives.5

9. Much progress has been made in recent years in raising awareness and understanding of the significant contribution that carers make to society and in their communities, the difference they make to the lives of those they care for but also the impact that caring itself can have on carers’ own lives. Caring can be very rewarding but it can also limit carers’ opportunities to pursue education, employment and leisure and recreational opportunities and to have fulfilling friendships and relationships i.e. to have a life alongside caring. Caring can limit young carers’ participation in typical “growing up” activities enjoyed by young people.

Being a carer and public policy response

10. Societal response to caring has changed significantly over time. Historically, people’s general view was that caring, especially by adult carers, was something to be done stoically, dutifully, and without any State support. The idea of reaching breaking point due to the demands of caring was not accepted. This largely outdated view was replaced with society recognising and valuing carers for the work that they do but still without much being delivered in the way of practical support. The 1990s heralded a change in attitude leading to the publication in 1999 of A National Strategy for Carers in Scotland. This was followed in 2006 by the publication of the landmark report, Care 21: The Future of Unpaid Care in Scotland informed by the voices of 4,000 carers. The Scottish Government and COSLA Carers Strategy for Scotland, Caring Together and Getting it Right for Young Carers published in 2010 contained a wide range of actions for the Scottish Government, local authorities, health boards, the third sector and others. This Strategy is scheduled to come to an end in 2015. Consideration is being given to the way forward.

11. There is a myriad of different caring situations, each one unique to the people concerned whether it is caring at the beginning of life for a disabled or ill child or for an elderly relative at end of life or many situations in between. Public policy has been directed at improving the recognition of carers’ needs and supporting carers within a “dual focus” that acknowledges that the caring takes place in a relationship. This recognises that the carer(s) and cared-for person(s) can have shared, intertwined and conflicting needs and that sometimes the cared-for person(s) can want, or need, more care than the carer is able or willing to provide to them. It also indicates that carers can benefit from support directed at them and the cared-for person.8

5 Carers UK (2001) It Could Be You – A report on the chances of becoming a carer
The Carers Strategy and specific initiatives

12. **Caring Together** and **Getting it Right for Young Carers** is the driving force nationally for ensuring further support to carers to help them achieve positive outcomes, goals and aspirations. The Scottish Government has, since 2007, invested £114 million in support to carers. As part of this investment, the Reshaping Care for Older People’s Change Fund/carer component has helped to change the lives of carers of older people by the support provided to them. There are many examples of projects and programmes supporting key priority areas for carers. Three examples are provided below—

### Reshaping Care for Older People Change Fund

#### a) Borders: Benefits and impact of the carer’s assessment

The funding has been used in the Borders to enable the carers centre to carry out more carer’s assessments and to support carers. The Adult Quality of Life Index Questionnaire is used at two points in the carer’s assessment pathway – once at the start of the process when the referral is first made and again following intervention. At the start, the majority of carers feel some level of stress, depression and exhaustion as a result of caring and more often the caring role affects the carer’s life. Had they not had a carer’s assessment at that point and continued as they were, it is likely they would have reached crisis and potentially ended up unable to carry on their caring role. This would have a knock-on effect to the cared-for person resulting in possible admission to hospital and/or residential care. Following the carer’s assessment and appropriate onward referral or sign-posting, a second Questionnaire was sent out to the carer and responses showed that there was an improvement in how carers felt about their caring role.

#### b) Inverclyde: support at hospital discharge

The Inverclyde Carers Hospital Discharge project – through the Change Fund, a carers’ centre worker was seconded to work with the hospital discharge team at Inverclyde Royal Hospital raising awareness amongst staff of support for carers and providing support directly to carers.

#### c) Stirling: carer participation and involvement

Older carers and carers of older people are made aware of and supported to access opportunities for further support. Carers are involved in the shaping of support services through engagement and regular consultation; active participation in the development of local strategies and action plans; reducing isolation, providing a better quality of life and maintaining carers’ health and wellbeing.

13. The Voluntary Sector Short Breaks Fund has supported, since 2010, over 32,000 carers and the Carer Information Strategy funding of health boards has achieved significant progress

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9 This is managed on behalf of the Scottish Government by Shared Care Scotland and the Family Fund
10 Under section 12 of the Community Care and Health (Scotland) Act 2002, http://www.legislation.gov.uk/asp/2002/5/section/12, the Scottish Ministers may require any health board to prepare and submit to them a strategy (a “carer information strategy”). The Scottish Government issued guidance in 2003 on the preparation of the carer information strategy: http://www.sehd.scot.nhs.uk/publications/cc2003_02full.pdf. The Scottish Government has subsequently issued letters to health boards containing guidance on priorities for supporting carers. The Scottish Government allocates a total of £5 million per annum to health boards for the
with carer identification and support. The Equal Partners in Care (EPiC) initiative being taken forward by NHS Education for Scotland (NES) and the Scottish Social Services Council (SSSC) is helping to ensure that health and social service workers are aware of carers and know how to work with them as equal partners.

**Wider initiatives**

14. It is not just the national Carers Strategy and local carer strategies that are making a difference to the lives of carers. There are strategies, policy and practice developments at national and local level that are very relevant to improving outcomes for carers. The Scottish Government’s strategies for dementia, autism, learning disabilities, mental health and others demonstrate determination to assure high quality care and support services that improve people’s lives, including the lives of carers. The new Integrated Care Fund of £100 million will be made available to health and social care partnerships in 2015-16 to support delivery of improved outcomes from health and social care integration, help drive the shift towards prevention and further strengthen the Government’s approach to tackling inequalities.

15. Carers are also citizens. The Scottish Government can recognise and support carers by tackling health inequalities, ensuring a fair and prosperous and economically resilient country and by furthering participation in communities. To illustrate, with regard to young carers leaving school and young adult carers, then wider initiatives which benefit young people and young adults (for example, the Modern Apprenticeship programme) are as important as carer-specific support. The wider initiatives may, however, need some adjustment and tailoring to take into account the responsibilities of caring.

16. It is essential that carers are fully involved in decisions at local level about strategic planning decisions of concern and interest to them. A lot of progress has been made over the years in this regard with further developments under the Public Bodies (Joint Working) (Scotland) Act 2014 (“the Public Bodies Act”) and implementing subordinate legislation which make provision requiring the involvement of carers and carers’ organisations in relation to the planning, shaping and delivery of services and support which are provided in pursuance of “integration functions.” This is consistent with the principles of co-production which underpin the Government’s vision for person-centred public services which use the talents, capacities and potential of all of Scotland’s people and communities in designing and delivering services and support to meet carers’ needs.

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Continuing challenges and concerns

17. Much progress has been made and continues to be made through these and other initiatives. However, Scotland’s carers continue to face challenges. It is clear from survey and research work that the intensity, duration and complexity of the caring situation have a profound influence over carers’ health and wellbeing. The findings are set out below—

- while caring can be a positive and rewarding experience for both carers and cared-for persons, maintaining a balance between caring, family life and employment can be challenging and can have wider implications for the health and wellbeing of both the carer and cared-for person(s);
- poor carer health or distress can result in a greater use of health and care services by the cared-for person(s), especially older people through admission to hospital, referral to a day hospital or geriatric unit and admission to institutional care;\(^{15}\)
- caring can have a negative impact on mental wellbeing, although there are considerable variations within carer groups. Some studies have shown that carers who provide a small amount of care have higher mental wellbeing scores than non-carers. For example, the Scottish Health Survey (SHeS) analysis of mental wellbeing amongst carers found that, after controlling for other factors, those who provide up to 4 hours of care each week had higher mean mental wellbeing scores than non-carers;
- however, the SHeS analysis showed that mental wellbeing scores decreased as hours of care provided increased. Carers who provide more than 35 hours of care each week were significantly more likely to exhibit signs of the presence of a possible psychiatric disorder than non-carers and other groups of carers. These results were generally stronger among women than men. These findings along with other research suggests that those most at risk of psychological distress are carers in more demanding care situations, providing more intensive care over an extended period;
- 70% of carers said they receive no support with their caring responsibilities, albeit that the SHeS includes a large number of adult carers (225,000 or 30%) who care for between one and four hours each week; 42% of carers who provide 35 hours or more of care say that they do not receive any support. The results of the Scottish Health and Care Experience Survey (HACE) are that 18% of adult carers indicated that they were not supported to continue caring whilst 38% were neutral on the subject;\(^{16}\)
- carers providing significant but less intensive care are also at risk if they are not supported. This group of carers may receive little support from family, friends or services and at the same time may be juggling caring and employment. HACE showed


that these carers were less likely to indicate that they were supported to enable them to care compared with higher or lower intensity carer groups;

- young carers are much more likely to report they have a long-term mental health problem than non-carers;\(^\text{17}\)
- 35% of adult carers caring for 35 hours a week or more are in employment.\(^\text{18}\) Due to the impact of caring, 5% of adult carers have left employment, 6% have been unable to take up work and 7% have worked fewer hours;\(^\text{19}\)
- caring brings financial stress with four in ten carers indicating that they had been in debt as a result of caring and five in ten feeling that financial worries were affecting their health;\(^\text{20}\) and there are ‘hidden’ carers, including those from Black and Minority Ethnic (BME) and Gypsy/Traveller communities;\(^\text{21}\) and
- 47% of carers in the most deprived areas care for 35 hours a week or more. This is almost double the level in the least deprived areas where 24% of carers care for 35 hours a week or more.\(^\text{22}\) The chart below shows intensity of caring in each of the five Scottish Index of Multiple Deprivation (SIMD) categories.

### Intensity of caring each week

<table>
<thead>
<tr>
<th>SIMD1 (most deprived)</th>
<th>SIMD2</th>
<th>SIMD3</th>
<th>SIMD4</th>
<th>SIMD5 (least deprived)</th>
</tr>
</thead>
<tbody>
<tr>
<td>35+ hours</td>
<td>47%</td>
<td>41%</td>
<td>34%</td>
<td>29%</td>
</tr>
<tr>
<td>20-34 hours</td>
<td>11%</td>
<td>10%</td>
<td>9%</td>
<td>8%</td>
</tr>
<tr>
<td>0-19 hours</td>
<td>41%</td>
<td>49%</td>
<td>56%</td>
<td>63%</td>
</tr>
</tbody>
</table>

18. The challenges also include the wider demographic context of an ageing population and more children with complex and exceptional needs being cared for at home. There is also the issue of an increased demand for carers. There is uncertainty over the future supply of unpaid

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\(^{17}\) Census 2011
\(^{18}\) Census 2011
\(^{19}\) Scottish Health Survey 2012-13
\(^{22}\) Scottish Household Survey
care, with demand for unpaid care beginning to exceed supply by 2017 and the unpaid “care gap” growing rapidly from then onwards.\(^\text{23}\)

19. To get an idea of the potential implications of demographic change for the need for, and availability of, carers, the Scottish Government has looked at the current age profile of both carers and cared-for people. This comparison is shown in the chart below. This should be interpreted as illustrative, as the data comes from two quite different sources with different definitions.

20. This shows that the age profile of carers is younger than that of cared-for people, as would be expected. What this implies is that demographic change – the disproportionate rise in the numbers of older people – will tend to increase the numbers of people of caring age (“the availability of carers”) more slowly than the numbers of people needing care. Using Census data the Scottish Government has made some simple projections using National Records of Scotland (NRS) population data (assuming that the proportion of the age cohort (by male and female) currently providing care or receiving care remains the same in the future). This confirms that “the availability of carers” increases at a much smaller rate than estimates of the future need for care. This implies that there will be greater pressure on those providing care.

**Proportion of the population needing care (paid and unpaid) and the proportion of the population providing unpaid care, by age**\(^\text{24}\)

\[\text{Proportion of population needing care and providing unpaid care} \]

\[\begin{align*}
\text{Proportion of population needing care and providing unpaid care} \\
\text{Needs care} \\
\text{Provides unpaid care}
\end{align*}\]

21. Family migration patterns too can have an impact on the supply of unpaid care especially in remote and rural areas. It is important therefore to respond to this unpaid ‘care gap’ by


\(^{24}\) Source: NRS Census 2011 and Scottish Household Survey, various years. This is a ‘best guess’ comparison, given the differences in the data sources and definitions.
ensuring that carers are supported so that they do not drop out of the caring population and by finding new and innovative solutions to complement unpaid caring. These solutions include the use of telehealth and telecare being promoted by the Scottish Centre for Telehealth and Telecare and by Carers Scotland. Initiatives to develop the paid care workforce are vital too.

ALTERNATIVE APPROACHES AND THE ROLE OF LEGISLATION

22. The Scottish Government is pursuing a range of policy initiatives and approaches as part of its agenda to improve outcomes for carers. Some of these are set out in paragraphs 12 to 16 above. There are also Manifesto commitments in support of carers including two key commitments to ensure carer participation and involvement in the decision-making processes. These are the annual Carers Parliament and the Young Carers Festival.

23. The Manifesto commitment for a Caring for Carers Employers Kitemark to recognise and acknowledge those employers that support carers in the workforce is now being implemented across Scotland. The Carer Positive kitemark is awarded to employers in Scotland who have a working environment where carers are valued and supported. Carer Positive employers recognise the importance of retaining experienced members of staff, reducing absence, and cutting down on avoidable recruitment costs.

24. The Scottish Government response to the Report on the Future Delivery of Public Services by the Commission chaired by Dr Campbell Christie explains that its public sector reform programme for improving outcomes for the people of Scotland is based on a decisive shift towards prevention as well as on other important factors including the greater integration of public services at a local level, driven by better partnership, collaboration and effective local delivery.

25. Preventative approaches to supporting carers are vital in order to prevent or minimise escalating need with carers reaching crisis point before they are supported. It is incumbent on local authorities, health boards and the third sector to work on a preventative basis in order to achieve optimum results. One of the key messages from carers is to identify them early in order

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25 http://www.sctt.scot.nhs.uk/programmes/community/support-for-unpaid-carers/
26 http://www.carersuk.org/scotland
27 http://www.scotland.gov.uk/Topics/People/social-services-workforce
28 The Carers Parliament is an annual event which brings together both adult and young carers from across Scotland to debate key issues affecting carers and to raise issues with Scottish Government Ministers and MSPs. The next Carers Parliament will be held on 6 October 2015 in Edinburgh. The Scottish Government funds the Carers Parliament which is organised by Carers Scotland with the Scottish Government.
29 The Young Carers Festival is an annual event which brings together over 600 young carers from across Scotland. The Festival provides a break from caring for the young carers, fun activities and opportunities to meet with, and influence, both national and local decision-makers. The Scottish Government funds the Young Carers Festival which is organised by the Scottish Young Carers Services Alliance which is part of the Carers Trust.
30 http://www.carerpositive.org/
to provide information and support before they reach crisis. Some carers have described only getting support once they were in crisis. One carer said as part of a survey for research:32

“I think they [carers] need an easier route to it, because if you’re really stressed, really hard work, it’s really hard to focus on how do I go about getting that, how would I get respite, oh I need to phone social work… it’s a hard route - when things are really very hard. And that’s when it comes to light, when you need it, it’s not when it’s good.”

26. Two alternatives to the Bill have been considered—

Option 1: addressing carers’ needs through the Social Care (Self-directed Support) (Scotland) Act 2013,33 (“the SDS Act”) the Public Bodies Act34 and the CYP Act35

27. The SDS Act, the Public Bodies Act and the CYP Act all support carers in different ways.

28. Under the SDS Act self-directed support allows people to choose how their support is provided, and gives them as much control as they want of their individual budget. SDS is the support a person purchases or arranges to meet agreed health and social care outcomes. SDS provides four options for getting support. Option 1 is a direct payment; under Option 2 the person directs the available support; under Option 3 the local authority arranges the support and Option 4 is a mix of the other options.

29. Its emphasis on choice and control and personalised solutions will support carers indirectly. When cared-for people have control over their health and social care and support, this helps to support carers.

30. The Public Bodies Act provides the framework which will support improvement of the quality and consistency of health and social care services through the integration of health and social care in Scotland. In driving integrated working between primary care (GPs, community nurses, allied health professionals etc) and secondary care (hospitals) and between health and social care, the Public Bodies Act will help to address people’s needs holistically and to ensure that resources follow patients’, service users’ and carers’ needs. The nine national health and wellbeing outcomes36 set out in regulations are relevant to carers as members of the public. Outcome 6, that, “people who provide unpaid care are supported to look after their own health and wellbeing, including to reduce any negative impact of their caring role on their own health

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33 http://www.legislation.gov.uk/asp/2013/1/contents/enacted
36 http://www.scotland.gov.uk/Topics/Health/Policy/Adult-Health-SocialCare-Integration/Outcomes
and well-being,” will require Integration Authorities\(^\text{37}\) to support carers to help achieve this outcome.

31. The CYP Act will further the Scottish Government’s ambition for Scotland to be the best place to grow up in by putting children and young people at the heart of planning and services and ensuring their rights are respected across the public sector. The CYP Act, by improving the way services work to support children, young people and families, will support the carers of disabled children. Children and young people who are young carers will have a child’s plan where there is concern that their wellbeing will be adversely affected without a targeted intervention.

32. The acceleration of progress in the identification of carers, their needs and the provision of relevant support that is needed can be achieved by having a duty to support carers in the Bill (activated when a carer’s identified needs meet local eligibility criteria), rather than by relying solely on the discretionary power to support carers in the SDS Act. Whilst the three Acts each contain provisions which are necessary to support carers, the Bill will complement the three Acts, and will, in addition, provide a key platform in order to better support carers on a more consistent basis so that they can continue to care, if they so wish, in better health and to have a life alongside caring.

Option 2: supporting carers through the provision of person-centred, joined-up, services in place for the cared-for person(s)

33. Carers feel supported when the person they are caring for is supported themselves. Having the right services in place which improve the outcomes of the cared-for person(s) will be beneficial to the carer’s health and wellbeing. These services can include housing adaptations, care at home support, powered wheelchairs, effective medicine management and many more. Carers also often want to have good quality, up-to-date information about the condition of the person they are caring for.

34. The evidence\(^\text{38}\) indicates that carers can be effectively supported through core services provided to the cared-for person. These impact through, for instance, reducing carer isolation by contact with care workers and providing assurance that the cared-for person’s needs are met and so contributing to the carer’s improved quality of life.

35. However, the evidence\(^\text{39}\) also points to the benefits of direct support meeting the carer’s needs. Very often, a combination of support is required. There is also evidence that carers do not always recognise that they would benefit from support in their own right as their main focus

\(^{37}\) Depending on the type of integration scheme proposed (Public Bodies (Joint Working) (Scotland) Act 2014 S1.(4)(a)-(d) and subject to the Scottish Ministers’ approval, (s.9 (1) and(2) an integration authority can be a local authority, health board or as establish by the Scottish Ministers by order, an Integration Joint Board.


of concern is the person they are caring for. Caring can impact on an individual’s ability to look after their own health and wellbeing. Research\(^{40}\) has found that women with intensive caring responsibilities are less likely to visit their GP than non-carers which indicates that they tend to prioritise the needs of the cared-for person over their own. Research\(^{41}\) again highlights the benefits of a good quality carer’s assessment which focuses on carers having time for themselves and the realisation of this through a personal-outcome based conversation.

36. The Bill will enable carers to be supported in their own right if their eligible needs meet the local eligibility criteria. They will, of course, continue to be able to be supported by services in place for the cared-for person(s).

**Role of legislation**

37. There is no one policy or initiative that can bring about the kind of change required so that carers are supported in such a way that they can continue to care and to have a life alongside caring. There is therefore a fundamental role for legislation to accelerate and sustain the progress that has already been made, to bring about a step-change in the way that services support carers and to inspire renewed ambition about supporting carers.

38. Presently, under section 12AA of the Social Work (Scotland) Act 1968, carers who provide a substantial amount of care on a regular basis for persons aged eighteen or over may request a local authority to make an assessment of the carer’s ability to provide or to continue to provide care for such persons. Section 24 of the Children (Scotland) Act 1995 (“the 1995 Act”) makes similar provision in relation to the carers of disabled children. Scotland-wide, very few carer’s assessments are carried out. In some areas less than 1% of the known carer population receive a carer’s assessment. The research\(^{42}\) on assessments quoted in Option 2 above found that sometimes the priority of practitioners is solely the cared-for person’s assessment. The Bill replaces the carer’s assessment with an adult carer support plan (ACSP) and young carer statement (YCS). The Bill will enable access by adult carers to the ACSP and by young carers to the YCS.

39. The Bill is founded on the preventative approach – access to the ACSP and YCS for all adult carers and young carers respectively without any prior testing around the threshold of caring on a substantial and regular basis. The ACSP and YCS will be light-touch as necessary so as not to discourage carers from having an ACSP or YCS as appropriate. By ensuring more effective delivery of support to carers, the Bill seeks to address the issues that may impede the wellbeing and positive outcomes for Scotland’s carers.


\(^{41}\) Gamiz, R. & Tsegai, A. (2013) *Carer’s Assessment and Outcome Focused Approaches to Working with Carers, A Joint Project Between Midlothian Council Community Care Team and VOCAL, Midlothian Carers Centre*. Scotland: IRISS/CRFR. Available at: http://www.vocal.org.uk/assets/files/downloads/PROP%20Report%202013.pdf

\(^{42}\) ibid
This document relates to the Carers (Scotland) Bill (SP Bill 61) as introduced in the Scottish Parliament on 9 March 2015

40. The *Stitch in Time* research[^43] on preventative approaches undertaken by Evaluation Support Scotland has a focus on third sector interventions that enable older people and carers to remain or be more socially connected. Loneliness and isolation are common problems amongst older people and carers and can have a severe detrimental effect on many aspects of health. The *Stitch in Time* work promotes the policy of older people and carers making connections and friendships in the community. Up-to-date information and signposting services, cafés, day and lunch clubs, activity and hobby groups and outings can all have a beneficial preventative impact. Local carers’ organisations are good at facilitating these connections for carers (not only for carers of older people) as a form of preventative support to enhance carers’ personal outcomes. The Bill will provide an additional impetus for this as it will make provision for the local authority to identify the carer’s needs and once the carer’s needs are identified, the local authority will consider which of those needs can be met through the provision of what is being termed “general services.” These “general services” can include community-based supports. So through the Bill’s provisions there will be a key focus on prevention, community capacity, empowerment and connectedness. Linking carers with community is one of the most important ways in which to improve their health and wellbeing.

41. As well as introducing the ACSP and YCS, the Bill, amongst other things, makes provision for a duty on local authorities to support adult and young carers whose identified needs cannot be met by the authority’s general provision of the services, including the information and advice service established by the Bill. The carer’s identified needs must then meet local eligibility criteria, which the local authority must set out, publish and review on a regular basis. In determining what support to provide to a carer, the local authority must consider, in particular, whether the support should take the form of, or include, a break from caring. There will also be a power to support carers whose needs are not eligible needs.

42. Each local authority must set the local eligibility criteria which are to apply within its area. A local authority must, when setting its local eligibility criteria, have regard among other things to such matters as the Scottish Ministers may by regulations specify. The Scottish Government will consult on these matters, but it is possible that they could include the desirability of taking a preventative approach to avoid carers’ needs escalating to a more severe level.

43. The Bill’s framework is designed to enable the best use of resources for supporting carers. If the duties and powers are used in the intended way then resources will not be polarised to either end of the eligibility criteria. The Scottish Government envisages resources being used to prevent the escalation of need and for the most acute support needs.

**CONSULTATION**

44. The Scottish Government published, on 22 January 2014, its formal consultation for proposed legislation to support carers in Scotland.[^44] The consultation was open for 12 weeks and closed on 16 April 2014.

45. A total of 1,587 responses were submitted to the Scottish Government (1,422 of which were generated by surveys distributed by two stakeholder organisations). The remaining 165 responses were received using a standard response template. Responses are available on the Scottish Government website. The 165 respondents can be broken down into the following groups—

<table>
<thead>
<tr>
<th>Respondent Group</th>
<th>Number</th>
</tr>
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<tbody>
<tr>
<td>Individuals</td>
<td>32</td>
</tr>
<tr>
<td>Carer/User Support</td>
<td>81</td>
</tr>
<tr>
<td>Local Authority</td>
<td>24</td>
</tr>
<tr>
<td>Health</td>
<td>13</td>
</tr>
<tr>
<td>Community Health and Care Partnerships (CHCPs)</td>
<td>5</td>
</tr>
<tr>
<td>Public Body</td>
<td>3</td>
</tr>
<tr>
<td>Professional Body</td>
<td>3</td>
</tr>
<tr>
<td>Representative Body</td>
<td>3</td>
</tr>
<tr>
<td><strong>Total Organisations</strong></td>
<td><strong>133</strong></td>
</tr>
<tr>
<td><strong>Total Responses</strong></td>
<td><strong>165</strong></td>
</tr>
</tbody>
</table>

46. The Scottish Government, in addition to the formal written consultation, ran and participated in a total of 16 consultation events attended by a wide range of stakeholders. These stakeholders included local government, health boards, carer organisations, other third sector organisations, carers, young carers and cared-for people.

47. It was essential that the views of young carers were represented in the consultation process, and to that end, an engagement event was commissioned with the Scottish Youth Parliament. This was held on a Saturday to facilitate young carer participation. Participants also included young adult carers over the age of 17.

**Outcomes of consultation and engagement**

48. The independent analysis of consultation responses undertaken by Why Research and the Scottish Government’s own consideration of the responses indicated that almost all stakeholders were broadly supportive of all or some of the Bill proposals. Others wanted the proposals to go further than those consulted on; for example, by introducing a duty on GPs and other health professionals to identify carers.

49. Feedback from the engagement events undertaken was similarly supportive and broadly positive about the Scottish Government’s aspirations and the intentions behind the Bill’s proposals. Carers and carers’ organisations were supportive albeit seeking clarification of how the proposals would work in practice. They wanted to know about the resourcing of the Bill’s provisions and how eligibility for support would work. The majority of local authorities which responded to the consultation were also broadly supportive, although some concerns were expressed about resourcing of the Bill, the proposed information and advice duty and any proposal for a duty to support carers.

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45. [http://www.gov.scot/Publications/2014/05/8784/0](http://www.gov.scot/Publications/2014/05/8784/0)
46. [http://www.gov.scot/Publications/2015/03/7622](http://www.gov.scot/Publications/2015/03/7622)
50. The Scottish Government’s response to the consultation was published on 4 March 2015. It can be found on the Scottish Government’s website.47

51. In summary, the analysis of key consultation questions is provided below in relation to those who provided a view—

- a large majority supported the naming convention for the carer support plan thus removing the potentially stigmatising term, “assessment” and opening up its availability to a wider group of adult carers. Some wanted it to be available to young carers too. This issue is addressed in paragraphs 62-80 below;

- a majority of respondents supported the proposal to introduce a duty on local authorities to establish and maintain a service for providing carers in their areas with information and advice in relation to a range of matters pertaining to carers. This issue is addressed in paragraphs 108-113 below;

- a majority of respondents agreed with the proposal to repeal section 12 of the Community Care and Health (Scotland) Act 2002 about the submission of Carer Information Strategies to the Scottish Ministers. Some wanted reassurances about the continuation of funding to health boards for support to carers. This was because they saw the relatively modest investment of £5 million per annum resulting in a very good return on investment. The Financial Memorandum sets out the costs associated with the Bill’s provisions including the cost of the information and advice service and the duty to support carers and states that the £5 million investment per annum should continue to help meet the costs;

- a majority of respondents supported the proposal to introduce a duty to support carers, linked to an eligibility framework. Comments were made and questions raised about the nature of the proposed framework and how it would operate. Further information is set out in paragraphs 89-94 below; and

- some respondents wanted the carer support plan to be available to young carers or for them to have their own young carer plan.

52. A large number of respondents supported the consultation proposal that a duty to support carers and young carers, linked to an eligibility framework should be introduced. On reflection, a duty to support carers in accordance with an “eligibility framework” would not work in practice. Instead, there will be a duty to support carers with eligible needs which are the carer’s identified needs which meet local eligibility criteria.

53. The Scottish Government consulted on whether there should be a duty to provide short breaks. Some respondent groups supported such a duty. It was considered that whilst it is recognised that short breaks are an important source of support for many carers, they are one in a number of forms of support available to meet identified needs. It was considered appropriate therefore to place a duty on local authorities so that, in determining which support to provide to carers, they must consider in particular whether the support should take the form of a break from caring. The ACSP and the YCS also have to contain information about whether support should

be provided in the form of a break from caring. The Financial Memorandum contains estimated costings for the duty to support carers, making provision for the cost of short breaks. Subject to Spending Review decisions, the Scottish Government also proposes to extend the duration of the voluntary sector short breaks fund beyond 2016.

**POLICY OBJECTIVES: SPECIFIC PROVISIONS**

**Key definitions**

**Current provision**

54. The main definition in law\(^{48}\) of a carer is “a person (―the carer‖) who provides, or intends to provide, a substantial amount of care on a regular basis for another person aged eighteen or over (―the person cared for‖) or for a disabled child.” The carer can be a child so young carers are included in the definition. The person cared for is a person for whom the local authority must or may provide, or secure the provision of, community care services.

**Consultation response**

55. The Scottish Government did not consult specifically on the definitions. However, most respondents supported the proposal not to include what is commonly termed “the regular and substantial test” in the definitions. Most respondents also supported removing that part of the carer assessment process whereby the cared-for person is a person for whom the local authority must or may provide community care services and children’s services.

**What the Bill does**

56. The Bill sets out definitions of “carer,” “young carer” and “adult carer.” Carers will no longer have to provide or intend to provide a substantial amount of care on a regular basis. Cared-for persons no longer have to be in receipt of community care services.

57. The Bill also sets out the meaning of “personal outcomes.” In relation to carers, personal outcomes include outcomes which would, if achieved, enable carers to provide or continue to provide care for cared-for persons. There is likely to be a focus on outcomes that are linked to maintaining and improving the health and wellbeing of the carer.

**Benefits of the Bill**

58. The benefits of the approach to the definitions at paragraph 56 are twofold. It will remove the need for local authorities to assess whether a carer is a “regular and substantial” carer, bringing with it a more consistent approach to eligibility for the ACSP and YCS across local authorities. There will also be a wider group of people who are cared-for persons.

59. Regulations made under the Bill may provide that kinship carers\(^{49}\) who care for a disabled child (who might be the kinship carer’s grandson or granddaughter) and/or who care for

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\(^{49}\) Under the Looked After Children (Scotland) Regulations 2009, ‘kinship carers’ are defined as "a person who is related to the child (through blood, marriage or civil partnership) or a person with whom the child has a pre-existing
their own son or daughter (who might have an issue with substance misuse) and/or who are carers in any other way would also be adult carers and come within the scope of the Bill’s provisions on support.

60. The personal outcomes approach proposed in the Bill is enshrined in *Talking Points: Personal Outcomes Approach.* The culmination of over six years of research, this practical guide brings together learning from practice, systems, culture and performance in one place, aimed both at organisations new to outcomes as well as those further down the road to becoming an outcomes focussed organisation. This guidance is clear that personal outcomes are identified through good conversations with people using services during assessment and support planning. It is also critical that the outcomes are reviewed, to ensure the continued relevance of support and services, and to support service planning, commissioning and improvement.

61. The Bill envisages that personal outcomes will be identified in the context of each carer’s ACSP or YCS. The Scottish Ministers may set out in regulations the matters which are to be taken into account when identifying personal outcomes. For example, this might be matters which enable carers to provide, or continue to provide, care for cared-for persons. For carers to be able to provide or continue to provide care in this way, they will need a life alongside caring or to be able to participate in activities unrelated to the caring role.

**Adult carer support plan (ACSP)**

*Current provision*

62. Under section 12A of the Social Work (Scotland) Act 1968, carers of any age who provide, or intend to provide, a substantial amount of care on a regular basis may request a local authority to make an assessment (“the carer’s assessment”) of the carer’s ability to provide or continue to provide care.

*Consultation response*

63. Most respondents supported the proposal to have an ACSP for all identified adult carers if they wish to have the plan.

*What the Bill does*

64. The Bill sets out the duty on the responsible local authority (the local authority for the area in which the carer resides) to prepare the ACSP. The ACSP, which will be available to all adult carers, replaces the carer’s assessment. The Bill contains provisions around the identification of personal outcomes, the content of the ACSP, the review of the ACSP and provision of information about the ACSP. All of the provisions combined will result in a plan relationship”. If a looked after child cannot remain with their birth parents they can be placed by a local authority in the care of family or friends, for either a short or long period of time.

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51 The Social Work (Scotland) Act 1968, S12A(1)(b)(i)

52 Section 12AA of the 1968 Act and section 24 of the 1995 Act
which will enable the local authority, and indeed the adult carer, to have a comprehensive view of the adult carer’s needs for support (if any) and how to meet those needs.

Benefits of the Bill

65. The benefits of the ACSP are that it is a non-stigmatising plan unlike the present carer’s assessment the name of which can act as a barrier to take-up by carers as it has negative connotations and can appear judgmental. The current wording in law concerning a carer’s “ability” to provide care is replaced with the ACSP containing information about whether the carer is “able and willing” to provide care for the cared-for person. This is included so that there can be discussions about, for example, whether the carer is not able to provide care due to his or her own ill health. The emphasis on identifying the carer’s personal outcomes is beneficial so that the engagement by the person preparing the ACSP with the carer during the ACSP process is characterised by a discussion on outcomes.

66. The ACSP is to contain information about the circumstances in which the plan is to be reviewed. Presently, not all carer’s assessments are reviewed. The benefit of this new approach in law is that it will support a discussion during the preparation of the ACSP about the type of circumstance that would merit a review. Having a review process formalised in law will provide peace of mind for carers that their changed circumstances will be taken into account. Changed circumstances can mean that the caring situation is improved either because of the support that the carer is receiving or because the person they are caring for has improved health or both.

67. There may also be regulations about the circumstances in which plans are to be reviewed, the frequency of review and the procedure for review. The type of circumstance that could trigger a review would be the cared-for person being discharged from hospital.

68. Emergency, anticipatory or future planning is a concern for carers. This has a wide meaning and can cover, for example, planning for the care of the cared-for person for when the carer has passed away or planning for having alternative care arrangements in place to enable the carer to visit the GP. Planning of this nature will be covered in regulations about other information that an ACSP must contain.

Young carer statements

Current provision

69. As stated in paragraph 62 above, carers of any age who provide, or intend to provide, a substantial amount of care on a regular basis may request a local authority to make an assessment (“the carer’s assessment”) of the carer’s ability to provide or continue to provide care. Therefore young carers, who are sometimes called child carers in policy and practice, come within the scope of this provision.

Consultation response

70. Many respondents highlighted the experiences of young carers and young adult carers. A concern raised by some respondents was that young carers should have a specific young carer
This document relates to the Carers (Scotland) Bill (SP Bill 61) as introduced in the Scottish Parliament on 9 March 2015

plan or carer support plan in addition to, or instead of, the child’s plan. Others commented that the needs of young carers should sit within the GIRFEC (Getting it Right for Every Child) approach.

What the Bill does

71. The Bill sets out the duty on the responsible authority to prepare the YCS. Where a young carer attends an independent or grant-aided school, the school itself as “directing authority” will prepare the YCS. The local authority will, however, have a role in approving the YCS since some of the support could be provided or commissioned by the local authority. The health board will prepare the YCS 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.

72. The YCS, which will be available to all young carers, replaces the carer’s assessment. The Bill contains provisions around the identification of personal outcomes, the content of the YCS, the review of the YCS and provision of information about the YCS. The information in the YCS is to be made available to the young carer, others requested by the young carer and the named person.

73. The YCS will continue to have effect until the person who was previously a young carer but who is now an adult carer is provided with an ACSP. Any support that is provided to a young carer under a YCS which is also recorded in a child’s plan because it constitutes a targeted intervention will continue to be provided under the YCS until such time as the YCS is replaced with an ACSP.

74. All of the provisions combined will result in a plan which will enable the responsible authority, and indeed the young carer, to have a comprehensive view of the young carer’s needs for support (if any) and how to meet those needs.

Benefits of the Bill

75. The Scottish Government sees great merit in young carers having their own YCS. The benefits are that it will allow Scotland’s young carers to discuss their personal outcomes and needs for support arising from their caring role with the person preparing the YCS. As set out in this Policy Memorandum, young carers are more likely to have mental ill health compared with other young people. The YCS process will be empowering and enabling for young carers.

53 The child’s plan is provided under section 33 of the CYP Act 2014.
54 GIRFEC is a consistent way for people to work with all children and young people. It’s the bedrock for all children’s services and can also be used by practitioners in adult services who work with parents or carers. The approach helps practitioners focus on what makes a positive difference for children and young people – and how they can act to deliver these improvements. Getting it right for every child is being threaded through all existing policy, practice, strategy and legislation affecting children, young people and their families. (Scottish Government website http://www.gov.scot/Topics/People/Young-People/gettingitright/background)
55 The Bill will define “responsible authority”. The Scottish Government proposal is that the authority which is responsible for preparing a YCS should be the same authority that provides the named person service under the CYP Act 2014 in respect of the young carer in question.
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76. Many, but not all, young carers will have a wellbeing need which might be in relation to their caring role and/or other matters. The young carer will also require a child’s plan under section 33 of the CYP Act 2014 if the wellbeing need can only be met, or met fully, by a targeted intervention. A targeted intervention is defined in section 33(4) of the CYP Act as a service which (a) is provided by a relevant authority in pursuance of any of its functions, and (b) is directed at meeting the needs of children whose needs are not capable of being met, or met fully, by the services which are provided generally to children by the authority. For the purposes of supporting young carers, examples of targeted interventions include short breaks, training in moving and handling and medicine management and tailored information and advice.

77. The YCS scheme is to be designed in recognition of the fact that the extent of a young carer’s caring role and responsibilities will vary both from young carer to young carer and also within individual cases, over the course of time as the nature of the caring role changes in relation to changes in a cared for person’s need for care and/or changes to a young carer’s own personal circumstances. With this in mind, it cannot be assumed that every young carer with caring responsibilities, will automatically have a wellbeing need, for it may be that the nature of the caring responsibility is such that the impact on a young carer’s wellbeing is minimal or non-existent, such that there is little or no need for support. The absence of need for bespoke support, however, does not mean that the young carer is not entitled to a YCS. It is possible that such a young carer’s need for support will, in time, intensify to such extent as to give rise to a wellbeing need which requires to be met through more formal support arrangements.

78. The Scottish Government understands that young carers might have concerns about the information being provided to the named person. The information will however be treated in confidence. The named person may also play a crucial role in the planning and delivery of support to the young carer, particularly, for example, where support to a young carer can be provided by the school. It is important that schools do play a role in delivering support such as allowing extra time for the completion of homework, allowing time off for the young carer if they are required at home and so on. The named person may also be preparing the child’s plan where the young carer has wellbeing needs unrelated to caring.

79. The YCS will be similar to the ACSP. In addition, consideration will be given to the nature and extent of the care provided by the young carer being “appropriate”. The benefit of this is that the young carer will have an opportunity to discuss issues such as if the level of care they are providing is appropriate to their age and circumstances.

80. The benefit of the continuation of a YCS until an adult carer is provided with an ACSP is that it should smooth the transition between young carer and adult services by ensuring there is no cessation of support when the young carer reaches 18. However, the young carer on becoming an adult carer can request an ACSP, especially if there is a change in their circumstances, for example, if he or she is pursing further or higher education, taking up employment or moving away from home.

56 A “relevant authority” is defined in section 45 of the CYP Act as (a) health board, (b) local authority or (c) directing authority. “Directing authority” means (a) when used generally – (i) the managers of each grant-aided school, (ii) the proprietor of each independent school, (b) when used in relation to a particular establishment - (i) in relation to a grant-aided school, the managers of the school, (ii) in relation to an independent school, the proprietor of the school.
Provision of support to carers: eligibility criteria

Current provision

81. Under section 3 of the SDS Act, local authorities have a power to provide support to adult carers following an assessment completed under section 12AA of the 1968 Act (carer’s assessment relating to carers of those aged 18 or over) and under section 24 of the 1995 Act (carer’s assessment relating to carers of those under the age of 18).

82. Local authorities provide services to safeguard and promote the welfare of children in need under section 22 of the 1995 Act. This includes children who are in need (within the meaning of the 1995 Act) because they are young carers. Where a local authority provides services to children under section 22 of the 1995 Act then under section 8 of the SDS Act, the authority must provide the supported person with the opportunity to choose one of the four options for self-directed support. The supported person is the child (young carer) if aged 16 or over, or the child’s parent or guardian in other cases.

83. The SDS Act does not make provision for eligibility criteria since it contains a power rather than a duty to support others.

Consultation response

84. Many respondents commented that a duty to support both adult and young carers would bring clarity and transparency to the decision-making processes about supporting carers. Some respondents, both in support of and against the introduction of a duty, sought assurances about the funding of the duty. The Scottish Government consulted on a duty to support carers linked to an eligibility framework.

What the Bill does

85. The Bill makes provision for local authorities to set local eligibility criteria. There is no eligibility framework as, in retrospect, this did not bring clarity to the context within which the duty to support carers is framed. The criteria will determine whether local authorities would be required to provide support to carers to meet carers’ needs. So that there is full involvement of carers and carers’ bodies in decisions about the criteria, the Bill requires local authorities to consult as appropriate with carers and carers’ bodies. Local authorities will also be required to publish their eligibility criteria so that each authority can see the approaches taken by other authorities. There are also provisions for local authorities to review their eligibility criteria and to set revised criteria as necessary. This will enable local authorities to take stock of how the criteria are working for the benefit of carers.

86. Local eligibility criteria will enable local authorities to respond to need in their areas. There should, however, be a Scotland-wide approach so that local authorities take into account key drivers for support which would apply on a Scotland-wide basis. To that end, there is a power in the Bill to enable the Scottish Ministers to specify such matters by regulations. There would be full consultation on the regulations. It is important, for example, that support is provided on a preventative basis to prevent carers’ needs from escalating so this “matter” i.e. preventative support to be provided could be set out in regulations. Referring again to the Borders example (in paragraph 12), the results from the quality of life questionnaire of carers
showed that early intervention and the preventative nature of the carer’s assessment helps to meet the national performance indicators, particularly in terms of maintaining carers’ independence, accessing appropriate support and building resilience.

Benefits of the Bill

87. The benefit of this approach is to ensure that local authorities can respond to the needs in their areas but under the umbrella of key Scotland-wide drivers for support.

88. If the Scottish Ministers come to the view that the local eligibility criteria are not working in the intended way, then under the Bill’s provisions they could set out national eligibility criteria in regulations. Such national eligibility criteria would take the place of the existing local eligibility criteria.

Duty to provide support to carers

Current provision

89. The current provision is as set out in paragraphs 81 to 83 above.

Consultation response

90. The consultation response is as set out in paragraph 84 above.

What the Bill does

91. The Bill will provide for both a duty and a power to support carers. Under the duty, the local authority will be obliged to support carers in accordance with eligible needs (i.e. those needs which cannot be met by general services and which meet the eligibility criteria). In determining which support to provide to carers local authorities need to consider, in particular, whether the support should take the form of a break from caring. Support for the purposes of carrying out this duty will exclude information and advice and universal services available in the community. It will also exclude services provided to cared-for person(s).

Benefits of the Bill

92. The benefit of this approach is that there is a firm statutory footing for supporting carers. Carers will be supported by what can be termed bespoke support under this duty. Bespoke support would include, for example, short breaks, training, advocacy and emotional support. Since not all carers will require bespoke support, these other carers will have access to information and advice and to the available community-based services. Of course, carers requiring bespoke support can also be supported by information and advice and by general services in the community.

93. The Scottish Government recognises the need to deal with the challenges caused where a carer’s eligible needs can most appropriately be met through the provision of services to the cared-for person. This can be a particular issue where a carer is unable to take a break from caring without alternative care being provided to the cared-for person. The Bill confers a power on the Scottish Ministers to make provision about such cases.
94. It is essential that full consideration is given to whether access to short breaks will help to achieve the carer’s identified personal outcomes (e.g. to support the carer to sustain the caring role and to have a life alongside caring). This is because a short break, which does not have to be a costly intervention, can support the carer in a meaningful way. Short breaks should include all manner of innovative and flexible provision as well as more traditional forms of provision. Some carers indicate that even having something such as a greenhouse can enable them to pursue an interest giving them a break from caring but being close enough to the person they are caring for. The Financial Memorandum sets out resourcing requirements for the duty to support carers and includes a short breaks component. Given the role that the third sector currently has in delivering short breaks, the third sector should continue to exert its influence over short breaks provision.

Carer involvement

Current provision

95. Section 12A of the 1968 Act provides for local authorities, in assessing the needs of persons for whom they are under a duty or have a power to provide, or to secure the provision of, community care services, to take account so far as it is reasonable and practicable to do so, of the views of the carer who provides a substantial amount of care on a regular basis. This is provided that there is a wish, or as the case may be a capacity, to express a view. There is similar provision in section 23 of the 1995 Act with regard to the carers of children affected by disability.

Consultation response

96. All respondents supported carer involvement. Carers were regarded as being best placed to understand and comment on the services required for those they care for. The vast majority of respondents supported the involvement of carers’ organisations in the planning, shaping, delivery and review of services.

What the Bill does

97. Carers need to be fully involved in decisions about services that they have an interest in. The Bill makes provision for this. Both local authorities and health boards will be under a duty to take appropriate steps to involve carers in carer’s services.

98. The duty to involve carers in carers’ services applies where services have not been delegated under an integration scheme under the Public Bodies Act. Part 1 of the Public Bodies Act provides for integration schemes. An integration scheme means the key agreements of local authorities and health boards jointly that need to be reached in developing the integrated arrangements for health and social care. Where services have been delegated (or are to be carried out in conjunction with delegated functions) then the obligations imposed by the Public Bodies Act in connection with those functions are sufficient to ensure carer involvement. The Public Bodies Act therefore places obligations on integration authorities about carrying out functions which include obligations to involve carers and organisations representing carers.

99. The Bill also makes provision to ensure that the care provided by a carer is properly taken into account in any community care assessment for an adult or disabled child’s assessment. It
places an express obligation on the local authority carrying out such an assessment to take account of the views of the carer about the extent of the needs of the cared-for person, whether those needs call for the provision of services and how any such services are to be provided. This provision recognises the degree of experience that a carer has in relation to the cared-for person.

100. The Bill amends the SDS Act so that local authorities will be required to have regard to the general principles set out in section 1 of the SDS Act when exercising functions in relation to the ACSP, YCS and the provision of support to carers.

Benefits of the Bill

101. The benefit of the Bill is that there is a legislative footing for involving carers in carers’ services, which will make carers’ services more responsive to carers’ needs. The provisions will also replace narrower obligations that already exist about taking a carer’s views into account in the current assessment provisions.

Local carer strategies

Current provision

102. There is no statutory provision for the preparation and review of local carer strategies.

Consultation response

103. Many respondents supported a duty to develop, publish and review local carer strategies. They saw merit in ensuring that unmet carer needs at the local level are identified, potential demand for services assessed, consistency in service provision promoted and progress in providing a range of services and achieving outcomes monitored and evaluated.

What the Bill does

104. The Bill provides a statutory basis for the preparation of local carer strategies. There are some local carer strategies in existence now, prepared by local authorities on a voluntary basis. There are fewer young carer strategies in existence. Where they exist, local authorities usually work with a wide range of partners, including carers, in their preparation.

105. The local carer strategy must set out the intended timescales for preparing ACSPs and YCSs. The Scottish Government will publish guidance on this in due course (as well as on many of the Bill’s provisions).

106. The Bill sets out the consultative arrangements regarding the preparation of the local carer strategy. Since local authorities cannot consult all individual carers in the area, and since not all carers want to be consulted, the Bill instead is clear that local authorities must take appropriate steps to involve carers. In practice, local authorities will consult with groups of carers.
Benefits of the Bill

107. The benefit of the approach in the Bill is that the provisions will enable a consistent approach across Scotland to various matters. These matters include the fact that the strategy must contain information relating to the particular needs and circumstances of young carers. The fact that there is provision for each local authority to publish its local carer strategy will ensure that all strategies are readily available for national and local interest. The review provisions whereby each local authority must review its local carer strategy at least every three years will also ensure that local carer strategies are reviewed on a regular but realistic basis.

Information and advice for carers

Current provision

108. Currently, section 12AB of the 1968 Act and section 24A of the 1995 Act place local authorities under a duty to provide information to “regular and substantial” carers. This information relates to notification to the carer that he or she may be entitled to request an assessment of his or her ability to provide, or continue to provide, care for the person cared for or child.

109. Section 9 of the SDS Act places a duty on local authorities to ensure the provision of information and advice in relation to the self-directed support options. Section 10 makes similar provision in relation to children under the age of 16. The sections apply to carers as well as to service users.

Consultation response

110. Most, but not all, respondents supported the Scottish Government’s proposal for local authorities to establish and maintain an information and advice service. Some carers and carer organisations suggested that third sector organisations may be well-placed to provide and maintain locally based information and advice services.

What the Bill does

111. Carers need access to good quality, reliable and up-to-date information and advice. The Bill repeals section 12AB of the 1968 Act and section 24A of the 1995 Act and requires information and advice services to be established by local authorities for all carers (as defined by the Bill). Such services will need to involve health board and third sector interests and be fully co-ordinated and responsive to carers’ needs.

112. The Scottish Government is aware from research\(^{57}\) that one of the barriers to short breaks for carers is lack of information about what is available. Therefore, each local authority has to prepare and publish a short breaks services statement. This will enable local authorities to provide information to adult and young carers about the different types and the range of short breaks that might be available.

Benefits of the Bill

113. The benefit of the approach set out in the Bill is that there is clarity about what type of information and advice should, in particular, be made available to carers. A key part of this is information on carers’ rights. It is always helpful for carers to have face-to-face interaction with advice workers who can support carers in a person-centred and helpful way. The Financial Memorandum therefore makes financial provision for the cost of advice workers who can provide one-to-one advice to carers on, for example, complex or detailed issues such as income maximisation or can talk with young carers about challenging issues such as the implications of the health conditions of the cared-for person or about support in school. The benefit of the short breaks services statement is that there should be readily accessible information to carers about the availability of short breaks.

Carer and cared-for person in different local authority areas

Current provision

114. The local authority responsible for carrying out a carer’s assessment is the local authority where the cared-for person is ordinarily resident or physically present. There may be some exceptions to this if a carer who lives in a different local authority area from the person they care for approaches, for example, their own local authority for a carer’s assessment and that has been agreed. This is the interpretation of section 12AA of the 1968 Act. Local authorities will presently apply the legislation according to what suits them best and in a flexible way.

Consultation response

115. The consultation raised issues and posed questions about which local authority should prepare the ACSP and the YCS and provide support to the carer where the carer and cared-for person live in different local authority areas. The current arrangements vary across the country and are done on an ad hoc basis.

116. The response to the consultation was split with no consensus on this subject. Some respondents called for cooperation and collaboration between local authorities and some said that since there was a need for flexibility then the issue should not be covered in law.

What the Bill does

117. The Bill provides that the “responsible authority” is the local authority area where the adult carer resides. There are similar arrangements for young carers but adapted according to young carer circumstances. This means that the “responsible authority” in relation to a young carer is (a) where the young carer is a pre-school child, the health board for the area in which the child resides and (b) where the young carer is not a pre-school child, the local authority for the area in which the child resides. The Bill sets out other special cases of “responsible authority” as explained in the Explanatory Notes.

118. However, in certain justifiable circumstances, the function of preparing an ACSP and the function of providing support under it, should be capable of being carried out by another local authority, in particular, the local authority where the cared-for person lives. For example, the carer might require in situ training in moving and handling in the home of the cared-for person who is living in a different local authority area to where the carer lives.
Benefits of the Bill

119. Since the Bill sets out a wide range of duties, mostly on local authorities, and since there will be more carers and cared-for persons living in different local authority areas due to family migration patterns, then the Scottish Government’s view is that the Bill should set out the arrangements. Moreover, carers need to know which local authority to approach and to have assurances that they will not be passed from one local authority to another.

120. This approach means that, ultimately, responsibility for the ACSP and the support to be provided under it will remain with the local authority of the area where the carer resides. In practice, however, the Scottish Government envisages that certain parts, or indeed all, of the ACSP scheme can be carried out by, for example, the local authority where the cared-for person lives. This will be pursuant to arrangements made with the local authority in whose area the carer resides. Responsibility for the ACSP and any costs incurred in the provision of any bespoke support, such as a short break, would also remain with the carer’s local authority. Arrangements could be made as at present, between local authorities for the recovery of costs.

121. This approach is to both provide reassurances to carers about which local authority is the “responsible authority” and allow for flexibility of approach as necessary.

Identification of carers

122. Carer identification remains a challenge, as some people do not wish to be identified as carers at all, whilst others will initially reject the idea of identification only to seek identification later as the caring role intensifies with a view to receiving support. Many young carers do not present themselves for fear of stigmatisation and family break up. This is because many young carers want to be treated in the same way as other young persons who do not have a caring role although they do of course want support. Other young carers, especially if they are caring for a parent with mental ill health or substance misuse issues, do not want to be stigmatised by their non-carer friends or by services. The Scottish Government therefore consulted on ways to help support the identification of carers and young carers. The consultation confirmed that the Bill would not introduce legislative provision regarding the identification of carers. This is because it would be difficult to have a law about identifying people who may not know they are carers or who do not want to be recognised as such. The identification of carers is, however, hugely important as it is a prerequisite to assessment and support. Some areas have GP registers to help identify carers and some run publicity and advertising campaigns to help identify carers.

123. The Bill will, however, establish that local authorities must set out their plans for identifying carers within the context of the local carer strategy. Since local authorities must consult with health boards before preparing the local carer strategy then there will be a role for the health board in providing input on the role of GPs, hospitals services, community pharmacists etc. in identifying carers.

Monitoring and evaluation

124. It is important that the Scottish Ministers know the extent to which the Bill is making a difference to the lives of carers across Scotland. The publication of the local carer strategies will enable the Scottish Government to obtain a view of the issues contained in all local carer
strategies. The Scottish Government will also put in place a comprehensive evaluation programme.

EFFECTS ON EQUAL OPPORTUNITIES, HUMAN RIGHTS, ISLAND COMMUNITIES, LOCAL GOVERNMENT, SUSTAINABLE DEVELOPMENT ETC.

Equal opportunities

125. An Equality Impact Assessment (EQIA) has been carried out and will be published on the Scottish Government’s website. The Scottish Government considered the potential impacts, both positive and negative, across the protected characteristics required for EQIAs.

126. To develop and inform the EQIA the Scottish Government sought feedback from individuals and organisations or groups via the consultation process and is actively seeking feedback from related equality representatives through stakeholder engagement, including LGBT Youth, Scottish Youth Parliament, Alzheimer’s Scotland, Minority Ethnic Carers of Older People Project (MECOPP), Coalition of Carers in Scotland, Carers Trust, Scottish Human Rights Commission and ENABLE Scotland.

127. The Bill’s provisions will apply to all carers and there will be substantial guidance about the equality impacts. The national “matters” to be taken into account by local authorities regarding the local eligibility criteria could include the need to address the caring circumstances of carers with protected characteristics. The regulations setting out the “matters” will be subject to consultation.

128. Gaps have however been identified in the current evidence base around the effects of the Bill on some of the protected characteristics, for example, religion or belief, sexual orientation, pregnancy and maternity, and gender re-assignment. For example, it was stated at an engagement event that it is important to ensure that carers’ specific dietary needs due to religion are properly taken into account when the carers are in support services. Another example is for statutory and third sector services to be fully aware that a LGBT carer is indeed the cared-for person’s carer. These issues will be taken into account as the Scottish Government continues to create diverse ways of raising awareness of carers amongst different communities.

129. The EQIA concluded that the legislation will not directly or indirectly discriminate on the basis of age, disability, gender, gender reassignment, pregnancy and maternity, sexual orientation, race and religion or belief.

130. The Bill will make a meaningful difference to carers and will contribute towards the improvement of their health and wellbeing, ensuring that they can continue to care and to have a life alongside caring.

Human rights

131. The Scottish Government is aware that positive steps may be appropriate to protect carers’ rights under Article 8 (respect for private and family life) and 14 (prohibition of discrimination) of the European Convention on Human Rights. In extreme cases, it has been
argued that caring responsibilities could, without suitable support, have an impact on carers’ rights under Article 2 (right to life) or 3 (prohibition of inhuman or degrading treatment). Those exercising functions under the Bill will have to exercise those functions compatibly with the Convention rights and the Bill provides a framework for those rights to be respected.

132. Specifically on the issue of data protection, some respondents to the consultation raised the issue of data protection in terms of the sharing of personal and sensitive information between and amongst various organisations. Having considered this in connection with functions under this Bill, there is no specific provision that requires to be made on the face of the Bill to regulate this. Responsible authorities will be required to carry out their functions under the Bill in a manner that respects both the common law duty of confidentiality and the Convention right to private and family life under Article 8 of ECHR. The Scottish Government’s view is that, as framed, this Bill does itself not impose obstacles to or make any provision which threatens or undermines, or has the potential to threaten or undermine, respect for these rights. The Bill will allow provision to be made about the sharing of information for the purpose of an ACSP or YCS by regulations. Any such regulations would, of course, require to be compatible with Article 8 rights.

Island communities

133. The Bill will apply to all communities across Scotland, including island communities. Argyll and Bute Council, Highland Council, Shetland Islands Council, NHS Ayrshire and Arran, NHS Highland, Western Isles Community Care Forum, Western Isles Carers, Users and Supporters Network and others with island community representation submitted formal consultation responses.

134. There are currently challenges experienced by island communities, for example, in carrying out the carer’s assessment due to the need for extra travelling time and in delivering support services. There are examples of innovative solutions to help overcome the challenges presented by remoteness. One such example is the virtual carers centre run by Voluntary Action Shetland, which is supporting carers in many different ways.

135. The matters to be specified in regulations which local authorities must have regard to when setting local eligibility criteria would be subject to consultation. It could be the case that the matters should include consideration of the impact of remoteness and rurality when setting criteria. The Scottish Government would not want to pre-empt the consultation and it would also be helpful to take the views, prior to consultation, of carers living in remote and rural areas including island communities. It would be important, however, to consider the impact of geographical isolation on the cost of caring and the availability of support services.

Local government

136. The Bill directly impacts on local authorities in discharging their duties as set out in this Policy Memorandum and in the other Accompanying Documents to the Bill.

137. Twenty three local authorities and six CHCPs submitted formal responses to the consultation on the Bill. Significant numbers of local government professionals attended the
national engagement event in Edinburgh in March 2014. Their remit covered both adult and young carers.

138. Engagement has been undertaken with COSLA both at Ministerial and official level. The Scottish Government has engaged with COSLA and specific local authorities during development of the Bill provisions.

**Sustainable development**

139. The Bill will have no negative impact on sustainable development. It will have a positive impact on sustainable economic development by supporting those carers who wish to continue to care, safeguarding the estimated £10 billion of savings to the economy contributed by those delivering unpaid care. It will also ensure that carers can continue to have a life alongside caring. As set out in the Financial Memorandum, research\(^{58}\) shows that due to the impact of caring, 5% of adult carers have left employment, 6% have been unable to take up work and 7% have worked fewer hours. For those who wish it, the support to be provided under the Bill’s provisions will mean that some of these carers can continue in paid employment alongside their caring responsibilities. Research\(^ {59}\) has estimated that the public expenditure cost of working age carers leaving employment as a result of their caring role (in England) is £1.3 billion per year. If the Bill’s provisions as implemented prevented, for illustrative purposes, 10% of carers currently in employment from giving up work, based on the research’s findings (pro-rata) for Scotland, cost savings to the public purse would be in the region of £13 million per year.\(^ {60}\)

140. The Bill provisions will have a strong positive impact on the health and well-being of the population of Scotland by ensuring that carers can continue to sustain their caring role in better health. It is well documented (and summarised at paragraph 17 et seq. of this Policy Memorandum) that “the intensity, duration and complexity of the caring situation has a profound influence over carers’ health and well-being.” The Bill’s preventative approach to identifying carers and young carers, understanding their personal outcomes and needs for support is focussed on ensuring that carers receive the support they need well before reaching any crisis point.

141. It is considered that the Bill will have minimal effect in relation to the environment and, as such, is exempt for the purposes of section 7 of the Environmental Assessment (Scotland) Act 2005.

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58 Scottish Health Survey 2012-13
60 This is a speculative saving, some of which would accrue to HM Treasury and some to the Scottish parliament when powers over the carer’s allowance are devolved.
INTRODUCTION

1. This memorandum has been prepared by the Scottish Government in accordance with Rule 9.4A of the Parliament’s Standing Orders, in relation to the Carers (Scotland) Bill. It describes the purpose of each of the subordinate legislation provisions in the Bill and outlines the reasons for seeking the proposed powers. This memorandum should be read in conjunction with the Explanatory Notes and Policy Memorandum for the Bill.

2. The contents of the Memorandum are entirely the responsibility of the Scottish Government and have not been endorsed by Parliament.

OUTLINE OF BILL PROVISIONS

3. The Carers (Scotland) Bill was announced by the First Minister in the Programme for Government in November 2014 and is an important part of the Scottish Government’s wider programme of Health and Social Care reform. The primary purpose of the Bill is to ensure better and more consistent support for both adult and young carers so that they can continue to care, if they so wish, in better health and to have a life alongside caring. This is to be achieved by building on existing legislative rights for carers and young carers. There will also be better linkages with the assessment processes for cared-for persons and with the services for cared-for persons (both adults and disabled children). Implementation of the Bill’s provisions will complement and enhance the actions in the Scottish Government’s and COSLA’s national Carers and Young Carers Strategy, Caring Together and Getting it Right for Young Carers, 2010-2015.

4. The Bill is structured into eight parts:

- **Part 1** contains provisions which define key terms used within the Bill;

- **Part 2** makes provision to replace the current carer’s assessment with a new adult carer support plan (ACSP) and provides for a specific young carer statement (YCS) for all young carers; to identify the personal outcomes of the carer/young carer and their needs for support; to state what an ACSP/YCS must contain and when it should be reviewed; and to set out the information within the ACSP/YCS which should be provided to the carer/young carer and any other person the carer/young carer requests;

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This document relates to the Carers (Scotland) Bill (SP Bill 61) as introduced in the Scottish Parliament on 9 March 2015

- **Part 2** also allows Scottish Ministers to provide for the assessment of adult and young carers’ needs for support for the purpose of preparing an ACSP/YCS, and for the review of such documents, by regulations;

- **Part 3** introduces a duty for local authorities to support carers whose identified needs cannot be met by the authority’s general provision of the services, including the information and advice service established by this Bill; nor by services in the community; nor by the provision of services to the cared-for person. The carer’s identified needs must then meet local eligibility criteria, which the local authority must set out, publish and review on a regular basis. Provision is made to enable the Scottish Ministers to set national eligibility criteria within Scotland by regulations. Part 3 also requires local authorities, in determining what support to provide to a carer, to consider in particular whether the support should take the form of, or include, a break from caring;

- **Part 4** requires local authorities and health boards to involve carers in the design, development and delivery of carer services. For the purposes of the Bill, this means services provided by the local authority or health board to carers and cared-for persons;

- **Part 5** requires local authorities to prepare a local carer strategy which will set out the authority’s plans for identifying carers/young carers in its area, obtaining information about the care they provide or intend to provide, and how they will use their resources to provide carer/young carer services. Provision is made to ensure that the local authority consults with relevant bodies and persons and has regard to other plans plus any outcomes as laid out in other enactments, in preparing a local carer strategy. The local authority must publish and review its local carer strategy over a period as stated in the Bill;

- **Part 6** provides for the establishment of an information and advice service for carers in each local authority area, which must include a short breaks services statement;

- **Part 7** provides for general provision in relation to guidance and directions, and financial and other assistance to and by voluntary organisations; and

- **Part 8** and the schedule set out various supplementary and final provisions, and make consequential amendments to other enactments.

**RATIONALE FOR SUBORDINATE LEGISLATION**

5. In deciding whether legislative provisions should be specified on the face of the Bill or left to subordinate legislation, the Scottish Government has had regard to the need to:

- strike the right balance between the importance of the issue and providing flexibility to respond to changing circumstances;

- make proper use of valuable Parliamentary time;
anticipate the unexpected, which might otherwise frustrate the purpose of the provision in primary legislation approved by the Parliament;

allow detailed administrative arrangements to be kept up to date with the basic structures and principles set out in the primary legislation; and

consider the likely frequency of amendment.

6. The delegated powers provisions are listed below, with a short explanation of what each power allows, why the power has been taken in the Bill and why the selected form of parliamentary procedure has been considered appropriate. Powers that are referred to here as being exercisable by regulations are to be made by Scottish statutory instrument.

DELEGATED POWERS

PART 1 – KEY DEFINITIONS

Section 1 – Meaning of “carer”

Power conferred on: the Scottish Ministers
Power exercisable by: regulations made by Scottish statutory instrument
Parliamentary procedure: negative

Provision

7. Subsection (1) provides that in this Act, “carer” means an individual who provides or intends to provide care for another individual (the “cared-for person”). Subsection (2) provides that subsection (1) does not apply: (a) in the case of a cared-for person under 18 years old, to the extent that the care is or would be provided by virtue of the person’s age, or (b) in any case, to the extent that the care is or would be provided (i) under or by virtue of a contract, or (ii) as voluntary work.

8. Subsection (3) provides that the Scottish Ministers may by regulations: (a) provide that “contract” in subsection (2)(b)(i) does or, as the case may be, does not include agreements of a kind specified in regulations; (b) permit a relevant authority to disregard subsection (2)(b) where the authority considers that the relationship between the carer and the cared-for person is such that it would be appropriate to do so.

Reason for taking power

9. There may be situations where it would be appropriate to ensure that certain people fall within the definition of ‘carer’ for the purposes of the Bill, notwithstanding that they provide care under agreements which may be viewed as contracts. Alternatively, there may be groups who should be excluded from the definition of carer because of the agreements under which they provide the care, where it would be helpful to put beyond doubt that the agreements in question are to be treated as ‘contracts’ for the purposes of subsection (2)(b). For example, regulations could provide that the agreements which certain types of kinship carers have with local authorities are not to be considered to be ‘contracts’. The effect of such regulations would be to ensure that those kinship carers fall within the Bill’s definition of a carer (providing no other exception applies) and as a
result can be offered an adult carer support plan and, if eligible, subsequent support. This power will provide flexibility in adding or removing particular types of contracts or other agreement from the exception to the definition of ‘carer’.

10. The Scottish Government would like to retain flexibility so that a local authority may be able to support an individual who does not fall within the definition of a carer. Subsection (3) allows for regulations that would see local authorities being able to disregard subsection (2) (b) and consider carers who provide care by way of a contract or through a voluntary organisation to be classed as ‘carers’ as defined by subsection (1). This flexibility will allow for amendments to be made to include certain types of carers. This is especially likely to be relevant in the case of carers who provide some care on a paid and some care on an unpaid basis to same family member. As the Social Care (Self-directed Support) (Scotland) Act 2013 (“the 2013 Act”) becomes more widely used, it is likely that direct payments under the 2013 Act will mean that the number of carers who provide both paid care, by way of a contract with the person they care for, and unpaid care are likely to rise. This power will allow for amendments to be made to take account of the possible rise in the different types of these caring situations.

Choice of procedure

11. These provisions are subject to negative procedure which is considered appropriate as the definitions are a matter of detail rather than of broad principle. This power is for defining purposes only to allow further clarification regarding the term “contract” and “carer”. It is considered that a higher level of Parliamentary scrutiny would be inappropriate for provisions of this nature.

12. There is general agreement amongst the statutory and third sector organisations about what a carer is. These provisions may be used to refine the definition of carer for the purposes of this Bill, ensuring that certain persons fall within that definition. For example, provision could be made to ensure that kinship care agreements under the Looked After Children (Scotland) Regulations (S.S.I. 2009/210) are not regarded as a ‘contract’ under this Bill. Since this power would not be used to fundamentally alter the basic meaning of “carer” but only to refine it, any use of this would not warrant affirmative procedure.

Section 4 – Meaning of “personal outcomes”

Power conferred on: the Scottish Ministers
Power exercisable by: regulations made by Scottish statutory instrument
Parliamentary procedure: negative

Provision

13. Subsection (1) provides that in this Act, “personal outcomes”, in relation to carers, includes outcomes which would, if achieved, enable carers to provide or continue to provide care for cared-for persons. It is likely that personal outcomes will also be linked to maintaining and improving the health and wellbeing of the carer.

14. Subsection (2) provides that the Scottish Ministers may by regulations make further provision about personal outcomes, including provision about: (a) which outcomes may be personal
outcomes; (b) the matters to which a relevant authority is to have regard in considering which outcomes may be personal outcomes.

**Reason for taking power**

15. The Scottish Ministers are likely to provide further definition of exactly what a personal outcome is with reference to a relevant framework. Subsection (2)(a) will give Ministers the ability to define the matters that a relevant authority must consider when agreeing personal outcomes with a carer. It is envisaged that the power under subsection (2)(b) will be used to set out the matters that responsible authorities should take account of when considering and agreeing a carer or young carer’s own personal outcomes. The matters that are prescribed are likely to focus on outcomes that are linked to maintaining and improving the health and wellbeing of the carer. There is likely to be an emphasis on preventative support that will allow the carer to continue, if they so wish, in the caring role and lead a life alongside caring. By using regulations, Scottish Ministers will be afforded more flexibility with which to keep pace with developing practice.

**Choice of procedure**

16. These provisions are subject to negative procedure which is considered appropriate as the definitions are a matter of detail rather than of broad principle. This power is for defining purposes only to allow further clarification regarding the term “personal outcomes”. It will not fundamentally change the meaning of “personal outcome” which is generally understood in policy and practice with regard to supporting carers, but it is likely to be used to provide examples of what a personal outcome may be. Therefore, it is considered that a higher level of Parliamentary scrutiny would be inappropriate for provisions of this nature.

**PART 2 – ADULT CARER SUPPORT PLANS AND YOUNG CARER STATEMENTS**

**Section 7 – Adult carers: identification of outcomes and needs for support**

Power conferred on: the Scottish Ministers  
Power exercisable by: regulations made by Scottish statutory instrument  
Parliamentary procedure: affirmative

**Provision**

17. Section 7 provides that the Scottish Ministers may by regulations make provision about the identification of adult carers’ personal outcomes and their needs for support, including: (a) how personal outcomes and needs for support are to be identified; (b) the process for doing so (including arrangements for the involvement of carers and cared-for persons); (c) who may carry out identification; (d) the sharing of information about carers and cared-for persons for the purpose of identifying personal outcomes and needs for support; (e) the factors to be taken into account in identifying carers’ personal outcomes and needs for support; (f) the circumstances in which carers’ personal outcomes and needs for support should be reviewed.

**Reason for taking power**

18. This power will give Scottish Ministers the ability to further define the process for identifying adult carers’ personal outcomes and their needs for support. It is envisaged for example
that regulations may prescribe whether the adult carer support plan must be prepared face to face, or in what circumstances it will be appropriate to prepare the adult carer support plan by alternative means; how cared-for persons’ views are to be sought and to set parameters around who can share information about the carer and the cared-for person, for what purpose and in what circumstances, as part of the carer support plan process. By using regulations to do this, Ministers will have the flexibility to amend the process as evidence from local practice emerges.

Choice of procedure

19. The power in section 7 is subject to affirmative procedure (by virtue of section 37(2)(b)). This is considered appropriate as it will provide a higher level of Parliamentary scrutiny for regulations which would directly affect what the primary legislation requires in terms of the extent of the duty to support. Section 7 is significant in determining how personal outcomes are identified and agreed. This is a fundamental element in establishing a carer’s needs and therefore what the duty to provide support means in a particular instance.

20. Whilst this level of scrutiny involves more parliamentary time, it is considered that the type of provision which will be made under this provision is sufficiently important to justify this, and it is not anticipated that they will be regularly amended.

Section 8 – Content of adult carer support plan

Power conferred on: the Scottish Ministers
Power exercisable by: regulations made by Scottish statutory instrument
Parliamentary procedure: negative

Provision

21. Subsection (1) provides for what an adult carer support plan must contain as specified in subparagraphs (a)-(i). Subsection (2) requires that each second and subsequent adult carer support plan must also contain information about the extent to which support provided under a previous plan has assisted in the achievement of the carer’s identified personal outcomes.

22. Subsection (3) provides that the Scottish Ministers may by regulations make provision about: (a) other information which an adult carer support plan must (or must not) contain; (b) the form of adult carer support plans.

Reason for taking power

23. As the Bill is implemented and becomes embedded in practice there may be evidence to suggest that the list of matters or form of adult carer support plans requires amendment. The powers contained in subsection (3) provides Ministers with the ability to add matters which must be included in an adult carer support plan if required, without having to amend primary legislation.

Choice of procedure

24. This delegated power allows the Scottish Ministers to set out matters of details regarding the content of an adult carer support plan, so it is proposed these regulations are subject to negative
This document relates to the Carers (Scotland) Bill (SP Bill 61) as introduced in the Scottish Parliament on 9 March 2015

procedure. It is not considered that a higher level of Parliamentary scrutiny would be appropriate for a provision of this nature.

Section 9 – Review of adult carer support plans

Power conferred on: the Scottish Ministers
Power exercisable by: regulations made by Scottish statutory instrument
Parliamentary procedure: negative

Provision

25. Section 9 provides that the Scottish Ministers may by regulations make provision about the review of adult carer support plans, including: (a) the circumstances in which plans are to be reviewed; (b) the frequency of review; (c) the procedure for review; (d) arrangements for obtaining the views of adult carers and cared-for persons.

Reason for taking power

26. To assist with the delivery of adult carer support plans, the Scottish Government will define, in consultation with relevant stakeholders, the process for reviewing plans. By using regulations to do this, Scottish Ministers will be afforded the flexibility to review and amend the process as evidence and local practice suggests, especially in relation to the circumstances for review. Such trigger circumstances could include, for example, when the cared-for person is going to be discharged from hospital. As the Bill is implemented and embedded into practice, evidence may suggest that additional circumstances should be added to the list.

Choice of procedure

27. This is subject to negative procedure which is considered appropriate. A higher level of Parliamentary scrutiny is not considered to be necessary for a provision of this operational nature.

Section 12 – Young carers: identification of outcomes and needs for support

Power conferred on: the Scottish Ministers
Power exercisable by: regulations made by Scottish statutory instrument
Parliamentary procedure: affirmative

Provision

28. Section 12 provides that the Scottish Ministers may by regulations make provision about the identification of young carers’ personal outcomes and their needs for support, including: (a) how personal outcomes and needs for support are to be identified; (b) the process for doing so (including arrangements for the involvement of carers and cared-for persons); (c) who may carry out the identification; (d) the sharing of information about carers and cared-for persons for the purpose of identifying personal outcomes and needs for support; (e) the factors to be taken into account in identifying carers’ personal outcomes and needs for support; (f) the circumstances in which carers’ personal outcomes and needs for support should be reviewed.
Reason for taking power

29. This power is equivalent to that described at section 7. It will give the Scottish Ministers the ability to further define the process for identifying young carers’ personal outcomes and their needs for support. It is envisaged for example that regulations may prescribe whether the young carer statement must be prepared face to face or in what circumstances it will be appropriate to prepare the young carer statement by alternative means; how cared-for persons’ views are to be sought and to set parameters around who can share information about the young carer and the cared-for person, for what purpose and in what circumstances, as part of the young carer statement process. By using regulations to do this, Ministers will have the flexibility to amend the process as evidence from local practice emerges.

Choice of procedure

30. The power in section 12 is subject to affirmative procedure (by virtue of section 37(2)(b)). This is considered appropriate as it will provide a higher level of Parliamentary scrutiny for regulations which would directly affect what the primary legislation requires in terms of the extent of the duty to support. Section 12 is significant in determining how personal outcomes are identified and agreed. This is a fundamental element in establishing a young carer’s needs and therefore what the duty to provide support means in a particular instance.

31. Whilst this level of scrutiny involves more parliamentary time, it is considered that the type of provision which will be made under this provision is sufficiently important to justify this, and it is not anticipated that they will be regularly amended.

Section 13 – Content of young carer statement

Power conferred on: the Scottish Ministers
Power exercisable by: regulations made by Scottish statutory instrument
Parliamentary procedure: negative

Provision

32. Subsection (1) sets out what a young carer statement must contain as specified in subparagraphs (a)-(j). Subsection (2) requires that each second and subsequent young carer statement must also contain information about the extent to which support provided under a previous statement has assisted in the achievement of the carer’s identified personal outcomes.

33. Subsection (4) provides that the Scottish Ministers may by regulations make provisions about: (a) other information which a young carer statement must (or must not) contain; (b) the form of young carer statements.

Reason for taking power

34. This power is equivalent to that described under section 8 in relation to adult carer support plans. As the Bill is implemented and becomes embedded in practice there may be evidence to suggest that the list of matters or form of young carer statements requires amendment. The powers
contained in Subsection (4) provide Ministers with the ability to add matters which must be included in a young carer statement if required, without having to amend primary legislation.

**Choice of procedure**

35. This delegated power allows the Scottish Ministers to set out matters of details regarding the content of a young carer statement, so it is proposed these regulations are subject to negative procedure. It is not considered that a higher level of Parliamentary scrutiny would be appropriate for a provision of this nature.

**Section 14 – Review of young carer statements**

- **Power conferred on:** the Scottish Ministers
- **Power exercisable by:** regulations made by Scottish statutory instrument
- **Parliamentary procedure:** negative

**Provision**

36. Section 14 provides that the Scottish Ministers may by regulations make provision about the review of young carer statements, including: (a) the circumstances in which plans are to be reviewed; (b) the frequency of review; (c) the procedure for review; (d) arrangements for obtaining the views of young carers and cared-for persons.

**Reason for taking power**

37. This power is equivalent to that described under section 9 above in relation to adult carer support plans. To assist with the delivery of young carer statement, the Scottish Government will define, in consultation with relevant stakeholders, the process for reviewing statements. By using regulations to do this, Scottish Ministers will be afforded the flexibility to review and amend the process as evidence and local practice suggests, especially in relation to the circumstances for review. Such trigger circumstances could include, for example, when the cared-for person is going to be discharged from hospital. As the Bill is implemented and embedded into practice, evidence may suggest that additional circumstances should be added to the list.

**Choice of procedure**

38. This is subject to negative procedure which is considered appropriate. A higher level of Parliamentary scrutiny is not considered to be necessary for a provision of this operational nature.
PART 3 – PROVISION OF SUPPORT TO CARERS

Section 19 – Duty to set local eligibility criteria

Power conferred on: the Scottish Ministers
Power exercisable by: regulations made by Scottish statutory instrument
Parliamentary procedure: affirmative

Provision

39. Subsection (1) requires that each local authority must set the local eligibility criteria which it is to apply in its area. Subsection (2) provides that the local eligibility criteria are the criteria by which the local authority must determine whether it is required to provide support to carers’ identified needs.

40. Subsection (4) provides that a local authority must, when setting its local eligibility criteria, have regard among other things to such matters as the Scottish Ministers may by regulations specify.

Reason for taking power

41. This power enables the Scottish Ministers to work with relevant stakeholders to set the matters that a local authority must take into account when setting local eligibility criteria. This will ensure a Scotland-wide approach to important national matters when local authorities set their own eligibility criteria. This power will also provide Ministers with the flexibility to amend the regulations if necessary to respond to operational experience. For illustrative purposes only, these matters might include:

- the desirability of taking a preventative approach to avoid carers’ needs escalating to a more severe level;
- a requirement for local authorities to consider the resources which exist within the local community which can provide support to carers;
- a requirement for local authorities to take account of the particular needs of carers who have one or more of the protected characteristics under the Equality Act 2010;
- a requirement for local authorities to identify and take account of specific factors that may indicate a carer is particularly likely to have needs for support e.g. carers who are frail; carers who care for more than one person; carers who care for someone with multiple and complex needs;
- a requirement for local authorities to take account of any particular challenges faced by cared-for people in transition and the impact of those challenges on the carers’ needs e.g. children in transition to adult services.

Choice of procedure

42. This is subject to affirmative procedure which is considered appropriate. The matters which are to be prescribed will form an overarching context for the local eligibility criteria which local authorities will adopt. These criteria are in turn fundamental to the way that the duty to provide
support to carers, under Chapter 2 of Part 3 of this Bill, will operate in practice. A higher level of Parliamentary scrutiny is therefore considered appropriate. Whilst this level of scrutiny involves more parliamentary time, it is considered that the regulations under this provision will be sufficiently important to justify this, and it is not anticipated that they will be regularly amended.

Section 20 – Publication and review of criteria

Power conferred on: the Scottish Ministers
Power exercisable by: regulations made by Scottish statutory instrument
Parliamentary procedure: negative

Provision

43. Subsection (1) requires that each local authority must publish its local eligibility criteria.

44. Subsection (2) provides that the first local eligibility criteria must be published before the end of the period of 6 months beginning with the day prescribed by the Scottish Ministers by regulations.

45. Subsection (3) provides that each local authority must carry out a first review of its local eligibility criteria before the end of the period, prescribed by the Scottish Ministers by regulations, beginning with the day on which the criteria are published.

Reason for taking power

46. The power provided by subsection (2) will be used to set the date for publication of the first local eligibility criteria to ensure that such criteria are in place before the date on which it is agreed that the duty in section 22 will be commenced.

47. It is envisaged that subsection (3) will then be used to bring the review of local eligibility criteria into line with the review cycle for local carer strategies under section 30. The timing for the review of local carer strategies may vary between local authority areas (because it is in turn connected to the timing of strategic plans published under the Public Bodies (Joint Working) (Scotland) Act 2014). It was therefore considered that setting the first review date in regulations would be the clearest way to achieve the desired result of enabling each local authority to review its local eligibility criteria in line with its local carer strategy.

Choice of procedure

48. This is subject to negative procedure which is considered appropriate. A higher level of Parliamentary scrutiny is not required for a provision of this nature.
Section 21 – National eligibility criteria

Provision

49. Subsection (1) provides that the Scottish Ministers may make regulations setting out national eligibility criteria.

50. If national eligibility criteria are prescribed under section 21, they will take the place of any local eligibility criteria which have been made.

51. Subsection (4) provides that regulations under this section may modify any enactment (including provisions resulting from this Bill).

Reason for taking power

52. This power will allow the Scottish Ministers to set national eligibility criteria, if they believe this is required, in the light of the effectiveness of the development and implementation of local eligibility criteria and how local eligibility criteria work in practice. In deciding whether it is necessary to introduce national eligibility criteria, the Scottish Ministers would take account of the views of key stakeholders, including COSLA, local authorities, carer organisations and carers and would consult on any relevant regulations. The Scottish Ministers would seriously consider the setting of national eligibility criteria if there is a clear evidence-based rationale for doing so. The Scottish Ministers would need to carefully consider the format and content of national eligibility criteria before consultation to be assured that national eligibility criteria were workable.

53. National criteria would likely be prescribed with consideration to the factors set out in regulations under section 19 of this Bill and the learning and best practice taken from local authorities setting their own local eligibility criteria.

54. The power to modify enactments is taken to ensure that any changes to other legislation – which are necessary in order for the national eligibility criteria to take the place of local eligibility criteria can be made.

Choice of procedure

55. Affirmative procedure applies to these regulations as the Scottish Parliament would be likely to have an interest in the Scottish Ministers replacing local criteria and decision-making with criteria that operate at national level.
Section 23 – Provision of support to carers: breaks from caring

Power conferred on: the Scottish Ministers
Power exercisable by: regulations made by Scottish statutory instrument
Parliamentary procedure: negative

Provision

56. Subsection (1) provides that a local authority, in determining which support to provide to a carer under section 22(4), must consider in particular whether the support should take the form of or include a break from caring.

57. Subsection (2) provides that the Scottish Ministers may by regulations make provision: (a) about the form of support that may be provided as a break from caring; (b) where the regulations provide for a break from caring to take the form of the provision of replacement care or other services or assistance to the cared-for person, about (i) the role of the cared-for person in relation to how that care or those services or assistance are provided, (ii) whether that care or those services or assistance are to be regarded as support to the carer or to the cared-for person. Subsection (3) provides that support provided under subsection (1) may be provided on a regular basis or on a temporary basis and may be provided for varying periods of time.

Reason for taking power

58. Subsection (2) will provide Scottish Ministers with the power to define what support or types of support should be considered as a break from caring. It will also allow Scottish Ministers to clarify the role of the cared-for person in how that support is provided and whether that support should be regarded as support to the carer or cared-for person. This is especially challenging where it is decided that support for a carer requires services to be delivered to the persons they care for, with regard to obtaining consent from the cared-for persons to receive a service, and how charges, under current charging policies, will be applied. This power will give Ministers the ability to set out detailed procedures to be followed when such an issue arises or is required by changes to policies and practice, including changes to national charging policies covering the cared-for person.

Choice of procedure

59. This is subject to negative procedure which is considered appropriate because the provisions will cover procedural issues rather than matters of whether carers are eligible for support. A higher level of Parliamentary scrutiny is not considered appropriate for a provision of this nature.
Section 24 – Charging for support provided to carers

Power conferred on: the Scottish Ministers
Power exercisable by: regulations made by Scottish statutory instrument
Parliamentary procedure: negative

Provision

60. This section amends section 87 of the Social Work (Scotland) Act 1968 (“the 1968 Act”), which concerns the power of a local authority to charge for services and accommodation provided under certain enactments. Section 87 is amended at subsection (1) and subsection (1A)(a) to allow for charges to be made in respect of services provided under section 22(4) of this Bill. Section 87 also includes a power to make regulations at subsection (5). Under that power, the Scottish Ministers may make regulations modifying or adjusting the rates of such charges, including requiring that they be waived altogether. The amendments to section 87(1) and (1A)(a) made by this section therefore indirectly widen the power at section 87(5).

Reason for taking power

61. This power is required to allow Scottish Ministers to create regulations relating to charges for carers. Regulations under this section would be used to define whether any charges should be applied to carers. It is envisaged that this power will be exercised to achieve the result that carers will not be subject to charges for any support that is provided directly to them.

The power to charge is contained within section 87 of the 1968 Act. Charges for cared-for persons are set in regulations, including the National Assistance (Assessment of Resources) Regulations 1992. Even though carers are providers of services, to set charging policy for carers within primary legislation would not be appropriate.

Choice of Procedure

62. Regulations made under section 87(5) in respect of charging for services to carers are subject to negative procedure (in the same way as any regulations in respect of charging for other services would be). A higher level of Parliamentary scrutiny is not considered appropriate for a provision of this nature.
PART 6 – INFORMATION AND ADVICE FOR CARERS

Section 32 – Short breaks services statements

Power conferred on: the Scottish Ministers
Power exercisable by: regulations made by Scottish statutory instrument
Parliamentary procedure: negative

Provision

63. Subsection (1) requires that each local authority must prepare and publish a short breaks services statement. Subsections (2) and (3) respectively provide for what is meant by a short breaks services statement and that the information and advice contained within such statements must be both accessible, and proportionate to the needs of, the persons to whom it is provided.

64. Subsection (4) provides that the Scottish Ministers may by regulations make further provision about the preparation, publication and review of short breaks services statements.

Reason for taking power

65. The reason for taking this power is to enable the Scottish Ministers to have the flexibility to make further provision about the details of how a short breaks services statement is to be prepared, published and reviewed to reflect any future changes in carer services. The Scottish Ministers will be able to provide further clarity on what is considered a short break together with the type and level of information that short break services statements should contain, as well as how they should be published. This may include where they should be made available and how they are made accessible in formats that take account of, for example, different languages and the specific needs of young carers. The power for the Scottish Ministers to prescribe the review period for short breaks statements is important to ensure that statements are kept relevant and up to date.

Choice of procedure

66. This is subject to negative procedure which is considered appropriate because the regulations will be used to prescribe points of detail which may need to be amended from time to time. A higher level of Parliamentary scrutiny is not considered appropriate for a provision of this nature.

PART 7 – GENERAL PROVISION

Section 33 – Guidance and directions

Power conferred on: the Scottish Ministers
Power exercisable by: directions (no particular format)
Parliamentary procedure: none

Provision

67. This provision amends Section 5 of the 1968 Act (powers of the Scottish Ministers) to provide that the Scottish Ministers may issue directions to local authorities, either individually or
This document relates to the Carers (Scotland) Bill (SP Bill 61) as introduced in the Scottish Parliament on 9 March 2015

collectively, as to the manner in which they are to exercise any of their functions under this Act. Subsection (3) amends section 5(1B) of the 1968 Act in order to add this Bill to the list of enactments in respect of which the Scottish Ministers may issue directions.

**Reason for taking power**

68. This amendment to Section 5 of the 1968 Act allows Scottish Ministers to provide guidance and directions to local authorities in respect of their functions under this Bill. A local authority must comply with any direction made under this section, and directions therefore have legislative character. Directions may be used to provide clarification about how Ministers expect local authorities should carry out the functions set out in the Carers (Scotland) Bill. The powers can be used to provide detail on the matters a local authority should consider in delivering its functions under this Bill. Under the previous legislative framework, for example, The Carer’s Assessment (Scotland) Directions 2014 that were provided to help local authorities determine whether a person met the ‘substantial and regular’ test for a carers assessment under the 1968 Act. Those directions will become redundant once this Bill is commenced, as the new adult carer support plan and young carer statement provisions do not require consideration of whether a person provides a substantial amount of care on a regular basis. However, it is envisaged that directions may be used in future to ensure consistency amongst local authorities in relation to similar types of issues.

**Choice of procedure**

69. The power to issue directions was added to the 1968 Act by the National Health Service and Community Care Act 1990 and has always been exercisable without specific Parliamentary scrutiny. Directions can only be used to deal with the manner in which functions are exercised. They cannot alter the function in any way. Accordingly, they deal with very practical, operational issues and Parliamentary scrutiny is not considered to be appropriate for a provision of this nature.

**PART 8 – FINAL PROVISIONS**

**Section 38 – Ancillary provision**

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**Provision**

70. Subsection (1) provides that the Scottish Ministers may by regulations make such incidental, supplementary, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes of, or in connection with, any provision made by or under this Bill.

71. Subsection (2) provides that regulations made under subsection (1) may modify any enactment (including this Act).

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Reason for taking power

72. The new procedures introduced by the Bill may give rise to the need for ancillary provisions. The Scottish Ministers may need to make such provision by regulation to support the full implementation of the Bill. This provision empowers the Scottish Ministers to make provisions concerning incidental, supplemental, consequential, transitional, transitory provision or savings where this is thought to be necessary.

73. For example, there may be a need to make further changes to the Bill to reflect the implementation of the Social Care (Self-Directed Support) (Scotland) Act 2013 or the Public Bodies (Joint Working) (Scotland) Act 2014 (‘the 2014 Act’), both relatively recent pieces of legislation in the same public policy area as this Bill: for instance if regulations under the 2014 Act amend relevant provisions of the 1968 Act. Equally, it may be necessary to make changes to the 2014 Act or regulations under that Act to ensure that the functions created by this Bill are properly incorporated into integration schemes. The schedule to the Bill makes certain functions capable of delegation, but further amendments will be needed to regulations under the 2014 Act to ensure that they must be delegated. It may also be necessary to make ancillary provision to deal with the way in which integration schemes are revised in order to take new mandatory integration functions into account.

74. Without these powers to make ancillary provision, it might be necessary to return to Parliament, through subsequent primary legislation, to deal with a matter which is clearly within the scope and policy intentions of the original Bill. It would not be an effective use of Parliament’s time, or the Scottish Government’s resources to deal with such matters through primary legislation. They are best addressed through subordinate legislation.

Choice of procedure

75. If regulations made under this section add to, replace or omit any part of the text of an Act they are subject to the affirmative procedure. This approach is in line with the approach taken in most Bills and there are not considered to be any special factors justifying a different approach in this case.

Section 40 – Commencement

Power conferred on: the Scottish Ministers
Power exercisable by: regulations made by Scottish statutory instrument
Parliamentary procedure: laid, no procedure

Provision

76. Subsection (1) provides that this section and sections 36 to 38 and 41 come into force on the day after Royal Assent.

77. Subsection (2) provides that any remaining provisions of this Act come into force on such date as the Scottish Ministers may by regulations appoint. It is usual to allow such provision in conjunction with a power to commence the provisions of a Bill. Subsection (3) clarifies that different days may be appointed for different purposes.
78. Subsection (4) provides that regulations under subsection (2) may include transitional, transitory or saving provision.

**Reason for taking power**

79. Some formal sections of the Bill are commenced on the day of Royal Assent. The Scottish Ministers may consider it appropriate for the substantive provisions of the Bill to be commenced at such a time as they appoint to be suitable. This is to provide flexibility to enable the provisions of the Bill to be brought into force in a coordinated and managed way, so as to give proper effect to the Bill without having to resort to primary legislation. It is usual practice for such commencement provisions to be dealt with by subordinate legislation. It should be noted that any transitional, transitory or saving provision under subsection (4) is separate to and narrower than the power to make equivalent provision under section 38, being dependent on commencement.

80. As an example of the exercise of this power, savings provision is likely to be required as the current carer’s assessment process, under sections 12AA and 12AB of the Social Work (Scotland) Act 1968, and sections 24 and 24A of the Children (Scotland) Act 1995, are replaced by the adult carer support plan and young carer statement processes contained within Part 2 of this Bill. This could amongst other things include provisions allowing an existing carer’s assessment to be continued and used to provide support to an eligible carer until such time that the assessment is replaced by an adult carer support plan or young carer statement.

**Choice of procedure**

81. It is normal practice for commencement regulations to be laid before Parliament but not subject to additional procedure. Commencement regulations bring into force provisions whose policy have already been considered by the Parliament during the passage of the Bill. It is thought to be sufficient that any regulations under this section are laid before Parliament as soon as practicable after it is made (and before it comes into force). This is provided for by virtue of section 30(2) of the Interpretation and Legislative Reform (Scotland) Act 2010.
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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Dennis Robertson
Scottish National Party

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.  

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.

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. 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.”

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.”

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.

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”. 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.

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.
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.\(^\text{15}\) 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’.\(^\text{16}\)

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—

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"The ACSP and YCS will be light-touch as necessary so as not to discourage carers from having an ACSP or YCS as appropriate."\(^\text{17}\)
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 YCS 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 ACSP 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.\(^8\) She highlighted a study in Edinburgh that showed that—

“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.”\(^8\)

90. In this regard, carer organisations\(^8\) and local authority\(^8\) 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.\(^8\)

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.\(^8\) She agreed that GP registers could improve the identification of hidden young carers.\(^8\)

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.\(^8\)
94. 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.

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

96. 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.

97. 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.

98. 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.

99. 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.

100. 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

101. 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.93

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.94 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”.95

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.”96

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.97

105. In responding on this issue the Minister committed to seriously consider any suggested amendments as the Bill progressed to Stage 2.98

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.  

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.  

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. However, the Committee also heard that young carers often reach a crisis point before they are referred to carer services.  

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.  

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.”  

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’).
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 plans114 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.

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.”

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.”

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.

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.

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.
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.\(^{176}\)

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.\(^{177}\)

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.”\(^{178}\)

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.\(^{179}\)

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”.\textsuperscript{181} 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.”\textsuperscript{182}

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.”\textsuperscript{183}

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.\textsuperscript{184}

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.\textsuperscript{185}

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.

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.  

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.

5 SPICe Briefing 15/24.
6 Policy Memorandum, paragraph 10.
7 Policy Memorandum, paragraph 13.
8 Policy Memorandum, paragraphs 27-32.
9 Policy Memorandum, paragraph 29.
10 Policy Memorandum, paragraph 30.
11 Policy Memorandum, paragraph 31.
12 Policy Memorandum, paragraph 32.
13 Policy Memorandum, paragraph 18.
14 Policy Memorandum, paragraph 2.
15 Section 12AA of the Social Work (Scotland) Act 1968.
16 Policy Memorandum, paragraph 58.
17 Policy Memorandum, paragraph 39.
19 SPICe Briefing 15/24.
20 SPICe Briefing 15/24.
22 SPICe Briefing 15/24.
27 SPICe Briefing 15/24.
28 SPICe Briefing 15/24.
36 Section 3 of the Social Care (Self-directed Support) (Scotland) Act 2013.
37 SPICe Briefing 15/24.
38 SPICe Briefing 15/24.
40 SPICe Briefing 15/24.


SPICe Briefing 15/24.

Health and Sport Committee fact-finding meeting, Scottish Parliament, 18 June 2015.


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.
Health and Sport Committee
Stage 1 Report on the Carers (Scotland) Bill, 10th Report, 2015 (Session 4)
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 98.

SPICe Briefing 15/24.


EXTRACTS FROM THE MINUTES OF THE HEALTH AND SPORT COMMITTEE

10th Meeting, 2015 (Session 4)

TUESDAY 24 MARCH 2015

Present:
Graeme Dey (Committee Substitute) Bob Doris (Deputy Convener)
Rhoda Grant Colin Keir
Richard Lyle Nanette Milne
Dennis Robertson Dr Richard Simpson

Apologies were received from Mike MacKenzie, Duncan McNeil (Convener).

In attendance: Dr Mary Neal (Committee Adviser)

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

Present:
Bob Doris (Deputy Convener) Rhoda Grant
Colin Keir Richard Lyle
Mike MacKenzie Duncan McNeil (Convener)
Nanette Milne Dennis Robertson

Apologies were received from Dr Richard Simpson

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.

15th Meeting, 2015 (Session 4)

TUESDAY 12 MAY 2015

Present:
Bob Doris (Deputy Convener)     Rhoda Grant
Colin Keir                      Richard Lyle
Mike MacKenzie                  Duncan McNeil (Convener)
Nanette Milne                   Dennis Robertson
Dr Richard Simpson

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).

Carers (Scotland) Bill: The Committee took evidence from—

Marjory Jagger, Manager, Skye and Lochalsh Young Carers.

17th Meeting, 2015 (Session 4)

TUESDAY 26 MAY 2015

Present:
Bob Doris (Deputy Convener)     Rhoda Grant
Colin Keir                      Richard Lyle
Mike MacKenzie                  Duncan McNeil (Convener)
Nanette Milne                   Dennis Robertson
Dr Richard Simpson

Also present: Adam Ingram, Jackie Baillie

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.

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.

18th Meeting, 2015 (Session 4)

TUESDAY 2 JUNE 2015

Present:
Bob Doris (Deputy Convener)  Rhoda Grant
Colin Keir                      Richard Lyle
Mike MacKenzie                Duncan McNeil (Convener)
Dennis Robertson              Dr Richard Simpson

Apologies were received from Nanette Milne

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

Present:
Bob Doris (Deputy Convener)  Rhoda Grant
Colin Keir  Richard Lyle
Mike MacKenzie  Duncan McNeil (Convener)
Nanette Milne  Dennis Robertson
Dr Richard Simpson

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

Present:
Bob Doris (Deputy Convener)  Rhoda Grant
Colin Keir  Richard Lyle
Mike MacKenzie  Duncan McNeil (Convener)
Dennis Robertson  Dr Richard Simpson

Apologies were received from Nanette Milne.

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

Present:
Malcolm Chisholm  Bob Doris (Deputy Convener)
Rhoda Grant  Colin Keir
Richard Lyle  Mike MacKenzie
Nanette Milne  Dennis Robertson
Apologies were received from Duncan McNeil (Convener)

**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.

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**24th Meeting, 2015 (Session 4)**

**TUESDAY 15 SEPTEMBER 2015**

Present:
Malcolm Chisholm
Rhoda Grant
Richard Lyle
Dennis Robertson

Bob Doris (Deputy Convener)
Colin Keir
Mike MacKenzie

Apologies were received from Duncan McNeil (Convener), Nanette Milne

**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.
Oral evidence to the Health and Sport Committee

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

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.

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

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).
Marjory Jagger, Manager, Skye and Lochalsh Young Carers.

17th Meeting, 2015 (Session 4), Tuesday 26 May 2015

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.
18th Meeting, 2015 (Session 4), Tuesday 2 June 2015

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

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.
Scottish Parliament  
Health and Sport Committee  
Tuesday 5 May 2015  

[The Convener opened the meeting at 10:08]  
Carers (Scotland) Bill: Stage 1  

The Convener (Duncan McNeil): Good morning and welcome to the 14th meeting in 2015 of the Health and Sport Committee. As usual, I ask everyone who is present to switch off mobile phones, because they can interfere with the sound system. I draw people's attention to the fact that members and officials will be using electronic devices instead of hard copies of the committee papers.

Our first and only agenda item today is a round-table evidence session on the Carers (Scotland) Bill. It is the committee's first evidence session on the bill. We are a wee bit late in starting because we had a briefing on the bill from Scottish Government officials prior to the meeting.

As is normal with a round-table session, we will introduce ourselves.

My name is Duncan McNeil. I am the MSP for Greenock and Inverclyde and the convener of the committee.

Andrew Strong (Health and Social Care Alliance Scotland): I am the policy and information manager at the Health and Social Care Alliance Scotland.

Bob Doris (Glasgow) (SNP): I am an MSP for Glasgow and the deputy convener of the committee.

Fiona Collie (Carers Scotland): I am policy and public affairs manager for Carers Scotland.

Mike MacKenzie (Highlands and Islands) (SNP): I am an MSP for the Highlands and Islands region.

Dennis Robertson (Aberdeen West) (SNP): I am the MSP for Aberdeen West.

Heather Noller (Carers Trust Scotland): I am the policy officer for the Carers Trust Scotland.

Colin Keir (Edinburgh Western) (SNP): I am the MSP for Edinburgh Western.

Claire Cairns (Coalition of Carers in Scotland): I am network co-ordinator for the Coalition of Carers in Scotland.

Richard Lyle (Central Scotland) (SNP): I am an MSP for the Central Scotland region.

Scott Richardson-Read (Scottish Transitions Forum): I am policy and development worker for the Scottish transitions forum, which is part of the Association for Real Change Scotland.

Nanette Milne (North East Scotland) (Con): I am an MSP for North East Scotland.

Suzanne Munday (Minority Ethnic Carers of People Project): I am the chief executive of MECOPP.

Rhoda Grant (Highlands and Islands) (Lab): I am a Highlands and Islands MSP.

Ben Hall (Shared Care Scotland): I am communications developer for Shared Care Scotland.

Rhoda Grant: Is anything missing from the bill that witnesses would have liked to see in it?

Fiona Collie: There are probably a couple of things missing from the bill. One of our primary focuses has been on hospital discharge, which we know is a difficult time for carers. Often, it is when someone first becomes a carer. In our surveys, large proportions of carers say that they are not consulted on, or involved in, discharge. One of the main difficulties is that about 20 per cent say that the person for whom they care has to be readmitted within one month.

It is important not only that carers have a choice about caring, but that they are fully involved in decisions from admission to discharge, and that social care services are in place. If carers are not involved fully, that cannot happen. In 2001, we did some research, and the picture was exactly the same then. Many discharge policies and protocols are in place, but at the moment they do not appear to be working, which is why we would like there to be in the bill a duty to involve and inform carers.

The Convener: Does Suzanne Munday want to comment? I am sorry—the light tends to cause glare.

Suzanne Munday: I am sorry.

The Convener: It is just on your name plate, not on you. [Laughter.]  

Suzanne Munday: You are making me blush now.

We would also like an equal opportunities section to be included in the bill. That is necessary because there is a substantial body of evidence to show that limited progress has been made in supporting carers who have one or more protected characteristics. That is normally seen as relating to black and minority ethnic carers, but we are talking about the whole range of protected characteristics—for example, carers within the lesbian, gay, bisexual and transgender community or disabled carers, who are a growing number,
according to the evidence that we have. The bill could be strengthened by including such a section.

Claire Cairns: We would also like the bill to include a statement or principle about carers being equal partners in care. The Community Care and Health (Scotland) Act 2002 recognises them as key partners in providing care, and that was strengthened in the carers strategy, in which they were recognised as equal partners in care.

We had a consultation session with our members in March, at which it came across strongly that they would like carers to be equal partners under the bill. Many people also put that in their submissions to the committee. Carers, local care organisations, local authorities and the Convention of Scottish Local Authorities acknowledge carers as equal partners in their submissions.

The Convener: Scott—did you indicate that you want to comment?

Scott Richardson-Read: No. I was just scratching my eye.

The Convener: If you make a bid to speak, that is it—you have to do it. [Laughter.]

10:15

Andrew Strong: The Health and Social Care Alliance Scotland and, I know, our members think that the bill could be strengthened by the inclusion of a specific provision on emergency planning in the adult carer support plans and in the young carer statement. That would make a difference.

I take the opportunity to remind the committee that that issue was first raised in 2004, with a petition from the Murray Owen older carers group on the growing number of older carers who were caring for people with learning difficulties. Limited progress has been made across the country, and I was surprised not to see provisions in the bill on the matter. The problem has not reduced since 2004: there are more older carers out there. According to the latest Scottish Government statistics, 11 per cent of people aged over 65 are carers and more than half of those 11 per cent provide care for 35 hours or more a week.

Although the Scottish Government has responded to the calls for emergency provision, it has said that not all carers require an emergency plan. I join Enable Scotland, which is a member of the Health and Social Care Alliance Scotland, in contending that 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. We are aware of situations in which the carer of a person with learning disabilities can no longer care or, for example, the person’s mother has died, and they have been given an emergency respite place for longer than would be expected. Carers are worried that that is what will happen to their sons and daughters. We must have in place provisions that prevent that from happening.

Fiona Collie: I want to add a couple of other issues that the bill provides an opportunity to explore. The role of the wider national health service is mentioned, but it is not explored as deeply as it could be. The role of general practitioners will also be absolutely critical. We have GP registers, which are very good, but the question is what happens when someone is on a GP register. The bill is an opportunity to formalise or to make clearer what should happen. That could be a referral to a local carer support centre or a referral for an adult carer support plan. It could be something as simple as an appointment acting as a trigger for a discussion about a person’s caring role, what that means for their health and whether they might need, for example, a health check, which might relate to the services that a practice offers.

The NHS’s wider involvement in the development of carers’ strategies is also an issue. It is clear that local authorities will have the duty to produce the strategies, but they should be produced jointly—especially in the light of integrated services, so that carers have a journey across both services and they are clear about what they are entitled to expect.

We have also highlighted in our submission an issue that a number of carers highlighted to us: the opportunity to look at a method of redress. That issue has been on the table for quite a long time— I looked back and saw that it has been around since 2008. The matter moved forward and was included in the 2011 review of social work complaints, which recommended that there be a role for the Scottish Public Services Ombudsman in the final stage of social work complaints. At the moment, people who complain about social work services can go to the ombudsman only on the grounds of service failure or maladministration. However, it was recommended that there should be a balance and that the approach should be the same as it is for the NHS, in respect of which there is an opportunity for the SPSO to make decisions on professional judgment.

Something is missing: carers must have the opportunity to get redress and to get answers to problems without having to go to judicial review and to involve solicitors and get legal advice, with the cost and significant stress that that entails. The committee has an opportunity to explore further to find out where we are with that and how it can link
not only to the bill, but to the wider integration agenda.

**The Convener:** Scott Richardson-Read is indicating that he wants to speak.

**Scott Richardson-Read:** I am not scratching my eye this time. [Laughter.]

**The Convener:** You have made that clear.

**Scott Richardson-Read:** I second the comment about where accountability should sit in the bill. On transitions, the bill seems to be, especially for young carers, a bit vague about how it meshes with the Children and Young People (Scotland) Act 2014 on the child’s plan and risks to wellbeing, and also how it meshes with the co-ordinated support plan and additional support for learning. It looks very much as though, under the bill, the young carers support plan will be supplemental to the existing robust planning exercises. It would be good to see that being dealt with as it is under the duties in the Children and Young People (Scotland) Act 2014, in which the model is “one child, one plan”, in order to prevent duplication. There should also be accountability for when carers’ plans are not followed through, as young carers make the transition to adult carers. Will accountability lie with the local authority or, as colleagues have said, will there be something bigger than that—will it lie with the ombudsman or wherever?

**Claire Cairns:** We welcome the duty on local authorities to develop a local carers strategy. In addition, they should provide a financial breakdown of the resources that they are going to direct to carers support. The financial memorandum says that there are not adequate data on what resources are directed to local carers support. We think that that needs to be part of the local carers strategy but also part of the local joint strategic commissioning plans. New resources will be directed towards carers support, for the new duties under the bill; we must ensure that they are additional to the resources that are currently directed to local carers support. The best way of doing that is through the two mechanisms that I have just mentioned.

**Ben Hall:** I will add to what Claire Cairns just said about the carers strategy. There is a missed opportunity to require local authorities to plan for the provision of short breaks to allow carers to have choice and flexibility about the services that they access locally. If there was within the carers strategy a requirement on local authorities to do that, it would strengthen the bill from a carers’ perspective.

**The Convener:** That was a quick run-through of the issues, but it was a pretty good summary of the submissions that we have received. We should maybe attempt to get behind some of the issues.

We have heard about the single journey back and forth between the community and the hospital, hospital discharge, equality, emergency planning, the financial resources that need to be identified to improve things for carers, the need for short breaks, and the need for clarity within the legislative landscape. There are a number of issues; I would like to explore some of them usefully in the next hour or so, in order to add to the evidence that we have received. Do witnesses want to take any of those issues a wee bit further, or would it be more helpful to have direct questions from committee members?

**Scott Richardson-Read:** I will take the discussion forward now and will then pass it on to colleagues.

Carers have come to us with some really unpleasant stories—for example, the young person for whom they care leaves school, but does not meet the eligibility criteria for health and social care services, so the carer, who was in full-time employment, has to quit their job. Carers also end up getting divorced from their husband, for example. I am painting a bleak picture, but such are the stories that we hear. Carers have been known eventually to put themselves at risk in order to get services to support the young person for whom they are caring. The eligibility criteria for access to services are a big issue for carers. That is an area of concern in terms of the transition to being an adult carer. When young carers make the transition to become adult carers, they have to go through a reassessment process.

We hope that the bill will come with some financial input for local authorities, but the question remains for our members whether the carer’s assessment unlocks funds to the carer, whether it merely unlocks the ability for carers to access respite, or whether there are other services that it unlocks in local authorities. We have to bear that in mind in a self-directed support budget. Will it all be in one pot? Will the carer have a pot of money of their own to provide services for themselves in order that they can continue to support a person? How will all that mix together with the Children and Young People (Scotland) Act 2014 and all the other legislation? The picture looks quite bleak, at the moment.

**The Convener:** What leads you to believe that there will be sufficient additional funds to meet the additional demand arising out of the legislation and give you those individual pots of money?

**Scott Richardson-Read:** I have some figures. The average cost of a carer’s assessment was £176—someone can correct me if I get the figures wrong—and it looks as if around £88.5 million will be put into the local authorities at stage 2. From doing very fast maths—I am not an expert at maths—there will be roughly £2.5 million per local
authority to provide those services. Will that be fed into a self-directed support set-up budget, or will it sit separately for the carer to get support to continue to care? How will that look with the legislation roll-out—will the moneys be joined together or separate?

Claire Cairns: I would love to say that I am about to answer that question, but I will probably ask some more questions.

The Convener: This is the opportunity to do that. We will ask questions on your behalf of the Government and its ministers.

Claire Cairns: Thank you.

As the national care organisations, we have also put in a submission to the Finance Committee. Obviously, to do that, we looked through the financial memorandum and looked at how costs have been estimated and what the demand is likely to be in care support.

We have a few questions about resources for the bill. Obviously, it is incredibly important that there are adequate resources for the bill, or it will be very difficult for local authorities to implement the duties, and that may result in cuts to other services. We want to avoid that happening, because any cuts to service users will automatically impact on carers, as well, as it is a family unit.

We have questions about the financial memorandum. First, quite a few carers funding streams are coming to an end. For example, the respite funding of £2.28 million is coming to an end. Also, although under the change fund 20 per cent of the resource was directed to carers support, the same thing has not happened with the integrated care fund, so there is insecurity around that funding. The care information strategy funding of £5 million is also coming to an end. In the financial memorandum, resources are directed to the NHS, for example, which may cover the loss of the £5 million, but if the financial memorandum is costing the bill’s additional duties and we are already in deficit because we are losing funding from other streams, will the money be adequate?

We also have a question about preventative support. The financial memorandum costs additional duties, but early preventative support will be very important in providing a framework for carers support. That is often provided through the third sector, and it is really important that that funding continues because, apart from anything else, demand will increase when information and advice and adult care and support plans are universally provided. Naturally, the carers who do not meet the eligibility criteria will still need some form of service, and that will be likely to be preventative support that is provided through the third sector. That needs to be considered as well.

No money is going towards carer support in the third sector, as indicated through the financial memorandum, so we are a bit concerned about that.

The costings in the financial memorandum are another issue. For example, there is the cost of new posts to meet the duty to provide information and advice, but there are already posts in the third sector that provide that service. We need to ensure that they will be additional posts to cope with the increasing demand rather than the funding that already exists simply being replaced.

I apologise for not providing solutions; I have asked more questions.

The Convener: No—providing that context is useful.

Dennis Robertson is going to come in on something else.

10:30

Dennis Robertson: I would like to explore the issue of eligibility criteria. From the evidence that we have received, it seems to be a subject on which views are polarised. Some people prefer a national approach to the setting of eligibility criteria, while others prefer a more local approach.

I believe that a majority of the witnesses who are here today support a national framework of eligibility criteria. Why do you prefer a national approach over a local approach? To pick up on what Scott Richardson-Read said about transition, do we have enough provision to ensure that the eligibility criteria will deal with the transitions that people make, especially the transition that young people make from young carers to adult carers?

I would like to hear why the witnesses think that a national framework of eligibility criteria is a better pathway to follow than a local approach. Perhaps I am wrong—some of you might prefer a local approach.

Scott Richardson-Read: I will get the ball rolling. In referring to eligibility criteria, our members find that their favourite phrase is “postcode lottery”. Every local authority has a very different approach to funding services, which should be based on the measurement of need. Local authorities should also capture unmet need.

Following the work of people such as Colin Slasberg, Kirsten Stalker and the Commissioner for Children and Young People in Scotland, we are finding that, although the eligibility criteria across the whole of Scotland might be set at “critical” or “substantial”, the services that are provided under the moniker of “critical” or “substantial” vary greatly across the country. Some local authorities offer quite a wide collection of services under the “substantial” eligibility criteria, while others offer
just one or two. Depending on factors such as rurality, some authorities might not be able to offer much at all. Across Scotland, the picture on eligibility criteria is very mixed. For people who might have had an out-of-authority placement at a school where they were looked after, moving back into their local authority area can cause a lot of issues.

A national model of eligibility criteria would be helpful, but there is a problem with the eligibility criteria that means that they do not allow for preventative work to take place in health and social care. Sir Harry Burns and the chief medical officer in England are strong proponents of a preventative model of health and social care. If we set eligibility criteria around risk prevention rather than preventative work, that will mean that we cannot support people who might need a little bit of support to stop them going into crisis. In other words, we will wait for people to go into crisis, who will then be accommodated or taken away from parents because they can no longer manage to provide support. That is my tuppenceworth on why a national framework of eligibility criteria would be a useful model.

**Claire Cairns:** Carers came out very strongly in favour of national eligibility criteria. When proposals for the bill were being consulted on, we consulted more than 500 carers around Scotland and more than 95 per cent of them said that they supported national eligibility criteria. Their reason for doing so was that they wanted an end to the postcode lottery. That ties in with what Scott Richardson-Read said.

For most carers, the bill is about having rights and entitlements to support for the first time. It is about having an assessment and then knowing that they will be able to get the services that they are assessed as needing, provided that they meet the eligibility criteria. That is why the eligibility criteria are so important. Carers have said that they want to know what they are entitled to and what their rights are. If we have local eligibility criteria, the trouble is that we will have variation across the 32 local authorities. There will be 32 different systems, so it will be extremely difficult for carers to know what they are entitled to.

In addition, the system will be prone to more variation. For example, if local authorities are allowed to vary eligibility criteria, when carers finally get to a point at which they get the support that they need—many carers say that they have to battle for it—they will not be secure in receiving that support, because it could change in a year or two. Setting national eligibility criteria means that carers know what level of support they are entitled to.

In addition, we can look at what has been done in other countries. For example, England and Wales have introduced national eligibility criteria. Throughout Europe, there are many examples of countries that have national eligibility for social care support; in fact, we found no examples of local eligibility. Examples show that national criteria are the best way to provide equity and transparency and ensure that people know what they are entitled to.

It is interesting to note that only five of the 69 submissions on the bill came out in support of local eligibility criteria. The rest, where they stated a preference, were in favour of national criteria. That includes all the submissions from local and national care organisations and carers themselves, and a few interesting places. A couple of local authorities—East Dunbartonshire Council and South Lanarkshire Council—supported national eligibility criteria. The Scottish Human Rights Commission and the Equality and Human Rights Commission said that they supported national eligibility criteria because we would otherwise have a lack of equity throughout Scotland.

**Andrew Strong:** Claire Cairns mentioned the Scottish Human Rights Commission. Its concern is about the portability of care. If someone lives in one local authority and receives services there, they will be unable to move into another local authority if they will not receive services there. We therefore agree on the need for national eligibility criteria.

The postcode lottery is already happening in some cases in health and social care. We talk about charging for non-residential social care, for which there are 32 different systems all charging different amounts for different types of care. If you live on one street and you are in one local authority, you will pay more than someone who is in the next street in another local authority. It creates a divide between people. That issue is currently being progressed through the Public Petitions Committee. We would like the bill to go down a different track altogether.

**Fiona Collie:** We are not talking about cutting across local accountability and discretion to develop services in different ways. Each area will be different. Services in Glasgow will be different from services in a rural area. What we are talking about primarily is looking at where thresholds are set, so that it is clear to carers that, if they meet a certain threshold, they will receive support. It may be different in different areas, but it gives carers an idea about whether they will get something.

**Dennis Robertson:** I wonder whether we can explore that a wee bit.

**The Convener:** You can, but I will always take the panellists’ views in these situations, and I have
had a bid from Mike MacKenzie—I do not know whether it is on this subject.

Mike MacKenzie: It is exactly the same territory. Dennis Robertson has covered it very well, so I am happy to withdraw my question in favour of Dennis pursuing his.

The Convener: I am just explaining for Dennis Robertson’s benefit that I see the different bids and I am communicating to him that there are other bids. I will take the panellists first.

Ben Hall: This is a very quick point. I thought that it might be useful if I gave a concrete and simple example, which is the differences between the short breaks that are provided around the country. Some local authorities provide holiday play schemes for families with disabled children and some local authorities do not. It means that some families struggle throughout the holiday period. It has an impact on their health and wellbeing and on their employment possibilities. Equity across the country would be desirable.

The Convener: I may be going against my ruling, but is there not a need for caution here? The expectation is that, if we have national eligibility criteria, everybody will apply the highest standard, but if we are working out a national standard, negotiations are more likely to lead to the middle road. I am sounding a note of caution here about a national standard versus an aspiration. I understand that an eligibility assessment could take 12 weeks, yet some local authorities are doing better than that. There are also issues to do with children, as in the examples that Ben Hall gave. Am I right or wrong in thinking that there are two different things here?

I see that I have got a response. We will hear from Claire Cairns, Suzanne Munday and Ben Hall. Scott Richardson-Read wants back in, too—in fact, everybody wants back in.

Claire Cairns: I will follow up on that point. We would view the national criteria as being a minimum standard. Local authorities would still have the power to provide for carers over and above that service. The bill provides both the power and the duty to support carers.

We believe that carers are not being provided with the same level of service in some areas, so we need to bring that up to a minimum standard. In other areas, authorities may decide to continue at the level that they are at, which is possibly higher. We have discussed that a lot with carers. We have ensured that they realise that, if there are to be eligibility criteria, there is a possibility that their support could go up as well as down. Across the piece, carers say that they want it to be fair, and they understand the position, but they want to know what they are entitled to.

The Convener: That does not answer the question about the postcode lottery, which is what the big objection is to. If people can apply a minimum standard but some local authorities, given their circumstances, can do better, that is a postcode lottery.

Claire Cairns: There is still a minimum standard, though, which I think is the more important thing.

The Convener: We are just exploring the idea. You say that that is what is important. There are some strong points about people moving from one area to another. People could still find themselves in a situation, in the scenario that you have described, where their package will be different.

Scott Richardson-Read: We should perhaps think about eligibility criteria, rather than what services are provided and access to services. Eligibility criteria are gatekeeping tools. It is necessary to meet them to be eligible for a service; what that service is is then up to the local authority. The idea is that those who do not meet the gatekeeping eligibility criteria will not be able to access any potential statutory or third sector help from that local authority. We are trying to ensure that the keys to accessing services across the whole of Scotland are equal. The services that are then delivered behind that are bespoke for the local authority, depending on need. That is how I view it.

The Convener: That is clear.

Ben Hall: You are right to say that there will still be differences between—and probably within—local authorities, but those differences would be reduced. The eligibility criteria add to the transparency of access to services and, therefore, the local accountability of people in providing services. That leads on to a democratic process, where people can challenge their local services or not, as they choose. Without that, as we are told time and again, people do not know what services are available, how to get to them or what the routes are. That applies to front-line support staff and social work staff as well as to carers. There is no clear record of what is available to everybody, so it is very much a question of how things fall in each case.

Suzanne Munday: My colleagues have put things more eloquently than I could, but I wish to reinforce the point that Claire Cairns has made. We have evidence of carers having to wait for a significant amount of time for a carers assessment. By the time the carers assessment comes around, the caring situation has ended, either through bereavement or through the person going into longer-term care. We need greater clarity and consistency across Scotland on the
rights that carers have and on the eligibility criteria.

**Mike MacKenzie:** It occurs to me that local authorities have different cost pressures. In particular, in these difficult times, there could be a tendency to manipulate or ease their budgetary pressures through raising eligibility criteria, which seems to me to be profoundly wrong, but I wonder what the panel members feel about that.

10:45

**Ben Hall:** I work with a network of local authority workers running short-break bureaux, which are in-house offices that provide support to enable accessible breaks and breaks from caring. Anecdotally, we have heard that there is increased pressure to move from providing preventative breaks to providing crisis intervention. That is already happening.

**Scott Richardson-Read:** I draw the committee’s attention to the report from Scotland’s Commissioner for Children and Young People, “It Always Comes Down to Money: Recent changes in service provision to disabled children, young people and their families in Scotland”. The report was written by Dr Kirsten Stalker, who explored the experience of the people who use services versus the experience of local authorities, and compared and contrasted eligibility criteria and people’s experiences across Scotland. It painted a picture that suggests that local authorities are changing their eligibility criteria because of austerity and budgetary concerns, which is not a good picture. I can provide the committee with that information after the meeting.

**Dennis Robertson:** I have a question on a point that Claire Cairns and Fiona Collie raised about some of the discretionary aspects. Having a duty is absolutely fine, but when powers are diluted, local authorities can either do things or not, because there is no enforcement behind those powers.

Remote and rural aspects can come into play, and Scott Richardson-Read mentioned a postcode lottery. I am not particularly comfortable with that term, but is there a problem in implementing the minimum standard that Claire Cairns mentioned? Discretion is discretion, and I wonder whether, if an authority just does not have the resources, discretion simply means that it will not provide the service.

**Claire Cairns:** There are two points. First, we think that it is important that the power is in the bill, because, to go back to what we said about the importance of preventative support, we need a power to support carers who do not meet eligibility criteria. That is not to say that, in a way, that support is not insecure, so we welcome the provision of firm rights for carers in the bill. At present, there is an excellent network of local carer support across Scotland that is envied by many European countries, and it is really important that that is protected. We would like the bill to provide resources for that preventative support because of the increase in demand that there will be on it.

Things are tight, and carer support has always been insecure because carers have had no statutory right to support, which is why we are very keen to see the bill passed. However, as I said, we need to keep an eye on the preventative support provision that goes with the powers in the bill.

On the difficulty of supporting people in rural and remote communities, we have a rural and remote carers working group, from which we sent the committee a specific submission. People in remote and rural areas can experience difficulties. For example, whenever the person who is looked after or the carer is provided with an element of support, it is often very difficult for them to take up that support because the services are just not there.

We have examples from the Western Isles in which people have been given a direct payment but have not been able to purchase a service or employ a personal assistant because there is very low unemployment in the area. There are also problems related to geography. We put forward in our submission a few solutions around some of the challenges that are presented in working in rural areas.

There are some very good examples of good practice in our network. For example, local third sector organisations have been able to employ outreach workers who can cover a larger area to provide support to carers, particularly in island communities. In Argyll and Bute, the local care centre in Lochgilphead works through general practices on some of the islands to support carers, and peer support groups have been set up and sessional workers employed on the islands to ensure that carers in the very remote areas in Scotland get support.

We believe that there are solutions to support carers and implement the duty, but they may require more resources, particularly in relation to transport costs.

**The Convener:** I think that Scott Richardson-Read also wants to comment.

**Scott Richardson-Read:** I support what Claire Cairns has said. We recently travelled all around Scotland, looking at issues in connection with the autism strategy in rural areas, and we found a similar picture: the more rural you are, the harder it is to get services put in place. A lot of people are just getting direct payments and are having to
leave their job to become a carer for a young person because they cannot employ a personal assistant under option 1 for self-directed support, which is potentially their only recourse to services. Some inventive and useful models are starting to arise across Scotland, but I second what Claire Cairns said.

Bob Doris: We are moving away from the eligibility criteria and towards the commissioning, promotion and development of services once needs have been identified and an attempt is made to meet them. I will make a brief comment on eligibility criteria. I may be confused, but it seems that working out the needs that should be identified is being conflated with ensuring that the approach is nationally consistent, as opposed to having local discretion and delivery to meet those needs.

It was Mr Hall who gave me that conflation. Let us suppose that someone takes a break from caring, that a cared-for person is given a break away with the carer, or that some other provision is put in place. Some local authorities may give a certain number of days during the summer and others may give nothing at all, or may give a number of days that is somewhere in between. For me, that conflates the identification of a need that has to be met and the delivery of a service on the ground, but they are two very different things. During the conversation about eligibility criteria, it became evident to me that the witnesses were perhaps talking about those two different things under the one heading.

I am not sure how we can get a system in which every young carer and every adult carer gets an identical level of service provision, because a lot of it is based on the resource allocation that each local authority decides to put into services. I accept that there are issues around how we identify the type of needs that have to be met. I would like some opinions on that, because of that conflation—that is my main point.

I also note that, although the bill places a duty on local authorities relating to local eligibility criteria, there is also a power for ministers relating to national eligibility criteria. After three years, the criteria have to be refreshed. As we develop what we do for carers and cared-for people in Scotland, I suggest that we acknowledge that the Government has the power under the bill to make national eligibility criteria if they are required, and that, after three years of operating the local eligibility criteria, that might be a way forward. That is particularly relevant given the tensions between the resource allocations that local authorities decide to make and other decisions to prioritise other needs, and the confusion between service delivery and eligibility criteria. That makes sense to me, convener; I hope that it makes sense to others.

The Convener: Fiona Collie wants to respond to that, and I will also accept other comments.

Fiona Collie: I take Bob Doris’s point. I think that Scott Richardson-Read made the point well about eligibility criteria being primarily about gate keeping and about identifying the point at which carers know that they will get some resource. We very much believe that that should be a national approach. I take the point about setting national eligibility criteria after three years if local criteria do not work, but our view is that it would be better to develop something that works nationally in the first place, rather than waiting three years.

Deciding what carers should be entitled to expect is something that we should explore, and the national carer organisations are doing that. We are working on the threshold part of the criteria and examining what that might look like in practice. It is about trying to provide a solution rather than saying that we do not agree with what is proposed. We are trying to come up with a solution that we think might work.

The eligibility criteria are primarily about thresholds, and we can work together on what the standards might look like; what the adult carers support plan might look like when carers come to the table to get it; and what things might look like across Scotland.

The term “postcode lottery” is not a great one, but the fact is that at the moment carers have very few or no rights. For a start, they have no right to support. There are some powers in relation to support that have not really been taken up locally; indeed, only six local authorities have taken up the power under the Social Care (Self-directed Support) (Scotland) Act 2013. We are looking to find some way of moving forward consistently, and the bill provides an opportunity to start with a consistent approach, instead of working in 32 different ways.

Ben Hall: If, as Mr Doris has suggested, I have conflated the two issues, I am sorry. I should say that we are in favour of a national eligibility framework for services but local decisions on the type and provision of services. In looking at the bill in the round and at carer involvement in the planning and provision of the carers strategies that local authorities are required to produce, I think that such an approach would allow for local accountability.

Claire Cairns: Just to reiterate the points that colleagues have made, I think that it is almost as if there are three stages to this. The first relates to thresholds and what triggers a carer’s eligibility to receive a service, and we fundamentally believe
that such decisions should be taken at a national level.

The second stage relates to the level of support that a carer gets once they have been told that they are eligible to receive a service. Such decisions could be made at a national level or at a local level, but I think that the issue needs to be discussed. As Fiona Collie has said, national carer organisations are looking to put forward a framework in that respect, but it will focus mostly on thresholds and what triggers support for carers; the level of support itself also needs to be looked at.

The third stage relates to the form of support that carers will get once they know that they can get such support. Again, various choices are available to carers through self-directed support. They might choose to take up a local service—and there will be local variations on what is available and on offer—or they might use a resource in a different and more innovative way. Those are three areas that we are looking at with regard to eligibility.

The bill also contains the possibility of moving to a national framework within three years, and I have two points to make about that. First, the fact that 32 local authorities will be developing local eligibility criteria will pose quite a challenge; indeed, I know that one council has said in its submission that it will be very difficult to set such thresholds. Why should that have to happen in 32 different areas when we could have a really good national framework that was developed and co-produced by carers, national carer organisations, local authorities and health, and which we could get right first time around?

Secondly, the Community Care and Health (Scotland) Act 2002 makes provision for Government to take a national look at charging policies. At the moment, charging policies are a local matter. There has been a lot of campaigning about charging because of the huge variation and the very unfair charging policies that are in place across Scotland. That national approach has not been taken, and I think that if the bill goes for local eligibility criteria, the opportunity to change to a national approach will be very slim.

**Nanette Milne:** On the information and advice service for carers that is set out in section 31, concern has been expressed that local authorities could set up fresh services in areas where carer information centres that people trust and which provide a lot of advice already exist. How variable is the relationship between local authorities and those independent services? If the bill stays as it is, is it likely that some local authorities will set up their own services instead of using the ones that already exist?

11:00

**Heather Noller:** We, too, share that concern. All carers centres and services receive funding support from the local authority for the area where they are situated; indeed, funding local services is part of the way in which local authorities meet the current supporting carers criterion.

Despite the assurances in the bill that, if services already exist, they will not be replaced by a local authority service, we think that that message could be strengthened as it currently does not respect the rounded, holistic service that a bespoke carers service provides. As well as providing information and advice to all carers, carers services follow up with a much more rounded service that is focused on what the individual carer needs. That involves signposting the carer to other services if the service that is required is not provided by the carers centre. We think that that is a much better service for carers than an in-house local authority service. Going back to what has been said about minimum standards in relation to eligibility, there is a risk that, if there is a duty to provide only information and advice, that is all that the carers will get.

Although the range of information and advice is quite extensive, it needs to be followed up much more within the service.

**Nanette Milne:** Do you envisage local authorities using the duty as a cost-saving exercise? Would they pay less for providing a service themselves than they would pay other organisations that provide a more comprehensive service? Is that one of the concerns?

**Heather Noller:** Yes, it is a concern. The financial memorandum does not make clear how the funding would be divided. We need to compare what is in the financial memorandum with the funding that is already provided by local authorities to carers services, but we have not been able to do that with a great deal of precision. We will need to explore that later.

The financial memorandum says that the costings are based on the provision of two information and advice workers per local authority. Claire Cairns made some interesting points about outreach workers in different areas. It might be fine to have two local authority advice workers in a small, averagely populated area, but that model would not work for Highland, Argyll and Bute or even the larger cities, where two information and advice workers would not meet the demand. We need a lot more information about variation in provision if we are to meet the different needs of the carer populations in densely populated areas and in communities that are sparse and very spread out.
Suzanne Munday: Ben Hall talked about transparency and accountability. Unfortunately, there is history around the reshaping care for older people change fund, in which 20 per cent of the available funds were designated for support for carers. As national carers organisations, we found it difficult to unpick the provision and say definitively that 20 per cent of those funds had been used to support carers. We believe that the money should be ring fenced. I know that people do not like ring fencing, but it is about accountability and showing that the money that has been earmarked for carers is being used for what it was intended for rather than disappearing into a black hole.

Claire Cairns: 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, as Heather Noller said. We therefore hope that local authorities will choose to continue those services. I was slightly concerned by COSLA’s written submission to the committee, in which it talks about looking at the provision of information and advice more through a public awareness campaign, which goes against what carers have said they want. We hope that the regulations will be very clear and specific about the provision of information and advice to carers that is expected.

Andrew Strong: The alliance houses the dementia carer voices project. Members will probably know Tommy Whitelaw, who cared for his mum and co-ordinated that project. We conducted a survey of what carers want and what the issues are out there, and lots of people told us that they want local advice and information. They certainly do not want a local awareness campaign; they want practical support for the day-to-day activities of caring and information on financial and legal matters. A lot of that provision sits within the third sector, as lots of third sector organisations are the first point of contact for carers.

We welcome the encouragement, within the explanatory notes to the bill, of local authorities and health boards to make the best use of the third sector. As the explanatory notes acknowledge, however, that work needs to be adequately and appropriately funded. Although we welcome the additional funding for the third sector that has been included in the financial memorandum, going back to Heather Noller’s point, we are unclear about how that money is going to be divided up.

The financial memorandum says that 50 organisations will receive technical support, such as information technology support, and that there will be extra capacity around that, but I encourage the committee to ask questions about those 50 organisations and what they are. The Scottish Council for Voluntary Organisations did a bit of research into what sort of organisations were out there and found 81 specific carers organisations across the country, but that is only part of the picture. There are hundreds of organisations that provide conditioned, specific support and which also support carers, and they would really welcome some of the funding, too. In deciding who will get the additional money and resource, what will the criteria be?

Ben Hall: I emphasise the importance of information and advice services. We know from research that a few people round the table did that the single biggest barrier to carers taking a short break was their inability to access information and advice. Rather than putting existing services at risk, we want to enhance them.

Dennis Robertson: I have a question about the involvement of carers. What is your opinion of the proposal that local authorities and health boards should have a duty to take account of the views of carers and carers organisations? There is currently a route for public bodies to be involved, but is it necessary to put in place a duty for involvement? It is proposed that those views be taken into account in a “practicable” and “reasonable” way, but I do not think that we can put that in legislation, as it means nothing. What are your views on the involvement of carers and how we take account of those views? Should a body be set up? If so, what should be the divide between carers and the organisations? Should it be 50:50?

Claire Cairns: It is important to use the structures that already exist. Many care forums throughout Scotland meet locally and, for example, take the views of carers. Where those structures work particularly well, there will be a carers forum and a carer in that forum will be represented on local strategic planning committees. The views from the wider carer community are therefore brought into the planning structure and information from the planning structure is taken back to the carer forum. That means that there is more of a two-way process.

It needs to be acknowledged that those forums need to be resourced and the resource implications of involving carers as partners in care have not really been looked at. That support is often provided through third sector organisations, but because those organisations are at full capacity and do that work on top of their other services, it is often the first thing to go.

Moreover, those structures are not in place in every area of Scotland. When we look at carers getting involved in integration boards, for example,
we can see how intimidating that is for anybody. Best practice should involve their receiving training, induction through the partnership and all the resources—whether that is, say, replacement care or transport—that are required not just for attending the meetings, but for attending the forum and providing a link. In some areas where there is very good practice, there is also mentoring for carers who are on the boards. I would like that to be set as standard, and I would like the bill to provide that through guidance. I would also like resources to go towards that to ensure that engagement is meaningful.

Ben Hall: Going back to the principle of why carers should be involved, I think that we see time and again through the short breaks fund at Shared Care Scotland that when carers are involved in the planning and commissioning of services, those services are more effective and people's personal outcomes are better.

Rhoda Grant: Returning to Andrew Strong’s earlier comments about emergency plans, I understand that such plans are back-ups that should be in place if a carer takes ill or whatever. However, Mr Strong also touched on a matter that I thought would—or should—be dealt with under other legislation: the transition for a cared-for person. If someone is being looked after by a parent, it follows that, at some point, someone else will have to take on the caring role. Are those transitions not taking place? Are young people not leaving home and becoming independent long before they are bereaved of their parents? Is that what is missing? Transitions need to happen over time to ensure that they do not come as such a shock.

Andrew Strong: The simple answer is that I do not know. All I was saying was that we are aware of situations in which older carers are seeking the peace of mind of knowing what will happen if they can no longer provide care; I was not specifically talking about what is in different legislation.

Fiona Collie: The simple answer is that I do not know. All I was saying was that we are aware of situations in which older carers are seeking the peace of mind of knowing what will happen if they can no longer provide care; I was not specifically talking about what is in different legislation.

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Scott Richardson-Read: I am not sure that I can comment on connectivity, but we need to consider the process that a carer with, for example, a young adult with a learning disability or complex care need might have gone through. They will have had an assessment, which will have said that they have fulfilled X criteria, that their criteria entitles them to X, that the services are in place and that those services will be reviewed annually. Although those people will age, the review does not necessarily change and the young person might not have enough support or be able to move on enough. As a result, if we are thinking about care planning, we will have to consider how care planning for carers or adult carer support plans fit into the review mechanisms in social work, healthcare and the integrated services.

With regard to discharge planning, a lot of work needs to be done on linking models of social support, such as potentially using support hours to support people at home rather than have them go into hospital. We have already talked about approaches such as social prescribing by GPs, and we need to think about how the care plan fits together with all the different planning mechanisms that are already in use.

Quite a stramash of different approaches and legislation would have to be drawn together to fit around the carer plan. To hark back to my first comment, I would like the bill to set out how it all dovetails together, especially for young carers, and how it fits in with the child’s plan and co-ordinated support plans. Otherwise, we are at risk of having loads of plans and lots of professionals coming in and out of the life of a young person who is also trying to maintain their schooling while caring for somebody in their family instead of having just one person going in and answering the questions on the care plan.

Fiona Collie: Connections could definitely be made and I would welcome it if they were laid out in the bill’s policy memorandum. The earlier consultation on the adult carer support plan and support for carers showed that they need to sit with wider reform and other wider policies, by which I mean not only social care policies but policies on health, poverty, inequality and employment. It is important that we try to make those connections. They exist already; we just need to ensure that they work.

On hospital discharge, I mentioned at the beginning that we would like a duty to include carers in such discussions. Carers have consistently reported that that is a need; only a third are consulted when somebody gets discharged, which is a very low figure. Indeed, it means that two thirds of people are not consulted or are consulted at the last minute. As a result, carers are not involved in trying to decide what support is put in place; an assumption is simply made that they will provide care.

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; after all, with the best will in the world, someone who is older might simply not be able to provide care. That is a wider policy matter. 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. Some work is needed on that but there are definitely connections with a wide range of policies. Those connections are already being made, and we can make that happen better.

The Convener: With the best will in the world, we might not be able to deal with that issue through a legislative approach.

Fiona Collie: Exactly.

The Convener: In considering the carer’s needs, we should also consider the needs of the person who is being cared for and their overwhelming wish to be out of the clinical setting. The issue is perhaps not that the discussion is not taking place but that the discussion itself is difficult, because we are dealing with the pressure of the person who wants to be out of the hospital setting and the carers who are struggling to work out how to care for the person when they have hit a new low. The options that they face in dealing with a loved one are difficult. The person might be in a residential setting, and there might be an intensive package of care. Speaking from my own and from wider experience, discussions will take place, but there is no easy solution, as we are dealing with very difficult circumstances that cannot really be resolved by legislation.

Fiona Collie: I certainly agree. We are dealing with very difficult situations, but the primary issue that carers are reporting is that they are not consulted. It might well be that those difficult discussions still need to take place, but that is the point at which carers should be involved and, at the moment, carers are saying that they are not. When the care falls to them, they need to be involved in those discussions to ensure that things happen safely.

According to reports from carers, 20 per cent of people are being readmitted within a month. That is all about trying to make these policies work together, but what we want is for these conversations to happen and for carers to be involved in them.

The Convener: Is that a specific area that should be covered by the adult carer support
plan? Given that a lot of the issues relate to support for the carers in the family, what about the role of the family itself? Sometimes people can be squeezed out of the situation. Could a specific part of the adult carer support plan cover what people want or need to do as a family, with all the other bits fitting in with that to support the family?

People can find it difficult to go along and play a family role if they do not want to be around at a particular time in the morning or the evening when carers are there; at such times, they can exclude themselves. Should there be a discussion about the role that the family want to play in supporting the person, instead of simply focusing on what the state can provide—or am I getting that the wrong way round? Claire Cairns will put me right.

**Claire Cairns:** I think you are right—that is what needs to happen. When people are discharged from hospital, families often want to help provide care, but there might be restrictions on the amount and type of care that they can provide. In that respect, the bill makes a good point by talking not about the carer’s ability to care, which was referred to in previous legislation, but about whether

"the adult carer is able and willing to provide care".

Those are two important points. If we do not speak to carers at, for example, the time of hospital discharge, we will not know whether they are in employment, whether they have other dependents and whether they themselves have health conditions that restrict the sort of care that they can provide. That is why we think there needs to be a duty; we think that things need to be done in partnership.

You mentioned some of the pressures that arise from somebody going into hospital. As you have said, there are pressures from the person wanting to leave hospital—that is really common—but you have not mentioned that there is also a lot of pressure on staff to discharge people, because of the targets that they are trying to meet. Recent research on the attitude of nurses at the time of hospital discharge found that

“72 per cent of nurses in Scotland feel families need to take more responsibility for their older relatives”,

while 78 per cent of nurses said that they did not think that families

“should be blamed if there is not enough support in place.”

In other words, one in four nurses say that families should be blamed if there is not enough support in place. The culture among health professionals in some areas is that people should be discharged as soon as possible and that it is the family’s responsibility to take on that care.

Carers need to be more involved in what care they are willing and able to provide, and what they are able to contribute needs to be part of the care package. However, the key point is that no assumptions should be made in that respect. Where things fall down is when that conversation does not happen; people go home, and there is a crisis. The carer cannot cope, there is not enough support in place and the person ends up back in hospital.

**The Convener:** Sometimes there is not enough discussion within the family, and a carer can by their overwhelming commitment almost exclude other family members. Sometimes families do not have that discussion about how everybody can contribute to an individual’s care. That is complex and emotional stuff.

Heather Noller will be next and then we will hear from Scott Richardson-Read—and I should say that we are now into our last six minutes.

**Heather Noller:** Not a lot of pressure, then.

Claire Cairns has already made most of the points that I wanted to make, but I come back to the example that was given and which the convener has highlighted again. The reason why there is a desire for a legislative requirement for emergency planning is to ensure that those conversations happen. Future planning does not need to mean the far distant future—it can be the immediate future following hospital discharge. A carer might be able to provide short-term, high-intensity care for someone who has been discharged from hospital, but they might also need to have a wider conversation with other family members, bring in a care agency or whatever. That can be discussed as part of the emergency and future planning in a carer support plan.

If a carer does not realise that the option for a wider discussion with professionals and other family members is available to them, they might not have that discussion. That is another reason to ensure that having these discussions is a requirement for everyone.

**Scott Richardson-Read:** My points have pretty much been covered, but I wonder whether the bill should contain a duty for people to refer to a carer support plan when a family member is discharged from hospital. That might enable us to circumnavigate the issue of people feeling excluded.

**The Convener:** Are there any other comments on that issue? I do not see any bids from committee members at this point.

**Dennis Robertson:** I was just going to say, convener—

**The Convener:** Dennis, I was prompting you to ask that question about children.
Dennis Robertson: I will come back to that in a second, but on the point made by Fiona Collie, Heather Noller, Claire Cairns and Scott Richardson-Read that sometimes the conversations that take place are not recorded, I note that with regard to the complexities surrounding discharge, we have not mentioned the power of attorney. As the convener has pointed out, a named person will often take the lead for the family. Sometimes family members disagree with one another about the level of care that a person requires; however, if someone has power of attorney, they can make decisions on behalf of the rest of the family.

On the issue of children, which the convener invited me to raise, Scott Richardson-Read talked about ensuring that the legislative frameworks dovetail. With regard to the young carer statement, it struck me that we already have getting it right for every child, and we are taking forward the named person legislation. Are those existing layers sufficient without our having to go down another route, or do we need that other route to ensure that no one falls through the net?

Scott Richardson-Read: I am concerned that there is too much planning and not enough action; there can be a lot of bureaucracy without anything really happening. We have GIRFEC and the safe, healthy, active, nurtured, achieving, respected, responsible and included—or SHANARRI—indicators, and there are wellbeing risks that will be activated under GIRFEC if a young carer is not attending school. The named person should consider that wellbeing risk, but the worry is that SHANARRI looks at wellbeing as a whole. Does it really focus on a young carer’s specific needs? Do we need a more specific focus on that area of a young person’s life? On the other hand, if that is their only wellbeing risk, should we be looking at the support that that young person needs as a young carer rather than at any wellbeing risk? I do not know—I will leave that open to others.

Heather Noller: To answer Dennis Robertson and Scott Richardson-Read directly, I think that, yes, we need a specific young carer statement for two reasons. First of all, because caring is the only wellbeing need for a lot of young carers, it is important to have something that is specifically designed to support them. Secondly, the consultation with young carers resulted in quite a lot of opposition to the introduction of a child’s plan. Again, if caring is a young person’s only wellbeing need and their only vulnerability, a child’s plan will not be suitable for them.

I agree with colleagues and committee members that quite a lot of different pieces of policy and legislation affect young carers. It is not quite clear how all of that will work in practice, and it is important to ensure that people do not fall through the net and that support is available. Information sharing should happen in as joined up a way as possible, provided that the young person’s wishes and confidentiality are respected, and it would seem that the best way of doing that would be to have something specific for young carers.

The Convener: As committee members have no more questions, I thank the witnesses for their time and the written evidence that they have provided. The committee appreciates it and looks forward to working with you throughout our scrutiny of the bill. Thank you very much for your attendance and your participation this morning, and have a safe journey home.

Meeting closed at 11:30.
The Convener: Agenda item 3 is our main business today. We will have two evidence sessions on the Carers (Scotland) Bill, the second of which will be conducted by videoconference. Last week, we heard evidence that focused on adult carers; today, we will focus on young carers. As is normal, we will introduce ourselves. I am the MSP for Greenock and Inverclyde and the convener of the Health and Sport Committee.

Sarah Davies (East Lothian Young Carers): I am the director of East Lothian Young Carers.

Bob Doris (Glasgow) (SNP): I am an MSP for Glasgow and the deputy convener of the committee.

Mike MacKenzie (Highlands and Islands) (SNP): I am an MSP for the Highlands and Islands region.

Dennis Robertson (Aberdeenshire West) (SNP): I am the MSP for Aberdeenshire West.

Margaret Murphy (Edinburgh Young Carers Project): I am the chief executive of Edinburgh Young Carers Project.

Nanette Milne (North East Scotland) (Con): I am an MSP for North East Scotland.

Louise Morgan (Carers Trust): I am from the Carers Trust and am co-ordinator of the Scottish young carers services alliance.

Rhoda Grant (Highlands and Islands) (Lab): I am an MSP for the Highlands and Islands.

Lois Ratcliffe (Edinburgh Young Carers Project): I am a development worker at Edinburgh Young Carers Project.

Richard Lyle (Central Scotland) (SNP): I am an MSP for the Central Scotland region.

James Marshall (Stirling Carers Centre): I am the development manager at Stirling Carers Centre.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): I am an MSP for Mid Scotland and Fife.

The Convener: I thank you all for your attendance this morning. We will go directly to questions.

Dennis Robertson: There is a perception that a great number of young carers have not been identified. There is also a perception among various groups that some young carers who are identified are given little support. Will the bill help to identify additional carers and will it help to provide the level of support that carers need?
Louise Morgan: The Government’s response to the consultation said that the bill seems to contain plenty of measures that would help to identify young carers. I believe that legislation such as the act that I hope the bill will become will help to promote general awareness of carers and young carers.

One of our general concerns is about identification of young carers; one of the most substantial problems that we have in trying to overcome the difficulties in providing support to young carers is that we cannot support them unless we have identified them. Knowledge of the bill and the specific young carer statement will help to promote identification of young carers.

At the moment, the official Government figure is that there are 44,000 young carers in Scotland, but the Scottish young carers services alliance believes that the figure is much nearer to 100,000. That figure has come out of survey work that we have done in schools. However, we are happy to accept the Government’s figure of 44,000, because it is a significant increase on the previous universally accepted figure of 16,701. I am content that the bill will help to promote identification of young carers.

Sarah Davies: We welcome the bill and think that it will improve identification of young carers. Our concern is about what will happen when they are identified. Will they be offered a young carer statement or not? At the moment they can have a young carer assessment, but we find that very few of those are done—in fact, it is almost impossible to get one. When someone asks for one, people do not know what they are. Whether young carers will receive a young carer statement is our main concern.

Dennis Robertson: I still wish to explore how we identify the young carers whom we are missing at the moment. I accept the Government figure, but there is a perception that there probably are more young carers providing care. The question is how we find out where those young carers are. Do we do that through the named persons or through guidance teachers? If we can get a statement, that is fine, but we need to identify the carer in the first instance. I am still a little cautious about our identification of our young carers, who play an extremely important role in families. They care for siblings, parents or whoever but they are not being identified. When they are identified, do we have the appropriate resources to meet their specific needs?

I acknowledge that most of the submissions say that we should have national guidelines as opposed to local guidelines. What are your thoughts on that?

Margaret Murphy: We have to start where the young people are. They are in schools—we should raise awareness in all schools. That could be done by having representatives of young carer organisations go into schools or by making guidance staff and headteachers aware that there will be young carers there, and providing them with support in identifying them. It might be that nobody at the school knows of the young people there who are young carers, because they may have no additional support needs, and might just be getting on with it.

Many of the young carer organisations across Scotland are trying to start where the young people are. That means raising awareness among staff across the schools, as well as doing pupil awareness sessions. It is partly about removing stigma. If a young carer feels that other pupils—their peers—are supportive of the needs of young carers and are aware of what young carers actually do, they are more likely to put their hands up and say, “I’m a young carer.”

I do not believe that every young carer needs a specialist support service, such as a dedicated young carer agency. They can potentially survive quite well just by having acknowledgement that they are a young carer. Some flexibility at school might be all that they need. They have an opportunity to say that they are a young carer and to get the additional support in the school that they need, and that is what they are looking for.

We have to start at the school, and the school needs to be equipped to handle the situation. If many pupils come out and say, “I’m a young carer,” how will the school deal with that? That requires giving schools knowledge about how to identify carers, and how to provide easy and flexible support and knowledge about what else is available in the area—including organisations such as ourselves.

We need to work with universal services, including youth projects. There has to be awareness within the projects to which young people go about what a young carer is and how we can identify and support them.

Louise Morgan: I totally agree with Mags Murphy—we have to go where the carers are. Where we see projects working in schools and delivering awareness raising, we know that the young carers there are receiving recognition for what they do, and any on-going support that they subsequently need.

10:00

We find that when young carers services lose funding and lose schools workers, we see a drop in the amount of support. Performance that we would already class as being young carer aware in
supporting young carers in schools drops. We need to keep the momentum of presence in schools and make young carer workers available to young carers in them.

Mags Murphy made the point that not all young carers necessarily want to go to a service. That is definitely true. Maybe they do not have the time to go to a service or they may prefer to go home and have time to themselves. It is all about choice.

We should equip our schools’ staff to know what to do when a young carer is identified, what other services they can signpost them to, and what support they can deliver in the school. Where that is done, it is normally done very well. I know that there are very good models for that in Stirling and Edinburgh.

I want to make a point about general practitioners, but if the committee wants to explore the schools aspect first, that is fine. We can come back to the part that GPs have to play in identification.

James Marshall: I want to pick up on the points that Louise Morgan and Margaret Murphy have made. Louise Morgan is totally right that we need to work closely with schools to equip them to support young carers in their daily lives. As an organisation, Stirling Carers Centre has a specific dedicated young carers education worker. That is one post and the person works with 47 schools in the Stirling Council area. In order to work closely with the schools, we identify in each school a young carers co-ordinator, who is almost a champion in that school. That person will be the link between us and the school for the young carers so that they have a point of contact in their daily lives.

Also, on identification, awareness raising in the schools is crucial, so we carry out a range of awareness-raising activities. We get young people to fill in an evaluation form at the bottom of which they can self-identify as a young carer. We find that that is how we can identify young carers at the earliest possible opportunity for early and preventative support. We tend to receive referrals from the likes of social services when a young person is at crisis point.

As Margaret Murphy rightly said, it is imperative that we work where young people are and that we work with schools on identification of young carers.

Lois Ratcliffe: There is a middle step in respect of identification and support; the statement is the key. When a young person is identified, the statement—or what used to be the assessment—that is used to understand the young carer’s needs will be critical in ensuring that the correct support is there for the young person.

To follow on from Louise Morgan’s point, a lot of great work on identification, that could be rolled out, is happening in schools. The numbers in Edinburgh, certainly from the schools project that I know of, certainly show that.

GPs, hospitals and condition-specific units are key places to get young carers directly linked in at the earliest possible stage, especially given that the consultation looked at guidance through stages of caring. We can look at the terminal illnesses that young carers deal with; young carers are on a spectrum of caring, especially in relation to terminal illnesses. If we can, through those units, put in place an identification process to have them referred to professionals, that would help to identify the young carers who perhaps make up the majority of the hidden young carers whom we do not currently see in services.

Dennis Robertson: Is there a role for social media in identification and peer support? Could a dedicated Facebook page or a noticeboard for young carers be used? If they do not want to go to formal groups or carers forums, for instance, they may have a social media network that they can use. Would you support something like that? Is that available?

Lois Ratcliffe: As someone who works in a project with young adult carers who are 16 to 20 years old, I think that there is a need for what might be called virtual support. Sometimes I have to respond via email to young carers in Edinburgh who have issues and are wondering where to go, so a modern interactive online service providing young adult carers with that kind of direct instant support would be vital. We are talking about people who are at crisis point and who might not want to come to the project, but who still want email communication. There is definitely scope for such a means of supporting young adult carers.

The Convener: Following on from Dennis Robertson’s questions, I wonder whether we can get some idea of the good practice that is happening in certain schools or areas but not others. Sometimes the committee can help things along by identifying certain practices and challenges or areas where not as much is being done. Perhaps Louise Morgan, who mentioned the carer aware principle and how it is operating locally, can comment on that, and I see that James Marshall wants to comment, too.

Louise Morgan: There are perhaps two examples of good practice in schools at this morning’s meeting. I do not know as much about what Sarah Davies is doing in East Lothian at the moment, but I know that in Edinburgh and Stirling there are shining examples of what can happen in schools. I do not want to steal James Marshall’s thunder here, because I am sure that he will want to talk about this, but I know that in Stirling a
young carer class has been developed as part of the curriculum in one of the secondary schools. I know the history of that development in Stirling, and it showed me that if that presence is not maintained, it will be lost. At one point, every school was on board, but when the worker was lost, the whole thing went to pot.

If I had a list in front of me, I would be able to tell the committee about other examples of good practice. I know that in Aberdeenshire a secondary school guidance teacher was seconded to the young carers service to develop resources that could be used throughout the schools in that local authority area, and I think that using someone from education in that way presents another model of how to do this.

**The Convener:** Is carer aware an accreditation, a badge that a school can get or whatever?

**Louise Morgan:** No. It allows us to know informally that we have visited the school in question and that the school has already received training. We do not yet have a carer aware badge or award, if you like, although the Carers Trust in England is looking into that and at different standards of young carer awareness in schools. That might be a route that people will want to go down. Generally, I have information about who works in schools and the schools where the approach has gone well, so if you want to visit any such service, please get in touch with me and I will put you in touch with those people.

**James Marshall:** I want to pick up on two points. First, with regard to the young carers class and the carer aware approach that Louise Morgan mentioned, I have already said that we work with all the local authority schools. As part of that work, the school will appoint a champion or young carers co-ordinator as well as sign up to a charter of practice. I know that in Aberdeenshire a secondary school guidance teacher was seconded to the young carers service to develop resources that could be used throughout the schools in that local authority area, and I think that using someone from education in that way presents another model of how to do this.

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One example of good practice that I want to mention is a high school in Stirling, which identified that it had a high number of young carers and that their caring roles were having a detrimental impact on their attendance and attainment. As a result, the school with our support as a young carers service established a dedicated class, which is now part of the school curriculum.

The idea behind that class is to give young people peer support, but it also builds their skills and experience. For example, one of the responsibilities of many young carers is to be the main cook for the household, so the school developed a lot of work around that. The outcomes for the young carers were increased attainment and attendance, and an increase in their enjoyment level in school. The young carers felt that the school was more aware of their caring role and that they could interact with the school at a higher level in relation to that role.

**Louise Morgan:** We had a national campaign a few years ago that was aimed at raising awareness about the younger young carer age group, and that group was highlighted at the young carers festival. Most of our services provide support to young carers who are aged eight and over, but we asked what was happening to those who are under eight and how we could begin to recognise those young carers.

How do we explain what being a young carer means? That is half the trouble. What do children think we mean when we say, “You are a young carer”? They may think, “Yes, I look after my goldfish.” It can be difficult for very young children to comprehend what being a young carer means when it sometimes means just being part of a family.

We had some money from the Scottish Government to develop two national mascots, which we called Eryc and Trayc. Each service in Scotland had mascot figures that they were invited to take out to primary schools to try to raise awareness in a way that was very young person friendly. People could say, “Here is Eryc. He is 10 years old, he looks after his brother and this is what he does. Here is Trayc,—who has a different caring role—“she looks after her mum, but she is only eight.” The project was very much aimed at younger children.

Unfortunately we had only about a year of funding for that work. Again, the issue was sustaining something that could have made a big difference. Eryc and Trayc are still talked about, but we would like to look at how we could make such a campaign work better. I come from the age of the Tufty club, and Tufty was synonymous with crossing the road and road safety. Maybe I should not be at a young carers meeting. [Laughter.] There is a value in the recognition of mascot figures—people see the figure and immediately think of young carers.

**Margaret Murphy:** I want to go on from what James Marshall said. Good practice is definitely having somebody identified within the school as a young carers co-ordinator. That is key. Also key is the provision of some sort of toolkit for the schools and the school staff so that they can take some lessons or work on that with their class.

In Edinburgh, we have started to go into primary schools more. We work across all the secondary schools, but we find that we need to get into the
primary schools. We have developed a toolkit specifically for primary school children and staff. The toolkit is designed around play session plans, and how to identify what is happening in the household, the child’s role within the household, what the siblings are doing and who they care for. We are starting to explore that type of work and a lot of very young carers, for example of five and six, are being identified. We are bringing them into a main programme and providing fortnightly after-school clubs for them so that they can start socialising and interacting with their peers. We are also trying to get the families the support that they require. It is a bit like a pilot programme. We would be happy to provide the committee with any initial findings about how that is going.

Sarah Davies: We work with primary school-aged young carers and their families. When a child is moving into primary 6 or primary 7, we start looking at the transition to high school. We try to ensure that the high school is aware that they will have a young carer, that the family is aware, that the child has homework support and that their reading and writing is up to the standard of high school. Many young carers seem to slip under the radar so that it is only when they get to high school that they find that they have problems with reading, writing and maths. Transitioning to high school is a really important thing to consider and to identify what is happening in the household, the child’s role within the household, and how to identify what is happening in the children. At that stage, it may be the case that nobody knows what the impact will be, but GPs are supposed to start that conversation and to recognise that there could be children and young people in their patient’s family who will become carers.

If we are asking GPs to perform that duty, we could hope to see a rise in the identification of young carers, but how long will that take? GPs may require training to realise that they are not identifying children and young people. GPs could be identifying young carers and looking at them being issued with a young carer authorisation card, which is an initiative within the health setting. There is a lot that could be done from a health point of view.

Lois Ratcliffe: That is a key stepping stone in identifying young carers. In Edinburgh, I have a great relationship with the Craigmillar GP practice, and I have often supported young people. It can depend on the individual GP who takes on a young person’s case, as can happen across lots of areas, including in schools with teachers. There is a case to be made for young people who support someone with drug or alcohol issues. Young carers are often thought of as heroes, but when it comes to drug and alcohol issues the hero label can be taken away and a stigma attached to them.

The Edinburgh Young Carers Project looked at the schools training and continuing professional development that we are doing for teachers to see whether it could be tweaked slightly and provided to local GPs so that they would have the same knowledge and awareness. I also noticed that comments had been made about the possibility of GPs keeping a register of carers, if young carers wanted to identify with that, and that could be key to identifying hidden young carers.

Dr Simpson: May I ask a supplementary on that?

The Convener: Is it about GPs?

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drug and alcohol workers in our project who work with young carers, and one of them has come from a drug and alcohol service. Margaret Murphy will be able to tell you whether there has been any talk about that in the past year and whether we have delivered any training to drug and alcohol services.

Margaret Murphy: We are funded by Edinburgh council’s local drug and alcohol project and we now have funding for two drug and alcohol workers who work specifically with young people who care for a parent with problematic drug or alcohol use. We have been doing the work for about six years and we now have a bit of funding to extend and develop it. Over the past year we have found that about half the young people who come through our doors are affected by caring for a parent with problematic drug or alcohol use.

Because of the attached stigma, which Lois Ratcliffe talked about, a slightly different approach must be taken to those young carers. When we go into schools we raise awareness that those are issues that young carers can deal with, but the issue is also about the appropriate level of support that they require. It is not about someone being a hero because they are going home to care for their mum; it is rather about asking whether someone’s mum is an alcoholic or a drug addict. There is not that level of sympathy for or acknowledgement of the actual trauma.

We find that the problem with those young people is the trauma of the experience that they go through. Nobody knows how the effects of the trauma come out; they can be behavioural or lots of different things. We need to look at how that type of caring affects the young person, because there is a knock-on effect after it.

The mum of one of the young people whom we were working with was in recovery. All the support services around that family were happy because mum was doing a great job and was in recovery. However, the young person—the young carer—was very resentful. They said, “Mum, you have no idea. You can’t remember the life I had the past five years. Yeah, you’re in recovery, but you don’t remember what I had to go through.”

That is the type of trauma that those young carers experience. We definitely have to concentrate on that group of young people.

Sarah Davies: I agree with Mags Murphy. We also work with our local drug and alcohol partnership. These children are very traumatised and when their parents get better, the children get angry—it is as if they can relax. They have a go at their parents and that needs to be dealt with.

We have a training programme that we have used with the organisations in our local drug and alcohol partnership.

The Convener: I return to Richard Simpson’s basic point. The NHS has a care plan, I think—or it used to have—regarding services for those who have problematic lifestyles and addiction to drugs and alcohol, but it does not have a care plan for the carers.

Louise Morgan: No—not unless the young person has been identified as having a caring role within a family. It would be unusual. If a young person has been referred to a young carers support service, which can happen almost informally, that service will probably have some kind of support plan. However, that young person may not be on the social work service’s books.

The Convener: Some of us took an interest in this issue years ago, through our casework. There was that gap: social work services, the health service and the GP were there to support the person with the addiction, but there was no wider concept of a family of carers. That has not changed over the years, has it?

Louise Morgan: I do not think so. Saul Becker is the main researcher of issues faced by young carers in the UK and he found that when social work services had input into a family, children and young people in that family were more likely to be recognised as young carers and therefore have some support, which led to better outcomes at school and so on. Unless families have that support and young people are identified as carers, there is not necessarily anything there for them.

The Convener: Is that reactive, or is it planned and preventive? In my casework experience, it seemed to be more reactive. Families got the services when the house burned down, rather than when they were just trying to manage things. If they were managing and showing some resilience, they were allowed to get on with things, but if the house burned down, there was a response. I am just confirming that there is a lack of planning.

Louise Morgan: The response tends to be more about crisis identification.

The Convener: That has not changed over many years.

Dr Simpson: I have one final point on the identification issue. At present a working group called DAISy—do not ask me why; I do not know what the acronym stands for—is trying to develop a single shared assessment tool for drug and alcohol addiction. I wonder whether that data collection system will include the identification of young carers. If not, that will be a very serious omission.

Lois Ratcliffe: It does not, as far as I am aware. You are quite right about that. Your initial question was whether training could be delivered to drug and alcohol workers and services. I think that that
could be done easily, with minimal funding; we have the training in place for teachers, and it could be tailored relatively easily.

With regard to the working group DAISy, I am not the person to answer that question, but you make a relevant point. It is right that there should be something in that system to identify young carers in those families.

Dr Simpson: I am sure that the committee can write to ISD Scotland about that.

The Convener: We will have another supplementary from Nanette Milne, and then we will come back to Rhoda Grant, who started the discussion. That is round-table working.

Nanette Milne: Following on from what Richard Simpson said, do we have any idea of the scale of the problem? What proportion of young carers are affected by drug and alcohol abuse?

Margaret Murphy: In my project, I have seen an increase from one third to one half. I do not have figures for the whole country or across the city, but that is the situation in my experience.

Louise Morgan: From some of the surveys that we have done through the young carers services, it appears that the proportion is about one third. However, there is, again, an issue with people not declaring why they are caring in a family. That is one of the central points. They are presenting to services saying, “I’m looking after my mum who has depression” or something else, but the alcohol or substance misuse issues are left unsaid and are perhaps not uncovered until later when we get to know the family better.

The Convener: Okay.

Dennis Robertson: We need to be able to identify the caring role that a young carer has. We are drifting into a discussion on drug and alcohol abuse, which is very important because there is a need there, but caring is a complex area with multiple issues.

Do we need a register on types of caring roles? For example, is a carer looking after a mum who is depressed, or do they have a sibling with complex disabilities? What are the reasons why they are caring in the first instance? That is the information that we need to identify.

Rhoda Grant: I will move on to the support that is available to young carers in the bill. The bill is intended to stop pre-school-aged children from having a role as young carers. That is understandable, but I wonder why that provision ends when a child goes to school, as the child would still be very young at that point. Should we be looking at stopping the caring role for all children to allow them to learn and be educated, or is that simply not feasible?

Lois Ratcliffe: Again, I come back to the key research theories. We can relate the theory to practice and then—we hope—implement it as policy.

Jo Aldridge is another key theorist on young carers, and I have been communicating with her by email about a pathway that we are developing for young carers who come through our service. She suggests from her research that young carers often want to exit the caring role when it becomes too burdensome or when it becomes long term or disproportionate in relation to their age and maturity level.

Given that, I believe that, as part of our support and assessment—I am using the word “assessment” again—using whatever tools we have to assess caring, we need to understand whether the caring role is disproportionate in relation to a child’s age or maturity level, and we need to consider the amount of caring that it is realistic for a child to take on without hampering their childhood.

Some of the caring roles that young carers undertake can actually make them feel closer to their family and can have a positive impact by making them independent and giving them the ability to think outside the box and be creative. However, part of the issue, certainly for young carers who are at school, is about exiting the role when it becomes too burdensome, and we need the right measures to address issues and look at people individually.

Also, when it comes to young adult carers who are 16 to 20 years old, it is a matter of ensuring that caring is not the only or main outcome of living in a family that is affected by parental illness or disability. 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, and part of that is about removing the majority of the caring responsibilities so that they can choose what works for them and a balanced lifestyle.

I think that I have made that point clear, so I will hand over to someone else.

10:30

The Convener: If no one else wants to comment, we will move on to some questions from Bob Doris.

Bob Doris: I listened with interest to what you said about the types of service provision that you would like to be put in place to support young carers. I apologise for making the discussion much drier by looking at the specifics of the bill, but it is the framework to support all that provision.
I take on board the point that how we identify young carers is important. The health service and GPs were mentioned, as were schools, and there are also wonderful youth group providers across Scotland who young people might open up and reveal their caring role to. There is a cross-society responsibility, but we need to consider the structure that we feed into once that is identified.

Assuming that we get that structure right—and you are feeding into that—we will have young carer statements. Under the Children and Young People (Scotland) Act 2014, there is also an obligation to produce a child’s plan when there is a need for targeted intervention for the child’s wellbeing needs to be met. Is the bill clear enough about when a young carer statement and services will be provided, whether they are of a general or specific nature, and when that snowballs into the provisions in the 2014 act on the child’s plan? I am a little confused about that.

We have to get the infrastructure right, whether it is in the bill or in guidance. I know that this is the dry part of the morning’s evidence session and that the key thing is service provision, but we have to get the structure right and channel young people as individuals through it to get the service provision. How do you see the young carer statement working and how will it interact with the child’s plan and the obligations under the 2014 act?

**James Marshall:** For a lot of young carers, their caring role and its impact will be their only specific wellbeing need, so it is important that they have something that is tailored to them as a young carer. The young carer statement must interlink and fit in really well with the getting it right for every child assessment process and the subsequent child’s plan. As I said, we agree that not all young carers have additional wellbeing needs that require a child’s plan, but where a child’s plan is in place it is important that the young carer statement is developed in addition to it so that there is a document with a specific focus on the young carer’s needs as a carer.

We believe that the young carer statement should incorporate future planning of an emergency and anticipatory nature. I will give an example. We know that caring can often be a barrier to the young carer’s future educational or employment aspirations. In order to ensure that we have the relevant support and services in place to alleviate those barriers and ensure that young carers can reach their full potential, we need to look at that future planning of an emergency and anticipatory nature.

**The Convener:** Thanks. Are there any other responses to Bob Doris’s question or comments on James Marshall’s response?

**Louise Morgan:** When we read about the provision of young carer statements, we certainly welcomed that. It sounds to us as if what young carers said in the consultation has been listened to and acted upon. The young carer statement is something that young carers themselves asked for. They distinctly said that a child’s plan was not necessarily for them. One of the objections was the language of the child’s plan: some of them felt much more responsible than a child might be.

My interpretation of the position is that the national strategy for young carers, which has run from 2010 to 2015, has said that all secondary schools must record young carers on their databases, so I would expect young carers recorded on a database in a school to be entitled to have a young carer statement.

That statement would be a light-touch one for many young carers, and it would be a recognition that they had a caring role. However—with regard to anticipatory planning—when a caring role that is currently okay for a young carer becomes more burdensome and has a more negative impact on their life, they should have a fast track back to support and services being brought in or being available to them.

In my view, the young carer statement and the child’s plan are certainly not mutually exclusive. A young carer statement could be very helpful to a young carer when there is maybe a need for a full-blown child’s plan, because they could be put on a kind of waiting list or warning list, should that be necessary and helpful for them.

**Margaret Murphy:** We need a bit of clarity in the bill on how the young carer statement will link to the child’s plan. I think that we can all say how it should happen, but I do not think that there is the required level of clarity on guidance to ensure that it actually happens.

**Bob Doris:** That is really helpful. It is encouraging that you think that the young carer statement and the child’s plan can dovetail and fit together very well but that a bit of clarity in the bill would be welcome.

Another thing that I noted in my reading of the bill is the proposed reviewing of a young carer statement and a young carer plan. I am guessing, but I suspect that it is true that a young person may not wish to have a young carer statement or plan. They might not want to open up about their caring role or this, that and the other. Some will say yes to having a young carer statement and a young carer plan, which would be reviewed, but should there be provisions in place for a young person who says, “No, I don’t want one” to be offered them again in three, six or nine months or a year? That would prevent the statutory body, which would be the local authority, ticking a box.
and saying, “Young person A was offered this; they refused it; statutory obligation done.”

Should there be something in the bill about having to go back to the young person as they grow and get more mature, or get more significant problems or become more comfortable about acknowledging their young carer role? Ms Ratcliffe said that, depending on the type of caring role that they have, they might feel stigmatised in that role and that a variety of factors are involved. I am not sure that I have spotted anything in the bill that would ensure that the statutory body had to go back to a young carer who did not accept the initial offer. Do you think that there should be something along those lines in the bill?

Lois Ratcliffe: That is a complicated issue. If young people are given respect and allowed to say, “No, we don’t want one” and as long as they have had full understanding and stigma is removed, it might be a bit patronising to go back to them in three months or so. However, one thing that would help with the young carer statement—I agree with James Marshall on this—is the emergency planning. I think that that will be a key part of the immediate support that a young person can have from a carer statement.

We need someone to be responsible for the carer statement. Currently, the carer’s assessment happens on an ad hoc basis—for example, I have put in numerous requests but have been given no timescale for them. At the statement stage, it would help if an emergency plan could be gone through really quickly as part of the statement so that the young person would have something initially from that statement to work with in case of an emergency. It would also be useful if it could be made clear that the young person could have a review if they wanted one or changed their mind about not wanting one.

I guess what I am saying is that, first, the statement could be offered to young people, they could take it and part of it could give them an emergency plan. The second situation could be that a statement is offered and the young person does not want it but an emergency plan could also be offered as a matter of course that could say that, if the young person changes their mind or is in need because their caring situation changes, they could contact somebody and have a statement.

The young people should be given the option and the ability to request the review, instead of the onus being put on social services in three months, because I worry that that could be more damaging. I do not know what other people’s views are.

Bob Doris: We can forget about the three-month figure—I am just wondering whether there should be a follow-up trigger somewhere down the line. I am not wed to three months, one year or two years; I am just floating the question whether there should be a review at some point.

Lois Ratcliffe: I completely understand that. Part of me thinks that we could empower the young person to request that, but I understand that that is complex. Louise is looking at me.

Louise Morgan: I was just going to agree with you. It would be complex, but perhaps, when you make the original offer, you could make it clear to the young person that the offer will remain open. I do not know how practical that would be for local authorities.

On the issue of some kind of trigger to review the circumstances, it would be quite dangerous to do that on a timeline basis because you could miss, for example, critical life events for the family. I am not quite sure how you would do it, but it would be great if young people could come back and say, “I would really like to take up that offer now.”

The Convener: James, you have the final word on this.

James Marshall: I agree with Louise Morgan. I do not quite know how you would do this, but we are a big believer in empowering young carers, and giving them choices and the right to ask for a young carer statement.

The bill says that the statement will look at whether the support provided in the first place has resulted in positive outcomes for the young carer. We talk about a caring journey, and we acknowledge that young carers’ caring role—the level of caring and the impact that that role has on them—goes up and down. Any review should also look at that and whether the young carer’s needs have changed. It should look not just at whether they have obtained personal outcomes from the support that they have received but at whether they need additional support and whether that support needs to be retailed to meet their needs at the time.

Dr Simpson: I want to pick up on the emergency planning issue because I feel very strongly about it. When I met carers before the previous election, that was the main thing that they were concerned about. Indeed, at the time, the then First Minister said that everybody would have an emergency plan. I wonder whether an emergency plan should be specified separately. If someone accepts the need for, and accedes to, an assessment, the emergency plan would be included. However, people might accept that an emergency plan should be put in place, even without a full assessment or the provision of full support. The emergency plan could be separate, which would allow people to return to it. In my
experience, carers often deny that they need support and feel that they are coping well, but they have a worry—"What would happen if?"—at the back of their mind.

Sarah Davies: We do a young carer’s assessment with the young carers we work with, and we ask them what they do during an emergency. It has become clear that two emergency plans are needed. An emergency plan is needed in case the carer goes into hospital or is otherwise unable to care due to illness; and the child—particularly if they live in a single-parent family—needs an emergency plan in case the person they are caring for goes into hospital and they have no one to look after them. That is really important. We have two emergency plans in our assessments.

Lois Ratcliffe: Richard Simpson makes a key point. We have an assessment that we call a footprint. The idea is that we assess the young person’s journey throughout the service, with a review every six months while they are with the service.

We do not have an emergency plan, although we give young people support numbers. An emergency plan in relation to the caring role could support the young carer to move away from caring responsibilities and services in the knowledge that they could access them again if need be. As James Marshall said, the caring role ebbs and flows and dips up and down. We do not want young people to become too dependent on services. Although some young carers could quite happily live without our services, they worry about accessing them again. An emergency plan could incorporate the fact that they could call up and be re-referred. That would support carers and help them to feel confident to go on without services. Am I making sense? It would make them feel less reliant on the services because they would know that they could access them. That is a big fear, because sometimes they struggle to get support in the first place.

Nanette Milne: I note that people are concerned about a copy of the young carer statement having to go to the named person. Can the witnesses comment on that? Should the provision stand, or should it be changed? What are the advantages and disadvantages?

Sarah Davies: We are concerned that it might put young carers off. It will depend on their relationship with the named person. The named person will be involved with the child’s plan, and we might not know what is going on with that.

We work very closely with families and we take a holistic approach. It is important to work with the whole family. A young carer statement would be sent to the named person, but the parent would not see it. The gatekeeper of the information would be the young carer, who would decide whether the parent saw the statement. That puts far too much pressure on the young person. It might cause problems in the family or put the young carer off asking for a young carer statement.

I can understand why the provision is in the bill. I also understand that a young carer might not want the parent to see their statement. I wonder whether there is some way around the situation. When we do a young carer’s assessment, we do not necessarily show it to the parent—we are led by the young carer. However, we have a family discussion about everything so that everybody feels that they are included. The provision seems very bold: the statement would go to the named person and that’s that. That is worrying.

The Convener: Does everyone agree with that?

Margaret Murphy: I think that we agree. At a meeting with the alliance and a lot of young carers projects, we raised a similar concern. There could be a catch-22 situation. The information is shared with the named person, but the young carer might not want the school to know that they are a carer or might not have a positive relationship with their named person. I back up what Sarah Davies said. A few of the young carers projects were worried about the issue.

Louise Morgan: We highlight the issue in our written submission as one that was certainly a worry for many of the young carers projects that were involved in the consultation. Their opinion was that, if we are to empower young people, young carers should be the gatekeeper and decide whether the statement is made known to the named person. However, a young carer could very well be too young to make such a decision without realising the impact that it might have on their family. I am really not sure—further consultation with young people might be needed because that aspect of the bill has not really been put to young people.

James Marshall: I agree with Louise Morgan. There needs to be more consultation with young carers on the issue.

We have found the opposite in Stirling. We do an assessment and complete a single agency child’s plan that is based on the support that is to be offered to that young carer. The key point is that we do things with the young person’s consent, and the process is explained to them. The assessment is sent to their named person and discussed with their family so that everyone around the child is clear about and aware of the support that will be offered. The crucial point is that the issue is discussed and the decision is made with the young person’s consent.
The Convener: Rhoda Grant and Dennis Robertson have supplementary questions. I remind everyone that we are now in the final 10 minutes of the session.

Rhoda Grant: I understand the reasons behind people’s concerns, given the details that might be in a young carer statement, but surely the named person—who is normally the child’s headteacher, if they are in school—should be made aware when a child has a caring role. Young people tell me that if their school is unaware, they are expected to have their homework in on time, to turn up on time and to be turned out the same as everybody else. At the very least, the school should be informed that a person is a young carer and that it needs to make exceptions, allow them to carry out their role and support them in doing so. The school might not know about the detail of what is going on at home or the support that a child is getting, but surely it needs to know about all of that.

The Convener: I ask Dennis Robertson to ask his question. The panel can then respond to both supplementarys.

Dennis Robertson: I agree entirely with Rhoda Grant. However, I go back to James Marshall’s point. Is it a question of trying to ensure that we provide the most appropriate information and understanding to our young carers so that the named person does not become a threat to them? They should not be a threat; they should be an enabler—the measure should empower them and is intended to support them. As Margaret Murphy said, we have a toolkit, and perhaps the named person is part of the toolkit.

James Marshall: On Rhoda Grant’s point, we developed the process for sending the information to schools because a headteacher contacted us and told us that she was unaware of the number of young carers in her school. We were supporting young carers outwith school and she wanted to know how many she had in her school so that she could provide appropriate support on a daily basis. That led to our sending the plans on, and we have seen a positive response to that.

The point has been made that it comes down to working with the named person and equipping them to be able to raise awareness of young carers’ issues. As I said, it is also about working with young carers to ensure that they are aware of the role of the named person and the linkage there.

Louise Morgan: I am wearing two hats. I hear from the majority of young carers services in Scotland, and sometimes there is a bit of a divide. To answer Rhoda Grant’s point, services would certainly encourage young carers to make their school aware that they are a young carer because of the support that could be made available to them. Nevertheless, some young carers still say that they do not want their school to know because it is their family’s business. There are pushes and pulls in relation to what people want, but there is also responsibility if people know that someone is a young carer. That information will not necessarily be publicised, but we can take responsibility for looking at what happens when things do not go so well for young carers. I can see the tensions within that.

Another difficulty is that, although the named person approach has been in operation in Highland for some time, we have not seen it work in practice nationwide. The young carer statement is also a new idea and it is difficult to predict how it might work. I am not sure how many young carers will not want their named person to know about the statement.

Sarah Davies: I think that it would be beneficial for high school headteachers to know that young people in their school are young carers. We would certainly encourage young carers to let us tell them or let them know in some way.

One thing to note about the named person and the young carer initially getting a copy of the young carer statement is that a lot of parents feel very bad about the fact that their child is a young carer and, if they are kept out of the loop, that will just make them feel marginalised. A lot of those parents have mental health problems, and it could make them feel that they are not worth while. It could also be the case that the child is caring not for the parent but for a sibling. I think that the process needs to be looked at so that we can work out what would be best for the young carer, the family and the school. Everybody needs to be happy and work together, rather than feeling that they are being left out in some way.

Lois Ratcliffe: It does not need to come down to a duty. Empowering the young carer would get the best possible results, and that comes down to professional practice. For example, if there was a child protection issue involving a young person who came to a service, the service would tell them who in their family would need to be told. As part of that process, the service would let the young person understand why that needed to be done and what the result would be. The difference with the named person issue is that the young carer should be able to choose to say no, but the process will still rely on professional practice. The professional who is preparing the young carer statement should support them to understand what is happening should be a positive thing.

The bill should contain not so much a duty as some encouragement. It should at least encourage the young person to share information with the lead person, whoever they might be; it should be the young person’s choice, but they
need to see that such a move is in their best interests. The professional is delivering the service, but, as I say, the choice should always be the young person’s. The concern is that, if the information is shared without the young person’s consent, that young person might disengage with and lose trust in the process and their relationship with the support service might break down. That is the risk with making such things mandatory—that would be the case whether we were talking about young people or adults.

Nevertheless, I think that what has been said is right. Sharing knowledge and awareness will help, but I do not think that it should be mandatory to do so.

The Convener: That was a good question from Nanette Milne, and it led to a good discussion that the committee can take into consideration.

As committee members have no more comments or questions, I thank the witnesses on behalf of the committee for their attendance and participation. All of your written evidence will be important to our consideration of the bill as it progresses, and we look forward to working with you as part of that process.

I suspend the meeting for a changeover of witnesses.

10:56
Meeting suspended.

11:03
On resuming—

The Deputy Convener (Bob Doris): The observant among you will have noticed that our convener has left, so I will be convening the remainder of the meeting. The point that I am trying to make is that I am not Duncan McNeil.

Item 4 is the second of today’s evidence sessions on the Carers (Scotland) Bill. We will hear evidence by videoconference, so I ask members to avoid interrupting the witness and one another and to speak clearly when asking questions. I welcome Marjory Jagger, the manager of Skye and Lochalsh young carers.

Marjory Jagger (Skye and Lochalsh Young Carers): Thank you. It is good to be here.

The Deputy Convener: It is a pleasure to have you, and for once the technology is working, which we like. We will go straight to questions. As previously agreed, the first question is from Mike MacKenzie.

Mike MacKenzie: Could Marjory Jagger outline for the committee any special challenges that she feels are presented to young carers in her area by virtue of the fact that they are in the Highlands and Islands and in a predominantly rural area? That is a general question. Secondly, could she say whether the bill has any implications for young carers in rural areas?

Marjory Jagger: On the impact of rurality and the geography, if a young carer goes on a respite break to Inverness, the nearest city, that requires a six-hour journey there and back. Respite can be for just three or four hours in a day, but that journey is classed as a day trip. Our biggest concern is about the cost of the transport and how it affects our service delivery. It reduces our ability to deliver a more flexible service, because respite is the key thing that young carers say makes a difference to them—particularly respite within their own peer group.

In the past, many young carers have said that they do not access funds so much for their individual needs, because they feel quite isolated when they go away for a break. They would rather have the support of other young carers—so that they can support each other, learn from each other and be with trusted adults. There is an additional cost in taking groups away, as opposed to supporting young carers just to access funding for going away.

Another issue that affects us more in Skye and Lochalsh is confidentiality for young carers in small communities, where people tend to be very interested in other people’s business. Confidentiality is a priority for young carers. It is a question of who the lead person is in their lives and of the trust that they have in them. It can take a long time to build that trusting relationship with the family as well as with the young carer.

Mike MacKenzie: Thank you—I am very grateful for that.

The Deputy Convener: Dennis Robertson is next—only because he caught my eye first—and I will take Rhoda Grant after that.

Dennis Robertson: Good morning, Marjory. I will follow on from what Mike MacKenzie was asking. I hope that this pertains to both rural and urban settings. My question concerns a young carer taking part in local activities and just being a young person growing up, whether in a small community or in an urban area. They might want to go to scouts or guides; they might want to play football, go to youth groups and that sort of thing. Is there a need to offer support, even on a temporary basis, to enable young carers to go and be children and to enjoy the activities that other children and young people enjoy?

Marjory Jagger: Yes, we certainly promote that, although we find that a barrier for a significant number of young carers is that they feel that they underachieve in those activities. They might not be
able to commit to regular attendance, so they perhaps cannot achieve their badges to the same level and at the same speed as their peers. They often feel a bit overwhelmed by that and disengage from their activities. That is when we find them engaging with us to say that they want young carer services so that they do not feel the same level of underachievement in their community.

**Dennis Robertson:** Could the bill be improved to enable that to happen? How do we empower those young people to live the lives that other children and young people live in their communities? What do we need to do under the bill to make that happen?

**Marjory Jagger:** I am not sure whether this can be done under the bill, but young carers consistently tell us that they are made to feel that they are underachieving. They believe that, if caring were a protected characteristic under equality law and they had positive discrimination, they would not feel that they had to measure up against their peers, who they feel are at a much higher attainment level. They feel that that sort of support would be more empathetic to their needs.

**Rhoda Grant:** Hi, Marjory. I refer back to an answer that you gave earlier about lack of privacy and lack of confidentiality in rural areas. Does the fact that, in rural areas, people in schools or support groups such as yours and other people who deal with young people will often know their family circumstances make it easier to identify young carers?

**Marjory Jagger:** In certain smaller schools certainly, people are more aware more quickly. We find that most referrals come through families. Because of the community network, we find that families are in the same clinics together and attend similar appointments. They talk together and perhaps share the young carer service.

Our other big referrers are young carers themselves, who share information with their peers in school. They will recognise other young carers probably more quickly than any professional will. They are very good at supporting and advocating for young carers and taking them along to find out more information or taking them to their guidance teacher and acting as a peer support in that way. We find that that is probably the most effective approach, as the young carers do not feel that the service has been pressured on to them. They come towards us for the service, so they engage and build trust with us very quickly.

**Rhoda Grant:** That is interesting.

I want to ask about the role of pre-school carers and the bill. The aim is that there should be a duty to stop the caring role for pre-school carers. Should that be the case for children in school?

Indeed, is it feasible to stop altogether the caring role of pre-school children?

**Marjory Jagger:** I honestly do not believe that it is feasible at all to stop that role. The risk is that they would become hidden young carers rather than coming forward for support.

You will find that pre-school young carers can quite often become the fetchers and carriers for people with a disability—for people who are in a wheelchair, for example—or they can be the emotional supports for adults with mental ill health. It is very difficult to measure that level of support, but it has an impact. Those young carers will do that naturally—they have almost grown into that role—and they will see providing that support as part of their natural family dynamics. If they felt that they would be judged on that, it is more likely that we would start to shut down at a very early stage youngsters coming for support and families accessing support. It is more important to have recognition that that role exists and is developing and is likely to develop further as people mature. Early intervention work would be more beneficial to the young carer and their family.

**Rhoda Grant:** Thank you.

**Nanette Milne:** In our previous session, concerns were expressed about a copy of the young carer statement having to go to the named person. Is that a problem? You have spoken about confidentiality. Do you see that as a particular problem in your part of the world?

**Marjory Jagger:** No, I would not say that. We have been in operation for 15 years now and no young carer or family has ever declined permission for us to inform a school that there is a young carer in the family. The key to that is that the family and the young carer both see benefit associated with that. As long as that benefit is promoted and is realistic, they will see that it is in their best interests to do that. Families will look at the best interests of the young carer.

The other issue is how much information is disclosed. The carer in the family would be much more comfortable with looking at the impact of the caring role on the young carer rather than disclosing how many hours they perceive they care for in a day or a week and what particular tasks they do. They would perhaps see that as an invasion of privacy, but they would be able to recognise the impact of the caring role and, with guidance, I think that most professionals would recognise its impact.

**Nanette Milne:** Thank you. That is very helpful.

**The Deputy Convener:** I want to ask a question that is similar to one that we asked previous witnesses. Can you give examples of good practice in your area in which services and support
for young carers exist? Obviously, there is a structure behind the bill, but the policy intent is to improve the position of and support for young carers across Scotland. Are there good examples that you can put on the record?

11:15

Marjory Jagger: A few years ago, we set up a flagging system that we agreed with general practitioners, because, again, there were certain confidentiality issues that GPs were aware of such as how young carers might be identified and how families might be approached. We shared with the young carers in our membership the benefits of practices knowing that they were young carers, and the parents and young carers now sign consent forms for their notes to be flagged in GP practices. No matter which practice or clinic they present at, there is an automatic flag in their notes that identifies them as young carers who might benefit from additional time or from discussion about the caring issues in their lives, instead of having only the physical symptoms that they have presented with looked at.

The Deputy Convener: That excellent example brings us back to a comment in the previous session about the need to improve partnerships with GPs and the wider NHS.

In the previous session, we also discussed the benefits of peer support for young carers. However, you have said that that can be more of a challenge in your area, given the distance that people have to travel in order to get around the same table. Have you had any opportunity to roll out any services or support using the information technology, social media and multimedia platforms that we have at the moment, or does more work need to be done and more progress made in that area?

Marjory Jagger: In all the years that we have been monitoring this matter, young carers themselves have kept telling us that the biggest influence in their lives is face-to-face contact and that face-to-face guidance, support and information work best for them, because that allows them to enter into a discussion. They know where that discussion is going to be held and that action plans can be developed from that.

On the other hand, social media have generated more concerns than opportunities, because a number of our young carers have been targeted online in inappropriate ways. Some young carers are very vulnerable, and virtual relationships can seem very appealing, because they can maintain them without leaving the household. However, we try to promote the message that they should connect with people whom they know and trust, because, unfortunately, we have had predators targeting young carers.

The Deputy Convener: Thank you for putting those comments on the record and highlighting some of the dangers, because they provide a balance to the opportunities that social media present and make it clear that such opportunities should not be pursued at the expense of good-quality face-to-face contact.

Dennis Robertson wants to follow up on that.

Dennis Robertson: Connectivity can sometimes be a problem in some of our more remote and rural areas, but do you acknowledge that face-to-face contact through technology such as Skype, for example, is useful in dealing with barriers such as the distances that need to be travelled and the cost of that travel? If the technology and the equipment are available, could such contact not be handled through something like Skype?

Marjory Jagger: That kind of technology has been more useful as a stepping stone towards the ultimate aim of regular face-to-face contact with young carers. The fact is that it gives us only a limited ability to really get to know a young carer. The observational work that we do with them allows us to recognise when pressure is starting to build up and anxiety is starting to increase, and you do not tend to see such things in virtual communications.

Also, the respite breaks that we offer young carers are not just about having a break and having fun. That is one element, but we also observe their personal safety levels, risk-taking behaviours and peer integration levels. Through that kind of work with the young carer, we can develop action plans, and we also have the evidence to encourage them to engage with that plan, see the benefits of that engagement and motivate them to achieve their potential.

Dennis Robertson: I acknowledge what you say. I accept that there could be predators who target vulnerable people on social media, but we could set up private pages to enable peer-to-peer support. Would that be useful?

Marjory Jagger: That might be a stepping stone to fuller support. It should be explored for some young carers, particularly those who do not need support from specialist services, to see whether it would be of benefit to them. However, for a lot of young carers in rural areas, connectivity is an issue. Quite a lot of them do not have coverage in their areas. A lot of young carers in our area do not have land lines because of the cost. They have mobile phones that they just use in emergency circumstances, unless they are in an area where they have connectivity, which is usually the central areas.
Dennis Robertson: I accept all those points. We need to improve on that and ensure that there is connectivity as a lifeline for people.

The Deputy Convener: You make an excellent point about getting the balance right with technology. I am a city MSP for Glasgow, and if young carers in Glasgow can get face-to-face meetings, I completely understand why, in terms of equality of service, you are keen to ensure that young carers in your part of the world can get them as well. You are absolutely right to be persistent about that. I see opportunities for technology, but it should not displace the equality of service that you seek.

I have a question about how the bill handles the transition from young carers to adult carers and the support around that. The bill sets out that a young carer statement will remain in place after the person’s 18th birthday until such time as an adult carer support plan is put in place. I am interested to know whether you believe that is an important provision. This is also an opportunity for you to make some more specific comments on how transitions are handled at present in your part of the country.

Marjory Jagger: The young carer statement is a positive move. At present, child’s plans are targeted at the top end of young carers—those who are more vulnerable. A recent audit that we did shows that 70 per cent of our young carers who we believe would benefit from a child’s plan have one in place, but that means that 30 per cent do not. There is also quite wide use of level 1 forms, which register some additional responsibilities. They say that young carers are coping well and they give initial recognition that there are additional support needs. We find that, if a child goes on to get a child’s plan, they step down from that. Once they come off the child’s plan, if it is decided that it no longer required, we do not believe that the level 1 form is sufficient. The young carer statement will provide much more security and stronger support for young carers.

Transition into adulthood is an important time, but there has been a major gap there for a long time. It needs to be closed, and the provisions in the bill are a useful way of doing that. However, I also flag up the need for transition when young carers are going through bereavement. We often work with young carers for 15 months after bereavement because they are losing from their lives not just a person they love but their purpose and their role within the family. Some of them are also losing their home, their school or their friends. We believe that more intense support should be in place for them.

It is also important that some transition support is in place for those young carers who go into local authority care, again because they are not just losing the family. They may still have a connection with their family, but they are losing their caring role, and that can create an additional bereavement process for them.

The Deputy Convener: Thank you for putting on record something that the committee has not looked at in relation to transition planning. We have not looked into the impact on someone of losing a loved one for whom they had been providing care, although we have taken evidence on emergency planning and anticipatory planning. If someone has a loved one with a life-shortening or terminal condition, the local authority, the health board and others need to plan to provide support such as bereavement counselling. You estimate that about 70 per cent of young carers in your area have been identified. Is there much evidence of such anticipatory planning going on?

Marjory Jagger: The issue for us is that it is difficult to quantify, because there will always be some hidden young carers out there. That might be because of family culture, as there are travelling families in the area, or because some young carers are home educated, so they are not picked up by schools or seen by school nurses or many service providers, especially if they have never registered in school. We see them as vulnerable young carers, because they do not get monitoring or support mechanisms through other services to the same level.

The Deputy Convener: I asked two separate questions, but I was not as focused as I could have been. Your answer is helpful on the identification of young carers. It is a strength that you have managed to identify 70 per cent of young carers and I suspect that what you are doing in your area is better than what we are doing in other parts of the country. Maybe some of the work with GPs and flagging might explain that. I know that you are keen to identify every young carer, but you appear to be doing well.

I asked about something that is difficult to quantify, so I am not looking for numbers. Are you aware of whether, for young carers who have a loved one with a terminal condition, any planning takes place to ensure, before what is tragically inevitable happens, that support is put in place to anticipate their need for bereavement counselling and additional support? Does that happen?

Marjory Jagger: That certainly happens in the Skye and Lochalsh area. I should clarify the 70 per cent figure that I mentioned—I apologise if I was not clear about that. I was saying that 70 per cent of the young carers whom we have identified and worked with and who we believe should have a child’s plan have such a plan in place. I did not mean that we have identified 70 per cent of young carers in our area. I do not think that we could give
any sort of figure for that, because the total number is unknown. I apologise for that.

**The Deputy Convener:** I think that it was my misunderstanding, but thank you for correcting me, which gives certainty on that point. I appreciate that.

I will not ask about this again, but I do not think that we have explored transition and anticipatory planning for young carers whose loved ones have a terminal illness. Is there evidence of that taking place?

**Marjory Jagger:** Yes. We do pre-bereavement support, which starts about a year in advance. If we are fortunate enough to engage with the family and young carer in time, we work with them to prepare such things as memory boxes and make positive memories for the young carer, so that any special wishes that they have can be accommodated to allow them to achieve things in the family before the death occurs, and we help them to achieve those aims if at all possible. Young carers are given opportunities, particularly through creative art, to give messages to their mum, dad, brother or sister that they may have problems verbalising at home. They can create those messages in a safe environment and then share them. That has made such a difference that in some cases the parent has asked for those possessions to be put in their coffin with them when they die. We cannot overvalue the difference that that makes to the whole family.

**The Deputy Convener:** I will give Marjory Jagger the final word, but I want to check whether any members have further questions—Dennis Robertson is indicating that he does. This is the last opportunity for members to catch my eye.

11:30

**Dennis Robertson:** I fully endorse what Marjory Jagger said about memory boxes for loved ones. How many carers are supporting young siblings rather than parents? That relates to bereavement, too.

**Marjory Jagger:** Consistently, for a number of years, the majority of young carers have been supporting mothers. Those who are supporting fathers make up about 20-odd per cent of the total number. The group of carers who are supporting siblings is smaller, because parental support is usually in place in that situation, so children are not as often the primary carer in providing sibling support. However, children are often the primary carer in supporting the adult or adults in the family.

We have had 19 young carers who were supporting more than one person in their family, which could mean both parents or a parent and a sibling. The impact of that is sometimes not recognised, and nor is the impact on carers when the carer has a condition, disability or chronic illness. That can be addressed through assessing additional support needs, but the young carer element is underrecognised and the impact is therefore not really addressed.

We find that, although all the schools know that they have young carers and know who those carers are, only 20 per cent of those children are recorded on the pupil database as having additional support needs as young carers. We hope that the young carer support statement will help to address that issue.

**Dennis Robertson:** One question came to mind while you were talking. Are we aware of young carers in the Travelling community?

**Marjory Jagger:** We are not aware to the level that we should or would like to be, but people from the Travelling community have come to us. They tend to be those who have settled in the area, even for a short period. Trust has been built throughout that community by us having one or two members who were previously Travellers and who are now settled but still have the networks and connect with other Travellers. If they see the benefit of the service, they will help to promote referrals to it.

**Dennis Robertson:** Travellers always say that they are Travellers, even if they become static.

**Marjory Jagger:** Yes—because of the culture, they still class themselves as Travellers.

**The Deputy Convener:** There have been no other bids from members to ask questions. As I said, I will give Marjory Jagger the last word. Do you have any thoughts about, reflections on or hopes for the bill? Would you like anything in the bill to be changed? You are welcome to put anything on record before we close the evidence session.

**Marjory Jagger:** As we are a small independent charity up in Skye and Lochalsh, access to funding is the issue for us. We get about 30 per cent of our funding through local authority support. For the rest, we have to fundraise, make applications and produce reports as well as delivering our services, which reduces our capacity.

Under local authority service-level agreements, support is on an annual basis. That does not allow us time for planning, and we are always having to look at contingency plans in case funding is reduced. The funding has been standing still for a number of years, which is in reality a reduction for us.

We would like more equity of service provision across Scotland and particularly across the Highlands, which are very rural. There are only two specialist young carer services in the
Highlands: one at Skye and Lochalsh and one in Sutherland. There is a huge identified need to put more resources into the Highlands and start services that would make a significant difference to the lives of these vulnerable but—they are difficult to describe adequately—very special children, who do not ask for much but give so much to others.

The Deputy Convener: I am glad that I gave you the opportunity to put all that on the record. It will be important when we look at our evidence on the bill.

All that remains is to thank you, on behalf of my fellow committee members, for your excellent evidence and for taking the time to give evidence to us.

Marjory Jagger: Thank you.

The Deputy Convener: It was a pleasure.
On resuming—

**Carers (Scotland) Bill: Stage 1**

**The Convener:** We move on to agenda item 3, which is two evidence-taking sessions on the Carers (Scotland) Bill. I apologise for the delay, but it was important to finish stage 2 of the Mental Health (Scotland) Bill.

Until now, our oral evidence has mainly focused on carers, but today it is the turn of local authorities and health services. We welcome to the committee Councillor David O’Neill, president, and Beth Hall, policy manager for health and social care, the Convention of Scottish Local Authorities; Paul Henderson, service manager for Perth city, mental health, drug and alcohol, Perth and Kinross Council; Penny Nowell, joint planning and commissioning manager and carers strategy lead officer, Dumfries and Galloway Council; and Alison Jarvis, community nursing programme manager, NHS Lothian.

We will go directly to questions.

**Nanette Milne:** A key feature of the evidence that we have heard from carers is on whether eligibility criteria for support should be set locally or nationally. The carers organisations believe very strongly that only if some element of those criteria is set nationally will there be equity and certainty for carers. Many of them pointed to the situation in social care more generally, where over the years eligibility thresholds have been raised as resources have become more constrained, and they are concerned that resources will be focused on crisis care to the detriment of preventative support.

I am aware that in its evidence COSLA puts the opposite view and suggests that we focus on the local setting of criteria. However, there was some variation between the councils. What are the panel’s thoughts on the matter? Do you have sympathy with the views of the carers organisations and do you think that they will get equity if criteria are set locally?

**Councillor David O’Neill (Convention of Scottish Local Authorities):** I have sympathy with the view that has been expressed and I understand why carers would think that way. However, we have lots of evidence that shows that the closer you take decisions to the service user and the community that the services are aimed at, the better the outcomes you get. Setting out the criteria in legislation will reduce flexibility, innovation and the ability to deal with people on an individual basis. Our client base is made up of...
people who are very diverse and who have different needs and aspirations, and to have one set of eligibility criteria for the whole of Scotland would not serve them well. I understand where the carers are coming from and that there should be a focus on outcomes—the outcome that we want to achieve for individuals—but it would be counterproductive to try to find a one-size-fits-all approach for every community and individual in Scotland.

Paul Henderson (Perth and Kinross Council): I agree with those comments about local democracy and the fact that councils should be able to set their own criteria. We find that we are already making allowances for carers, particularly in the preventative approach that we are taking, and we would not want to have criteria that missed that out. Our approach is based on a locality model, in which we listen to the needs of local carers, and our fear would be that a single set of criteria would drive that away.

Alison Jarvis (NHS Lothian): I can see both sides of the argument. I understand what people are saying; although variation is good, a degree of consistency, too, can be important. I understand where both the carers organisations and COSLA are coming from, and I could be persuaded either way.

Beth Hall (Convention of Scottish Local Authorities): I understand the concern about the need for consistency, but that can be addressed through being consistently transparent about how eligibility is approached. 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, because demand varies not just between councils but within council areas and over time. It is constantly fluctuating.

As a result, councils need to be able to adjust eligibility criteria at a local level in order to manage demand. As David O’Neill has said, that is how we get the best fit between demand and provision and is the best way of ensuring that resources are used flexibly to meet outcomes. Trying to do that at a national level would be like using a much blunter tool, and it is not the best way of getting the most flexibility and the best outcomes for individual carers.

Penny Nowell (Dumfries and Galloway Council): Like Alison Jarvis, I can see the carers’ point of view, but I also fully endorse what my colleagues have said about councils needing flexibility. Dumfries and Galloway is a very rural region and we need to be able to flex to take that rurality into account. A lot of people who are retiring to the region do not have family connections and so on, and we need to find ways of supporting those carers, depending on priority of need.

Nanette Milne: I, too, can see both sides of the argument. Personally, I think that, not just in this but in lots of fields, decisions are often best made at a local level as possible. That said, although it is a cliché, I understand the concerns about the postcode lottery that quite a lot of carers have expressed. They are appreciably concerned about that.

Penny Nowell: In the past few years, authorities and health boards have seen the implementation of the national carers strategy and the carers information strategy. In Dumfries and Galloway, quite a lot of services are accessible to all carers; there is information and support on specific conditions such as dementia and other mental health conditions, and there is generic region-wide support. That situation will not change.

Paul Henderson: I agree with that. From a practical—and a value—point of view, I think that, because we are supporting more older people in the community for longer, we are, by necessity, having to support more carers. We are doing that already, and we are addressing carers’ needs in a more preventative way, because, in the majority of cases, they are the people who are keeping people in the community for longer. As I have said, we are already going down that route out of necessity.

Councillor O’Neill: We have been going down the self-directed care road for the past while now. If we do something that specifies a particular part of a service for the service users for whom we are trying to provide, that kind of contradicts what we are doing with self-directed care, the purpose of which is to give people flexibility and decision-making powers.

The Convener: We have a couple of supplementary questions on that area.

Dennis Robertson: On flexibility, my understanding is that even if there are national criteria, there will still be some flexibility to ensure that areas such as Dumfries and Galloway or, indeed, my constituency of Aberdeenshire West are covered. However, I have a problem with the local aspect. Having worked in social care for more than 30 years, I am aware of the restriction of resources. With regard to outcomes and prevention, which has just been mentioned, my concern is that the bar gets raised too high. That is what has been happening in local authorities for years; when the needs increase and you have less resource to meet them, you raise the bar. However, if you raise the bar too high, people do not get a service, and we need some assurance that we are providing a level playing field across
all authorities to ensure that we are meeting carers’ demands.

The Convener: What we are picking up is that in some areas eligibility criteria are being used to manage diminishing resources.

Dennis Robertson: That is what I am getting at, convener.

Councillor O’Neill: I understand where people are coming from on that. Our support for carers operates according to local needs, but if you set nationally agreed criteria, some people will get a lesser service than they currently get. Local authorities have, in conjunction with service users, been able to design services that are suitable for them, but if there are national criteria, they might have to impose something less suitable.

Dennis Robertson: Nonsense.

Councillor O’Neill: No, it is not nonsense.

The Convener: I am not having heckling, Dennis—not even from you.

Dennis Robertson: I was following up on my question, convener.

The Convener: I heard a wee shout there—we are not having that. Other people want to contribute to this discussion; indeed, I see Bob Doris, Mike MacKenzie and Rhoda Grant. If you want to ask a follow-up question, I ask that, first of all, we get a response to your previous question from the panel.

David O’Neill has already responded. Does anyone else wish to?

Paul Henderson: Following on from my last comment, I make it clear that this is about a preventative approach. We are now supporting people who you might say had fallen outside the community care eligibility criteria, and we recognise that if we do not put preventative services in place now, we will end up having to provide more crisis support later. That is a key factor, particularly in relation to supporting carers. What we are finding is that, if we do not put the support in place now, it has to come in later as crisis support, which requires more costly services.

Beth Hall: Going back to the national criteria and where the bar should be set, I think that if you have national eligibility criteria that guarantee that carers’ needs above a moderate level, or whatever the level might be, will be met, it becomes necessary to meet any increase in demand by shifting resource from other social care groups in order to maintain the absolute bar or level that has been set for one particular group—in this case, the carers. I think that that was what David O’Neill was trying to highlight. Within the context of finite resources, protecting provision at one end means that resources have to come from somewhere else when demand increases. That brings me back to my earlier point about the need to be able to respond to the fact that demand fluctuates. Let us face it: we are all dealing with a situation in which resources are finite.

The Convener: I call Bob Doris.

Bob Doris: I did not realise that I was going to get in so early, convener. That is good.

I am sure that it is not deliberate, but I wonder whether we are conflating eligibility criteria with locally provided resource. For example, it has been decided nationally that any young person at primary school who stays three miles away from their school must get a bus pass. However, some local authorities have decided to provide a pass to young people who stay two miles away, and there is a cost implication to that. What is the panel’s view of the notion of eligibility criteria that are set nationally in consultation with COSLA and other local authorities and stakeholders to identify the carers who should definitely be provided with a service? Local authorities can then prioritise at a local level if they so choose and have local discretion to give added value to that.

I have to say that I am picking up resistance to any direction at all from the centre. Given that, as MSPs, we get the phrase “postcode lottery” thrown at us all the time, we expect national standards on, for example, who pays prescription charges. In that case, it has been decided at a national level that nobody pays, but I have not heard anyone say that the fact that one part of the country cannot decide whether to charge for prescriptions goes against local democracy.

In the context of eligibility criteria that were nationally set and consulted on, the question would be about who qualified for support rather than what that support would be. There would be a permissive power to allow local authorities to go further if they wished. I understand the financial pressures that local authorities are under, but the carers whom I represent will see a defensive approach from the witnesses here this morning. In the spirit of the way in which I am asking my question—that is, in terms of certain key benchmarks that we can all agree nationally for carers, irrespective of whether they live in an urban or rural area, and without saying what the localised manifestation of that support would be—can you at least concede that we should perhaps consider some form of national eligibility criteria and then a permissive power for local authorities to go further if they wish? We would not be stipulating the service that you had to deliver, just putting in place some sort of gateway mechanism to ensure that carers, irrespective of where they were in the country, got a degree of service.
Councillor O'Neill: My understanding of the bill is that it sets out a duty; indeed, it is prescriptive even to the extent that it includes what would normally be covered in guidance. As a result, it will remove flexibility; it is seeking to design a one-size-fits-all service, and we do not think that that is a particularly good way to go for individuals. Services have to be designed to suit the individual and cannot be one size fits all. If there were to be legislation that prescribed the strategic outcomes, that would be fine, but, as I understand it, the bill as it currently stands is prescriptive.

11:30

Beth Hall: Expanding on that, I think that there is a bigger issue about democratic accountability with regard to use of resources. Prescription charges, for example, are not dealt with at local level, whereas social care is the responsibility of local authorities, which have to be democratically accountable for the resources that they invest in that respect. Part of that accountability and responsibility means coming up with a way to decide who gets what when there is a finite amount of resource. If the committee is picking up a theme about that needing to happen at a local level, what is probably underpinning it is the fact that, as I have said, social care is the responsibility of local authorities. The other issue is that moving away from that model of democratic accountability for the use of resources—and setting aside for the moment what that means for councils—means that one group of people who use social care services will have nationally defined entitlement while another will have locally defined entitlement.

It would be useful to be clear what we are talking about. When we talk about eligibility, we are talking about an eligibility framework that consists of eligibility criteria and eligibility thresholds. Those are two different things, and the distinction is quite important. The criteria are about how we categorise need; because that needs to be transparent, we categorise it as critical, substantial and moderate. In a sense, that system already operates at a national level, in as much as we have national eligibility criteria that can be used. As for thresholds, they are about deciding at what level those needs will call for the provision of services. From a local authority perspective, the difference between the two is very important, and we are saying that eligibility thresholds need to be set locally.

It is not entirely clear in the bill what is meant by the term “eligibility criteria”. We would understand that to mean how we categorise need, rather than the thresholds that we use to decide whether someone is eligible for a service. There is a lot in there and if, in our responses, we seem to be coming down on both sides or are perhaps not being clear, that might be why.

Paul Henderson: I do not want to appear defensive; we are very supportive of carers and wish to support them more. As Beth Hall has said, it is important to clarify what is meant by “eligibility criteria”. For example, there are national eligibility criteria for adult care, but within those criteria, councils can set the thresholds. For us, the issue is the permission to set the thresholds rather than what we have to provide being fixed at a national level. It is important that councils have the local accountability to set their own thresholds.

Penny Nowell: Again, I am sorry if we appear defensive, but our social work departments are struggling to balance the books in order to deliver a range of services to meet very diverse needs.

I have spent a lot of time trying to model what kind of costs we are looking at. I know that that takes us further than eligibility criteria, but that process is really challenging because, even in a relatively small authority like Dumfries and Galloway, we do not know all the carers who identified themselves as carers in the last census. We do not think that that is relevant—or rather, we do not think that the census is accurate, because we have identified even more carers through other means. If we do not even know the figures, it is hard to model these things and come to some idea of the kinds of costs that we are looking at.

Bob Doris: I will not reply on that point, as it is a separate question and, as the convener pointed out, I was asking a supplementary.

I thank Ms Hall and Mr Henderson in particular for giving a bit of light and shade to the discussion about national eligibility criteria. The bill says “may” rather than “must”, but there is more discussion to be had about what those might look like.

Rhoda Grant: I want to go into the financial aspects of this. There seems to be an issue about how you gauge the criteria. COSLA’s submission points out that the financial memorandum uses the figure of £300 for a short break, although COSLA’s estimate of the average cost is closer to £967. There will be a whole range of figures depending on where someone lives in the country. Given that we are not sure how many carers will be eligible or what costs are to be accrued, have councils done any work on what the costs will be? Some of the services are already being provided to carers, so surely there must be an idea of costs, using the census and other work. Also, the bill is not based on every carer being covered from day 1, which concerns me, but is based on increasing percentages being covered going forward, so the costs will increase over time. Has any work been done on realistic costs or on where the financial
memorandum might fall short? What work does the committee need to do when examining the bill?

Beth Hall: We have been working with our members, asking them for information on costs. We have shared that information with the Scottish Government, which has considered that, along with data provided by colleagues. As the committee will have gathered from COSLA’s submission, 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.

On the unit cost of assessment, when we initially had discussions with the Government we were happy with the figure that was arrived at. We took information from councils, removed the outliers and looked at average costs and the figure came out at £176 per assessment. However, in the financial memorandum, £176 per assessment was presented not as the mid-point but as the top point, with other costs below that. We are concerned that that is not realistic and is not a reflection of our understanding of the costs.

Rhoda Grant spoke about carers not being covered immediately by the bill. In the sense that the duties of the bill would apply across all 759,000 of Scotland’s carers from day 1, all carers will be covered immediately. We then find ourselves in the business of trying to figure out how many of those 759,000 people will come forward and how quickly. That is very difficult, as we recognised in our submission to the Finance Committee.

We looked at other areas of service provision where there is a universal entitlement—the bill will introduce a universal entitlement to a carer’s assessment, although not all people will take that up. If you look at how demand built for free personal and nursing care, for example, you see that the rise was much sharper than is profiled in the financial memorandum to this bill, where the profile is low and slow.

Similar legislation has been introduced in England but has only just come into force. The Government had to revisit its impact assessment—the UK version of a financial memorandum—twice, to revise the figures up. That indicates that demand is coming through quicker than expected in England.

We are saying that there is a high risk that demand will outstrip the resource that is made available, as more carers come forward or as carers come forward more quickly. At the moment, all that risk lies with local authorities and with carers, as they will have increased expectations of what can be delivered.

You asked about the committee doing further work. Our further work has involved asking the Government to revisit the figures and agree with us a model for estimating costs. They cannot be certain; we just want to agree a model. 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.

That was quite a long answer, but there are many unknowns and it is a difficult area.

Penny Nowell: In Dumfries and Galloway, we have tried to model some of the costs. We did an initial, basic version when we responded to the COSLA questionnaire back in January and I have revisited it a number of times since. When I discussed it with my colleagues in the third sector, they told me that I had forgotten to take into account the fact that we do not have the capacity in the third sector at the moment. That is a significant issue to take on board. Although we welcome the growth of the third sector in helping us to deliver support to carers, it obviously has its processes and so on to go through, which must be taken into consideration.

Paul Henderson: In Perth and Kinross, we have done some financial modelling, based on the stats that we have. Our unit cost for completing a carer’s assessment came in at £215, which is much higher than the high-level cost that is presented. We asked a social worker how long it took to complete a carer’s assessment and they said that it was a day and a half. The unit cost was a proportion of a social worker’s salary, based on that figure.

We have concerns. We have approximately 3,600 registered carers, yet we know from the 2011 census that 13,000 people identified themselves as carers. We have extrapolated from that what we would need if every one of those 13,000 people needed a carer support plan, which is another £200,000.

We have been working on the care costs of providing respite or replacement care, although it is quite difficult to get a sense of what they would be. We are more concerned about the waiving of charges and how that is interpreted. Does that just include some form of respite care? Do you start looking at day care as a form of respite? That is one of our concerns on that area, although maybe that is going off the subject a bit.

The Convener: The question was a supplementary flowing from the question on
eligibility criteria, so we will leave it at that. I will bring in Mike MacKenzie.

**Mike MacKenzie:** It is all right, convener. We have explored the area thoroughly.

**The Convener:** There is just one question that I would like to ask about the calculations of cost. Has any calculation been done on the benefits of proactive engagement with carers or the preventive benefits that might flow from early engagement with those carers who do not require anything at present, but who might do in future?

**Paul Henderson:** A cost benefit analysis of that has not been carried out, but in our plans, particularly when it comes to information and advice, we think that such preventative support would stop a crisis later on. We have not worked out an amount for that, but we know that it is something that we need to do. We support that element—it would help to provide information, support and advice early on—but we have not done any calculations about the extent to which that would alleviate things.

**Penny Nowell:** I did such a calculation—it was just a back-of-the-envelope calculation that involved thinking about how many carers we have in Dumfries and Galloway and knowing how many carers we have who care for more than 50 hours. An amazing number of care hours are being delivered every week. I came up with a staggering figure of millions of care hours per year. If that is translated into an overall cost using a basic unit cost of £18 an hour, it is a huge amount of money—even at £10 an hour, say, it is a huge amount. That is the amount of money that is being saved in health and social care provision. We undoubtedly all see working in partnership with carers as a vital element as we move forward with the delivery of health and social care.

**Alison Jarvis:** This point does not relate to the convener’s question, but in the discussion about preventative care the idea that there are small interventions that can make a big difference comes up time and again, not just with patient groups on long-term conditions but with carers. The concern is always that, if the focus is on the high end of caring or on the discussion about eligibility criteria, we will miss the opportunity for preventative interventions, whether in health or social care. If we think about the push towards preventive and anticipatory care, we must invest at such relatively low levels, because that will make a big difference.

**Penny Nowell:** A final point is that I have often found that if carers have the knowledge that support is available, they do not access it. At one point in my life, I was a carers support worker. I tried to encourage carers to come to mental health support groups, but I think that I used to meet more people in Tesco than I met at the carers support groups, because people would say things like, “I’ll come along when I need to—I’m sure you need to support someone else who has a greater level of need than I have at the moment.” People felt that that safety net was very important for them.

**The Convener:** Did COSLA do any work on the possible benefits of the bill in terms of early intervention or prevention?

**Beth Hall:** In common with Paul Henderson, we have not done a considered piece of work at national level to look at the financial benefits of those outcomes. That is quite complicated to do in a robust way; it involves looking at things such as social return on investment models. I think that all the work that underpinned the joint carers strategy and the joint young carers strategy took as a starting point consideration of how more preventative approaches could be maximised in the knowledge that that would take demand out of the system later on, which is better for everyone.

In addition to those two pieces of work, there was the work that was done on the change fund. Part of the change fund was to be used to improve support services for carers. The premise for that was that it was very much about shifting the balance of care and looking at much earlier intervention.

**The Convener:** Did local authorities achieve that with the change fund, or was that another case in which the money was used just to meet the current demand rather than to pursue the preventative aspect?

**Beth Hall:** No. I have not brought figures on the change fund today, but there was a focus on looking at and reporting on what that money went on and that is in the public domain. I am sorry that I cannot give you a summary read-out today, but the information is available.

**Alison Jarvis:** It is always difficult to cost something that has not happened, whether it is that someone did not go into hospital, or that their length of stay in hospital was shorter, or that there was not a complaint, or whatever. That is a problem with all preventative spending. A lot of the change fund spend was for things that did not happen, in a positive way. To cost that and show the benefit, or even to prove it, is always a huge challenge.

**Paul Henderson:** We estimate that most of the support we provide is not discretely provided for carers. It is provided for the service user or the client, usually in some form of day care, and invariably benefits the carer as well. We estimate that we spend approximately £800,000 on carers
specifically, but we know that we support carers in many other ways with up to about £14 million for day care and so on.

It is quite hard to say that this particular amount is for the carer and this is for the service user or client. That is what made some of the financial modelling figures we were producing for the COSLA submission quite difficult. We had to try to extrapolate parts of spend. The amount that we spend for carers discretely is not all that we are providing for carers.

**Bob Doris:** I am interested in discussing finances.

Alison Jarvis talked about innovation, using money more cleverly and not allowing eligibility criteria, irrespective of where and how they are set, to squeeze out innovation.

A lot of carers are looking after elderly loved ones. We have health and social care integration, with integrated boards at the forefront now. I know that this is not specific to the bill, but I wonder whether there needs to be some reflection on the opportunities that that brings to have more early intervention for carers, using not just local authority cash but the whole gamut of cash that now comes on to the table from health and social care integration. Even some brief comments would be helpful, to get that on the record. Also, should there be some cognisance of the need to promote best practice, either in the bill or in the regulations that follow?

**Alison Jarvis:** It is always good to support innovation, 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. That is a dilemma in all sorts of areas. It certainly is in healthcare.

**Councillor O’Neill:** The change funds have been useful, but some have been more useful than others. We have been more successful with some than others. As the convener hinted and Alison Jarvis has just said, when the aim is to disinvest from something to put resources into what the change fund has shown to be successful, a care crisis that comes along can be particularly difficult to handle. Should we nevertheless do it? Should we be doing more in the way of prevention? Absolutely.

**Beth Hall:** I could not agree more about harnessing the resources of a wider range of services and using the opportunities that are afforded us through integration. There is a lot that can still be done to use resources in a smarter way. We know that there are challenges around eligibility and finite resources.

We were keen to see greater consideration of self-directed support approaches in a health context. The needs of someone who is in receipt of services under integration should not have to be categorised into social care needs, with flexibility through the self-directed support option, and healthcare needs, where SDS does not apply.

When the Social Care (Self-directed Support) (Scotland) Act 2013 was going through Parliament, COSLA made a case for that duty to be extended to the NHS. That did not happen, but that does not mean that further work could not be done through guidance and through future bits of legislation harnessing those opportunities. One of the things that we have learned, which underpins self-directed support, is that sometimes a carer is accessing a very expensive service that is not actually the best way of meeting their needs and that, if you give the carer a personal budget, their outcomes will be met in a far more innovative way than we have managed previously.

**Paul Henderson:** There are lots of examples of using the change fund and the integrated care fund to provide preventative services. We have set up carers cafes and dementia cafes. There are carers workers in the hospital to support that part of the discharge. More recently, we have developed carers support workers to be part of an integrated care team, particularly to identify people earlier, before they are in crisis. We put in respite and replacement care before they end up in crisis, because crisis breakdowns cost us huge amounts of money.

**Alison Jarvis:** And they cause the carer distress.

**Paul Henderson:** Absolutely.

**Bob Doris:** I will not follow up on self-directed support. It has not worked well at a local level in Glasgow. I will not indulge myself by telling you why I do not think that it has worked well in the slightest—it has withdrawn choice from a lot of vulnerable people whom I represent. Is there an opportunity for the bill, as scrutinised and amended, to focus the mind of the new integration boards more than might happen otherwise by using wider moneys to support carers to do some of that preventative work? You do not have to answer that—it is up to you.

**Penny Nowell:** I would support that. It was disappointing to see something that was mostly targeted at a duty on local authorities just as we were about to get into the discussions and work around developing strategic plans and locality plans. I am pleased that carers are being considered—they are being considered in Dumfries and Galloway—but it would be good to see that beefed up a bit more in the legislation.
The Convener: Dennis, will you help me out by pursuing the questions that you have been asking about getting it right for every child and young carers?

Dennis Robertson: Yes. I will explore the setting out of a duty to undertake appropriate assessments. Is the current legislative framework adequate or do we need to improve it for our young carers?

Beth Hall: Our approach has always been to say that young carers need to be treated as children and young people first and as carers second. It is important that young carers have the same right to have their outcomes met as other children and young people have.

We have a concern about how what is set out in the bill fits with GIRFEC and its outcomes approach. 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. There is a risk that young carers will be put in silos and that there will be a subset of needs that is treated differently.

If the decision is made to proceed with introducing the young carer statement, we would like the statement to be part of the child’s plan when one is in place. We should not go down the road of having separate plans for subsets of needs.

That also raises the question whether, if there is a separate plan for young carers, there should be a separate plan for young people with disabilities or from black and minority ethnic communities. A separate plan would run counter to the policy direction, which is about focusing on outcomes for children and young people and ensuring that those are delivered, irrespective of the needs that give rise to them. That is where our thoughts are at present.

12:00

Alison Jarvis: It is important that we think about the transition from young carer to adult carer. The transition points are always tricky, but they present an opportunity, too. We should consider how the transition process works for someone who is moving away from being a child under the GIRFEC strategy. It is important that we pick that up.

Penny Nowell: To draw on that point, some of the feedback that I have had from carers centres has focused on the value of the young carer statement as the person moves towards becoming a young adult carer. However, I have also had feedback suggesting that terminology such as “statement” feels a bit official—like a police statement, for example—whereas the GIRFEC plan is perhaps less controversial.

Dennis Robertson: Would having a statement in place highlight the fact that someone has a lead or key worker? That could be achieved through GIRFEC, but having a young carer statement in place would facilitate a process that is not currently provided for and would perhaps help with the transition period. Do you agree?

Beth Hall: The key point is that the provision for such a lead is not in place. Our concern relates to the fact that a major new piece of legislation, the Children and Young People (Scotland) Act 2014, will come into force in August next year. It will require a named person for every child and a clear focus on ensuring that the child is safe, healthy, achieving, nurtured, active, respected, responsible and included, according to the SHANARRI outcomes. That leads us to question whether a separate bill is needed, given that it will be passed just before the 2014 act, which will cover that area, comes into force. That runs the risk of confusing the situation and making co-ordinated planning for young people more difficult.

Rhoda Grant: Convener, I have a supplementary question and a substantive question. Can I ask both?

The Convener: Yes.

Rhoda Grant: A point has been raised about how the named person requirement and the child’s plan will interact with the young carer statement. According to some of the evidence that we have received, young carers are reluctant to have the statement shared with their named person, especially if they are caring for someone with drug and alcohol problems. They are not clear that they would want that information to be known—for example, by their school headteacher. That would depend on how sympathetic a person might be on the issue.

If a young carer wanted their information to be confidential, how would it be dealt with? Could services be set up to support someone and highlight to the named person that the young person is a young carer—that is important in a school setting so that adjustments can be made to allow the young person to benefit from education—while not including or passing on some of the more personal aspects of that caring role?

Beth Hall: The key point is that the child or young person should be in control of the information and of which details are shared with whom. I am sure that the witnesses who will give evidence in the next session will go into how that all plays out with regard to the 2014 act.
The quick answer to your question is that, irrespective of whether we have a separate young carer statement, the approach to the named person and the child’s plan and the way in which information is shared among the professionals involved should be predicated on involving the child or young person in deciding what information is shared with whom.

Rhoda Grant: My other question is about information and advice services. I have spoken to groups of carers and I know that some services have been set up in an ad hoc way by people who have been carers and have noted a lack of information and advice for carers in their communities. A number of organisations in the third sector provide such services, but there is a concern that, because the bill places a duty on local authorities, they will bring all that work in house and some of the good local knowledge will be lost.

I am looking for a bit of comfort for those organisations. I feel that, if those services are out there, it is for local authorities to support and develop them to ensure that they provide the services that the bill requires. Will you give me some thoughts on that?

Paul Henderson: When we in Perth and Kinross Council have consulted carers locally, information and advice has come up again and again. In response, we are commissioning an information and advice service from the independent sector. We do not necessarily see such a service as lying only within the local authority, but nor do we have independent sector services that are doing that work. We are commissioning a special service to ensure that we provide that information and advice. It will not be a local authority service; it will be a partnership.

Penny Nowell: Ensuring that carers get the right information and advice at the right time is a challenge. We, too, commission the third sector to deliver that. Through the carer aware training that the third, independent and statutory sectors are delivering—we are starting to deliver it to people such as hairdressers—we are trying to make everyone aware of where they can signpost people to. Unfortunately, that will always be an ongoing challenge. We find that, particularly in rural areas, people can be caring for a long time before they find out that a simple service is available. I hope that the adult support plans will help to benefit carers in that way.

Councillor O’Neill: The public sector does not have a monopoly on wisdom or knowledge. If somebody out there, such as in the third sector, knows what they are talking about, let us use them.

Paul Henderson: We have good evidence that lots of carers out there do not realise that they are carers or what services there are. I mentioned information and advice services, which there are not enough of, given what we need to do.

Another issue is people declining carer assessments. We have about 625 carers a year declining a carer assessment when the client is assessed. Why is that? It might relate partly to information and training for social workers, but it is not enough just to provide an information and advice service. We need to do a lot more among our workforce and the public to raise awareness of carer issues.

Alison Jarvis: There is so much information and advice out there, so we should not reinvent the wheel. Whether the provider is NHS 24, NHS inform or local services, the information and advice needs to be gathered in one central place so that people know where to find it, and people need to be signposted. Often, the information is out there, but people do not know where to look for it or, as Paul Henderson said, they do not realise that they are a carer and that there is information and support that would make a difference to them.

The Convener: Alison, you are representing the national health service. What is its role and what part does it play? There are critical points for the identification of carers that the committee has heard about lots of times, which involve discharge policy and unplanned admission to hospital. Does that identification happen, should it happen and what responsibility should the national health service have for identifying carers and informing them at that point?

Alison Jarvis: The health service has a huge responsibility, which we have touched on a bit. The issue is hugely complex. Some of it concerns self-awareness and ensuring that staff make the most of opportune moments to identify carers, because people often do not realise that they are carers.

I draw the committee’s attention to research that was done with primary care and carers of people who are at the end of life or who have advanced illness. We would think that that group of carers would be easy to identify and that those people would see themselves as carers.

However, in a relatively small study that was done in Edinburgh, there were three main barriers to identifying carers. One was that becoming a carer is often a gradual process. That is true for lots of illnesses, such as lung cancer, dementia and so on; there are not many situations such as a stroke when people are catapulted into a caring role. More often the process is gradual, and people do not appreciate that they are carers until
they are quite far down the line. Often as the cared-for person’s condition deteriorates, the caring role becomes so engulfing that the carer can no longer separate out their needs as a carer from those in looking after the cared-for person.

Another issue is legitimacy. There is ambiguity about the legitimacy of the carer’s needs not only in the carer’s mind but in the professional’s mind. General practitioners and hospital staff often think that their focus has to be on the care recipient. Lots of work has been done in NHS Lothian and in other board areas on staff awareness training, but sometimes we focus only on the cared-for person. Carers are so focused on the cared-for person that there is a need to be explicit about the legitimacy of carers’ needs.

It is assumed that, if we open up a universal right, huge numbers of carers will self-identify. That fairly small study showed that 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. People are often hesitant to identify themselves as carers.

There is a lot of work to be done on staff awareness and confidence. Sometimes people do not ask because they are anxious about opening up a Pandora’s box of needs and service demand that cannot be met. However, that should not be the case; often what is needed is just a recognition and a validation of what carers are doing, rather than large service inputs.

The Convener: I will bring in the local authorities. There is a big responsibility for all this on the national health service. Does it fulfil that responsibility? Can I provoke a response?

For instance, as an anecdote, I arrived at a situation where emergency services had been called. If I had not been there that day, that relative would have gone into hospital. The presence of a carer and the reassurance that it gave prevented the hospital admission; the precautionary, default position was that that 88-year-old person would have gone into hospital. The case; often what is needed is just a recognition and a validation of what carers are doing, rather than large service inputs.

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The role of carers relates to notification of admission to hospital and discharge from hospital. Whether we are working effectively with that role and whether the bill will encourage doing so is the wider question today.

Councillor O’Neill: I thought that you were asking me to have a fight with the NHS.

The Convener: I thought that I would liven the session up—we have only about five minutes left anyway.

Councillor O’Neill: In the past we have been particularly poor at joined-up working. Health and social care integration is absolutely the right thing to do. I think that five pilots have been running for about seven years. In my neck of the woods—Ayrshire—the health and social care partnerships are up and running, and the rest of Scotland is coming along. That will go an awful long way to addressing a lot of the issues.

Should attention be paid to the role of carers in health and social care integration? Absolutely, because carers play a vital role. There is recognition of the amount of money that is saved in the public sector because of the role of carers, and they deserve to get our support in return.

12:15

Penny Nowell: I will come in on the back of what Alison Jarvis said. We find that carers might be told about the support, information and advice that they can get and where they can access that, but they often move forward with it only when they are told about it by another carer or by a professional such as a GP or primary care worker. We tend to forget about the influence of those people in motivating people to lift the phone and make the initial contact. For a carer in the middle of the complexities of life generally and with caring responsibilities on top of that, finding the time to do something as simple as lifting the phone can be challenging. Integration needs to have a far greater role in the bill to bring all those things together.

Paul Henderson: Locally, the health service supports carers, particularly through the change fund. For example, we had health check workers for carers and we had a care support worker, as I previously mentioned, who was based in our local hospital and did fantastic preventative work. From our point of view, it would be great if there was more of a health presence in the bill, because it seems to be almost purely focused on the local authority, which jars with the integration agenda, as has been mentioned.

Penny Nowell: Under the change fund we, too, offered carers across the region a health and wellbeing check, followed by mentoring support if it was identified that they needed extra support on things that would help their health and wellbeing, such as losing weight or stopping smoking. Unfortunately, that support came to an end when the funding from the change fund ran out.

It is the role of primary care to give such support, because carers are also patients of GPs. That support could have been picked up by primary care but we have failed—in Dumfries and Galloway, anyway—to follow that through, at least at the moment.
Beth Hall: I will flip that on its head for a second. Rather than ask what we would have liked to see in the bill as duties on health boards or the direction on health, we should think about our ambitions for integration authorities to result in more flexible and better integrated services, improved locality planning and the delivery of greater involvement for communities in how services are shaped locally.

COSLA’s response outlined key concerns about where we think that the bill is too prescriptive and restrictive. For example, although duties will be placed on local authorities, the services will be very much devolved. We have concerns about that on behalf of health as an integration partner.

To flip the issue on its head, we see integration authorities as the way to drive forward improvements for carers. We outlined in our submission concerns about there being too much prescription of processes and inputs and not enough focus on outcomes—that applies to health, too.

Dennis Robertson: I have a question for all the witnesses. The bill places a duty on local authorities to have an information and advice service for carers, rather than local authorities just being able to establish one. Would an information and advice service provide opportunities for carers and others to take up available resources? Should there be a duty to establish an information and advice service?

The Convener: Can we widen that question? We discussed advice earlier. As well as the issue of resources, there is the question of how capacity would be affected by such a responsibility. We have been through the money thing. We will argue that we do not get enough from Westminster; you will argue that you do not get enough from the Scottish Government. That negotiation will take place somewhere other than in the committee.

Will we be able to deliver on the expectations that such a requirement will create, given the capacity issues that exist? Dennis Robertson mentioned access to good independent advice, but there are also the assessments that will need to be carried out and the increase in the number of people who will be involved. What calculations have been done on the capacity issues and whether the bill’s ambition will be delivered? When it comes to outcomes, how will a duty to provide information and advice make a difference to individuals?

Beth Hall: Local authorities already have information and advice duties under the Social Care (Self-directed Support) (Scotland) Act 2013, which also apply to carers. We recognise that we need to get better at providing information and advice, but we are not sure that the bill needs to layer additional duties on top of the duties under the 2013 act.

Greater investment in information and advice will make things better. It is a case of ensuring that the information and advice is accessible for a range of groups. We were surprised that additional duties on information and advice were included in the bill, for the reasons that I have outlined.

Paul Henderson: Information and advice is already dealt with in the national carers strategy. As I mentioned, at local level carers tell us again and again that they want an information and advice service, which is why we have commissioned one. They say that they want a single telephone number and a single website that they can use to get information. We feel that that is already part of our strategic objectives. Providing information and advice is essential to meeting the need for a preventative approach. That is part of our plans, and I am not sure whether a duty is needed, because that is already a strategic objective.

Dennis Robertson: Is the point that we have an information and advice service in some places but not in others? In the places that have it, it is working well, because there is a hub or a one-stop shop, but other areas have no such facility. Paul Henderson has identified good practice, but that good practice might not be replicated in other areas.

Alison Jarvis: Perhaps the committee has a biased sample here. A desire on the part of carers for information and advice comes up regularly. As I said, the information and advice might be out there, but people do not always find it.

The Convener: As there are no other questions from the committee, I thank the panellists for attending. I am sorry for the delay in starting. We have your written evidence, which is clear and will assist us in our deliberations. Thank you for joining us.

12:23

Meeting suspended.

12:30

On resuming—

The Convener: We have delayed our second panel of witnesses on the Carers (Scotland) Bill long enough. I welcome Trisha Hall, social worker and manager, Scottish Association of Social Workers; David Formstone, convener of the community care standing committee, Social Work Scotland; Fred Beckett, north-east social work carer team manager, Glasgow City Council social work services; and Tam Baillie, Scotland’s
Commissioner for Children and Young People. We will move directly to questions.

Rhoda Grant: The bill talks about young carers and about removing the caring role from pre-school children. Is that the right approach? Is it possible to do it, and should it cover children who are in school as well as pre-school children?

Tam Baillie (Scotland’s Commissioner for Children and Young People): I absolutely agree that it is the right approach. For children who are under school age, we have to approach this from the point of view that they are children first and carers second. There should be no acceptance of very young children, in particular, having a caring role. It may be that they can make a contribution, but I really do not think that it is feasible for them to have a caring role. Even for children above that age, we have to strike a balance between the child’s capacity and our expectations in relation to their caring role.

That is not to say that caring is always burdensome. Children sometimes thrive in caring situations, which can give them a sense of responsibility, but we have to make sure that they have a childhood. One of the complaints of children who are young carers is that they do not get recognition and, as a result, do not receive support. We have witnessed many children quite literally being deprived of their childhood because of overbearing caring responsibilities. If the bill does nothing else, it will help to redress that balance, which too often is stacked too much towards our expectations of the child in their caring role.

David Formstone (Social Work Scotland): I agree. Particularly for younger children, there is a risk of formalising the caring role and almost placing a formal responsibility on them for their parent. An older carer may be able and willing to take on that responsibility but, particularly where there may be protection issues, there is a conflict there. Certainly, it is not desirable for younger children to have that caring role.

Trisha Hall (Scottish Association of Social Workers): I absolutely agree that it is not acceptable for children to be working. The law is really clear that children under the age of 13 are not allowed to work in private enterprise or anything like that, and we should not accept them working in any other way.

By the same token, this is about making a sympathetic assessment of what is needed so that a child deemed to be in need does not become a child at risk. We need to be clear about the support systems that we are putting in. I hope that the bill will lead to people seeking support in situations in which they might have been wary about doing so previously for fear of getting an assessment that might have ended up with their child being taken away. The message has to be very clear that that is not going to be the case and that we are trying very hard to put in support mechanisms so that a child can have a childhood.

Fred Beckett (Glasgow City Council): I absolutely agree with that. Having a child who is below school age take on a caring role is a sad indictment of our society; we should do everything that we can to alleviate that caring role and give that child a childhood.

Rhoda Grant: You will be aware of comments from previous witnesses about the young carer statement and the child’s plan. The committee heard concerns from representatives of young carers groups about confidentiality and the child’s willingness to have their young carer statement shared with their named person. The child might have concerns, for various reasons, about the named person knowing that information.

Where should the line be drawn? Can the statement and the plan interact? Is there a need for two separate plans, or should there be just one? How can we best support young carers?

Trisha Hall: It is about developing a relationship and making it clear that information should be shared with—we would hope—the consent of the young carer. If there is no consent, the information should be shared only if it is deemed that the young person may be at risk. There are very clear guidelines on that.

David Formstone: It is clear that there will be a use for both the plan and the statement. For example, where a child does not have a child’s plan and is primarily a young carer, they will have only a young carer statement. Where there is an overlap and the child is thought to be in need or at risk, we would be concerned about the existence of parallel plans.

The point about confidentiality was made earlier. Keeping the child at the centre and consulting them is really important, but there will be occasions on which there will be a need to share information. For example, if there were concerns about a parent with drug or alcohol issues, and that information was being kept by one social worker as part of a carer statement but was not known to the named person or the lead professional under the GIRFEC arrangements, that would certainly carry risks. We would have to share with the child the need to breach confidentiality to ensure that the information was known to the named person and other people with a responsibility for protecting that child. Protection should be paramount.

Tam Baillie: The issue is tricky. The named person provision is central to new legislation—the Children and Young People (Scotland) Act 2014—
which is about to come into force. As I understand it, under the bill, the issues for young carers will be highlighted through the young carer statement, but the whole purpose of the 2014 act was to take us down the route of having a single plan.

For children who have a child’s plan in place, that is fine—we can include the young carer statement as part of that. However, a much bigger group of children will have a young carer statement, and I am puzzled about where that sits in the overall legislative landscape.

Rhoda Grant has asked a tough question with regard to information sharing. The information-sharing provision in the 2014 act takes a rather light-touch approach—as does the guidance—to the question of which information should be shared and which should not be shared. Practice on that will develop, but there is a light touch because so much comes down to the judgment of the people who hold the information and who, on the basis of wellbeing, are expected—or, rather, are under a duty—to pass it on.

I checked the advice in the latest guidance on the parts of the 2014 act that contain the named person and child’s plan provisions. There are only two mentions of young carers, and both of those are examples. In fact, in the section of the guidance on the child’s plan, there is no mention of young carers. The bill may highlight that there is a gap in the considerations that go into developing a child’s plan. The issue is not just with the bill, but with the 2014 act, which is just about to come into force.

I am absolutely behind the notion of shining a brighter light on young carers, but, because of the all-encompassing nature of the 2014 act, we have to think carefully about how future legislation maps on to that landscape, especially as we are just at the start of that process.

There are a lot of issues to be sorted with regard to the named person. I support the named person, but it presents challenges when there is a desire—as there is in the bill—to focus on a group of children who have specific needs, such as young carers.

The Convener: Does anyone have comments on what Tam Baillie has said?

Fred Beckett: On implementing the approach in practice, in Glasgow we are working hand in hand with the education service on that service having the child’s plan. We currently have a young carer’s assessment, but we will match the SHANARRI and GIRFEC indicators so that we build on the assessment in relation to the caring role.

Currently, we are looking to share information with the named person, whether they come to us first or come through education. We have issues around confidentiality and how we support young people—obviously, there is a tie-in with child protection.

We are concerned about duplication, although we think that GIRFEC is the way ahead and that we should be working hand in hand with schools, which are ideally placed to identify young carers. We have not got to the minutiae of how we can share the information—we will be guided on that—but clearly the direction of travel is for us to work hand in hand with the education service, and to base that work around the child’s plan.

Dennis Robertson: I will pursue the point. You mention integration with the education service, but there is also integration involving child and adolescent mental health services, given that we are looking at local authority and health board integration. Do you think that, through the young carer statement, the bill will help children who come to the attention of CAMHS because of issues around caring?

Tam Baillie: I would go wider than just CAMHS. Essentially, any service that deals with adults but with which children are involved, such as those that deal with drugs, alcohol or substance misuse, mental health or disability, should consider the needs of children.

Most often, the issue of information sharing has come up in tragic situations where there have been child protection issues, but there is also the question whether a child is taking on any caring responsibilities and whether that is appropriate given their age and stage of maturity. Should we be making sure that those children have the necessary support?

Identification is principally done through schools and through GPs and health services, but specialist services that deal with some of our most vulnerable families may well become aware of children who are living in such situations and who are in need of protective measures or additional support. Children who are identified as young carers can be in some quite difficult situations.

The bill will help attune people to asking whether a child is assuming caring responsibilities, whether that is appropriate and what support should be put into that family, not just for the adult who requires support, but in the best interests of any child who is living in that situation, in order to meet their needs.

To that extent, the bill will help, because it will make people much more aware of what we think is a huge number of children who are not being identified right now.

Trisha Hall: I really struggled to get feedback from members of our association on the bill—that was partly because there has been so much new
legislation this year on mental health, children and young people, self-directed support, public bodies and so on.

An example that stands out for me is that of the police, as the referring agency, recognising that a young person in a household is doing things that, in the police’s view, they should not be doing. Three of our members raised different scenarios in which the police identified that something needed to be done. The strapline is that it is common sense to see that; how common sense relates to support mechanisms is another debate.

There is more recognition of young carers’ issues now than there has been in previous years.

12:45

David Formstone: I echo Tam Baillie’s point. With the integration of health and social care, in a number of authorities, including my own, children’s services and adult services will be separated—they will essentially be two different organisations. I guess that the inclusion in the bill of a young carer statement and an adult statement should focus social workers’ minds, whether they are working in children’s teams or adult teams, when they come across children—or, indeed, adults—who have caring responsibilities. I certainly see the statements as a benefit of the bill.

Fred Beckett: The bill provides a significant opportunity for the future. Last year, we identified 300-odd young carers across Glasgow, through GP referrals, for example—predominantly, through the firefighting side of things. However, we do not see the most vulnerable children—the ones who are living with mental health issues or addiction. However, those children go to school. The Children and Young People (Scotland) Act 2014 and the bill give us an opportunity to pick up those children and do the preventative and anticipatory work, rather than the firefighting work. Dennis Robertson is absolutely right that, by the time they get to the CAMHS team, the children are very damaged and vulnerable. The bill gives us the biggest opportunity that we have had to get into schools—the key agency in a child’s socialisation—so that we can look at them holistically and make a difference in their lives. We need to get this right, otherwise, 10 years from now we will still be doing traditional, firefighting social work. We know who the children are, and we know that they are vulnerable. We have a huge opportunity to get education on board and work in a preventative and anticipatory way to support them for the future.

Dr Simpson: I have a supplementary on Mr Beckett’s point about cases in which the parents have addiction problems. Have any of you been consulted about the drug and alcohol information system—DAISy? Do you know about it? The current working group is examining the new data collection system for drug and alcohol addiction. I tried to design a system in 2007, but it has never been followed through—it was one in which the children’s needs were looked at in the addiction services, so that that information could be transmitted properly.

Tam Baillie: Are you on the group?

Dr Simpson: No. Because I am a politician, I had to come off the whole thing. The group subsequently found a way to abandon the programme that I had got to the point of the development of a piece of software in 2007. The powers that be decided that, once I was out of the way, they would not continue it. Here we are, eight years later and still without a collective data collection system.

Tam Baillie: The committee could usefully write to DAISy to say that the issue of data collection has been raised and that there is an opportunity to at least flag it up as part of its consideration.

Dr Simpson: Yes—if you feel that that would be useful. Thank you.

The Convener: You see—it was worth waiting to give your evidence. Dr Simpson and Mr Baillie are a great double act. I invite responses from other panel members.

Trisha Hall: In a previous life, I worked for Aberlour Child Care Trust. We worked with a lot of substance abuse services and we started an evaluation study whereby we used the wellbeing indicators for the adults as well as for the children involved. We started following them over the years. Sadly, it was the usual story and we did not have enough funding and so on. The committee might want to look at measuring longer-term outcomes to see whether they are being achieved. We are very process driven. We keep coming up with new ideas and systems, but it would be really helpful if we also put in some of the measurements in order to state at the end of a period whether we have made a difference and to show the evidence and see the impact.

Members tell me that what really works for them is hearing about areas in which things are working. The integration of health and social care in the Highlands has gone a wee bit faster because it was the pathfinder area. Our members there have had more success—and perhaps more funding—than some other areas have had. People have found it useful to hear about what worked in the Highlands.

It is about not just measuring what works but sharing it by getting people together, rather than through another website, because nobody has time to read them anymore.
David Formstone: Certainly carers—or however they would define themselves—of people with drug and alcohol problems, whether they are parents, spouses or other family members, are a hidden carer group. They are less likely to receive formal community care services, such as home helps, day care or whatever. They may have occasional residential rehab admissions, but on the whole they are less known to social work departments and others. There is a need to raise their profile.

The Convener: I hesitate to return to the process, because I think that the committee agrees that we need to identify best practice, focus on outcomes and look at the role of prevention. However, we need to go back to the issue of process.

The earlier evidence session got quite heated around the question of identifying and supporting carers who are not identified and supported. Is there a capacity issue around such assessments of children and adults? The witnesses in that session questioned whether there was sufficient capacity. We anticipate that more carers will be identified and helped, which might prevent certain things from happening. However, given the pressure in the system, what capacity does social work in particular have to identify particular groups of carers who might be a lower priority in terms of what is currently being addressed? What will the impact of that be on capacity and, indeed, on outcomes for those who are a higher priority but will see some capacity drift away from them?

Tam Baillie: I will answer the question about identification, because I think that my colleagues can answer the question about capacity.

For the past five years, I have had the privilege of attending the young carers festival. The messages from young carers are quite mixed—on the one hand, they want relevant people such as teachers to know about their caring role so that they can be sympathetic and give them some flexibility when it comes to expectations about homework production, or the time that they come into school; on the other hand, some young people say that it is their family’s business and they do not want people to know about it.

It is difficult to get the right balance. I would always advocate listening to the views of children and young people, but in this case their views on what they want to happen are quite mixed. We should err on the side of asking the question of the young person, so that we know at least who has a caring role. There is some doubt over how many young carers we have. I do not think that we will know the actual number until we start to ask young people more systematically about their caring responsibilities. That goes back to the awareness of those who work with them, such as those in schools, GPs or specialist workers who deal with the adults who are cared for. Through that, we will get a better idea of the numbers.

The Convener: How do they shift the resource that is dealing with the front-line? The house is burning down and if they leave that, given the resource capacity, to go and do assessments for people who have a lower priority, what happens?

Tam Baillie: We are talking about universal services, so they should be able to do that.

The Convener: Yes, but I am just asking the practitioners.

Fred Beckett: I have a Glasgow perspective on the issue, which I will just throw out to you. Capacity is not a new challenge for us; in 2009 we were inspected by the then Social Work Inspection Agency when we had done only 86 carers assessments, and its recommendation was that we must offer all carers an assessment. We then had to get our house in order.

To put our services in context, social work is in partnership with primary care, acute care and third sector carer centres. Over time, we have learned that we cannot look at the carers agenda in isolation but must see it in context, in that a person becomes a carer only when someone is diagnosed with a long-term condition. Around 10 years ago, we were looking for carers in the Tesco car park but now we go to the GPs and the acute sector hospitals and identify people by design rather than by accident.

In 2011, we launched a carers partnership and had challenges around capacity. We identified 3,200 new carers last year, but we did not identify the tens of thousands that we were expecting—a figure of 76,000 has been quoted in that regard. However, we started to identify people earlier—in GP surgeries and closer to diagnosis—and prevented them from getting into crisis situations.

Last year, 470 of our referrals came from primary care and 105 came from acute care. However, 72 per cent of our referrals came in early through our preventative red-amber-green eligibility system. On the challenges in responding to demand, a colleague in the voluntary sector described demand as a dripping tap rather than a flood, and I would adhere to that description. 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.

What we have learned, overwhelmingly, is that we can get caught up in the processes. We may have trained a social worker, but are we providing the right level of assessment? The feedback that
we get from individuals who are accessing the service in a preventative way suggests that they are very happy with what they are getting, so we need to continue with that work.

The challenges in delivering services are nothing new to us. Carer assessments are an add-on to the traditional social work role, and they may be part of our work in conducting a single shared assessment. We are not expecting to do it all, but that way of working has helped us to rise to some of the challenges, and we will—I hope—not be seeing tens of thousands of people knocking on the door.

The point was made earlier about the need to work with the NHS in an integrated way. We need the NHS to tell us as soon as possible when someone is diagnosed with a long-term condition so that we can help and support that person in a preventative, anticipatory way. When we get that right, we avoid people getting to crisis point, and we deliver better outcomes in a way that is less resource intensive.

In the old days—10 years ago, for instance—people just turned up on their hands and knees to see the duty social work team. We have tried to turn that around, because we have better ways of delivering services.

David Formstone: As an association that represents senior social work managers, we are not in favour of having an unrestricted definition of carers, for reasons that I am sure have already been covered this morning.

First, there is the impact on practitioner time: 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. Notwithstanding the extra funding that might accompany the bill, it is unlikely in this day and age that local authorities will significantly increase the size of social work teams. They would be wary of creating new posts and permanent posts, so it is likely that social work teams will remain the same size. Social work time could be diverted away from pressing matters towards issues—albeit very important ones—concerning carers.

An accompanying issue concerns the diversion of scarce resources. Again, councils are currently dealing with budgets that are declining or staying at the same level. If we are talking about diverting resources not necessarily towards the cared-for person but for the benefit of the carer, that would, without any additional resources, be a second concern for us.

There is a slightly more conceptual point that relates to concern about universalising the caring role. There would potentially be quite a shift from private to public, with the carer role bringing carers into the social work net when there are other ways of dealing with the situation such as capacity building in the community, along with a much wider carers strategy. I can go into that point in more detail later: it is not just about improving social care, but about putting in place a range of other measures that will help carers to continue in their role.

Trisha Hall: People sometimes still go back to section 12(1) of the Social Work (Scotland) Act 1968, which places a duty on local authorities “to promote social welfare by making available advice, guidance and assistance on such a scale as may be appropriate for their area”.

That legislation has never been repealed, although there are variations in new bills that have come to fruition.

I think that a lot of social workers still really want to work as change agents and community workers, as part of a hub working in the community. That is a culture change that we still need to promote as much as we can. There is nothing as damaging as individual social workers doing detailed assessments and identifying need, and then saying, “But we can’t do anything about it, because we do not have the resources.”

There must be a fine balance. If a need is identified, we need to be confident that we can meet that need. Glasgow is a good example of the way in which we do that. Other authorities have tried to have that conversation in order to move more towards a public health model, to be more preventative and to enable that culture change. Rather than making it the duty of certain professionals to do the work that needs to be done, those authorities have tried to make it something that resides in the community so that people in the community have a role to play. In that context, it is very important that we maintain some of the support mechanisms that already exist.

A young carer whom I knew used to go to the youth club. That was her time away—it really kept her going. The youth club is now closed, because there was no money. Such examples are very simple, but they are very important in this context.

13:00

The Convener: David Formstone mentioned wider support. Tam Baillie talked about how people see the role of the family and the extent to which they see caring as the family’s business. I suppose that I am trying to get at what the balance should be between intrusion and support, in terms not simply of community capacity but of the family’s capacity to care. How can we support that without being too intrusive, to the extent that we chase the carer away when the assessment
shows that a carer should be there? We do not want to clash with any of that.

David Formstone: I absolutely agree. In case my comments were seen as negative, I should say that I think that there are a lot of positive aspects to the bill. My concern is about raised expectations. Carers might be drawn to come and ask for a support plan, but that might or might not be the appropriate avenue for them. I appreciate that the committee is concentrating on devolved powers around social care, but if we are to support carers properly, we must take into account all kinds of tax and welfare benefits, as well as access to further education and flexibility around employment; I am sure that the committee is well aware of all those matters. A national carers strategy needs to reflect all those things instead of being targeted at a particular profession, such as social work or health. It should not be a case of implementing support plans, regardless of whether that is what people are looking for; they might want better community-wide support.

Tam Baillie: There will be occasions when a child is part of a range of supports in the wider family network. There might well be no need for support that is additional to whatever role that child is playing, but there will be other occasions when there is a need for some additional support. I question whether that must always come through social work. A range of agencies could be involved with the family. There was quite a debate about the role of health services. There are voluntary sector organisations, and there might be specialist organisations that could play a role. I do not necessarily see the burden of support falling just on social work. We should use a range of organisations around a child to enable them to have the best family life that they can, whatever their circumstances.

Fred Beckett: We are learning a lot about the needs of carers. I keep going back to the long-term conditions. We have had nurses in our teams for some time. We can predict which conditions people will be diagnosed with that will have a high care burden—they include motor neurone disease, Parkinson’s and multiple sclerosis. There is a role to be played by the NHS. I was a social worker. If you walk into a health service and say, “Have you got any carers?”, you do not get very far, so we recruited nurses. As a result, we have had a massive increase in getting people identified earlier in primary care.

There is a role for the NHS to play as part of the standards of contract in identifying patients, supporting them and their carers, and providing specialist information about how to manage conditions. Social work does not have to do all that. There is a role for the NHS to play. It is already doing that, but perhaps that is not counted in however it looks at its services.

Equally, much of the information that the carers who come to us as part of the partnership want—we work hand in hand with Alzheimer Scotland and Chest Heart & Stroke Scotland—is about managing the condition. One of the biggest increases in demand in Glasgow is for training—people want to be shown how to move with assistance and how to manage conditions. Increasing that capacity does not all have to be down to the local authority or carers. We need to work with condition-specific services on the long-term conditions; I am talking about tier 1 self-supported care.

We do not always come with a bowl and say, “Give us more money”; we look at how we can provide that anticipatory support in a creative way across all the services out there and how we can get them to work together more effectively. Ideally, by doing that, we will deliver better outcomes for carers and the person whom they support; we will also shift the balance of care by reducing the numbers of falls, hospital admissions and accident and emergency appointments. That meets the strategic priorities as well as delivering on the better outcomes.

Bob Doris: Before I go on to my substantive questions, I will mirror what Mr Formstone said about the wider carer strategy, irrespective of where powers or responsibilities sit. I have been told by some carers that, for example, the carer’s allowance is £10 less a week than jobseekers allowance. It is often the case that carer’s allowance goes unclaimed because there is clawback from other benefits, and there is an underlying entitlement that passes a person on to other benefits. Therefore, we appreciate that the matter is more complex than just having young carer statements, adult carer support plans and the like.

My questions are on the young carer statement. My first question is just to get some brief information on the record. The bill says that, when a young person reaches the age of 18, if an adult carer support plan is not in place the young carer statement should stay valid and deal with the transitions. Is that desirable? Is that the correct way to go? Do you have any additional steer to give the committee or the Government on how to ensure that that works effectively?

Tam Baillie: Transitions are difficult for a whole range of aspects of children’s lives. Generally, we are very poor at the transition from children’s services to adult services. It is welcome that consideration is being given to how the young carer statement would somehow carry forward until such time as an adult carer statement is in
place, if that is the right terminology. However, you
would need to put a time limit on that.

The issue of when children move from child-
focused services to adult services is worthy of
consideration. We have exactly the same
problems with additional support for learning when
young people are leaving care and even when
they are moving from education to employment.
Those are difficult times for those young people.
The proposal to continue a young carer statement
in those circumstances is a modest one. It may
help, but you may want to think about how long it
should continue for. The expectation should be
that an adult carer support plan is in place before
a person’s young carer statement ends.

David Formstone: It makes sense not to have
a sudden cut-off at 18. One would assume that a
young carer is caring for an adult. Therefore, if the
adult is receiving services, those services will be in
place and provided through adult social work
teams. That aspect should therefore not be a
problem.

The issue may be about how to support an 18 or
19-year-old meaningfully with their plan. That may
have happened with their named person or
children’s social worker; moving into adult
services, where social workers have a much
higher number of client service users, the issue
may be about whether a young person could be
intensively supported for any length of time.

Fred Beckett: We are on new ground when
children turn 18. In Glasgow, we have an
integrated service, so we have adult workers
working alongside young carer workers. The
fundamental change is when a person hits 18. A
person’s caring role should be alleviated up to the
age of 18; they should then be supported in their
caring role when they are 18-plus.

Each circumstance is individual, and we would
need to look at it. Where we have had young
people who were detrimentally affected by their
caring role, we have looked at self-directed
support. For example, it is not appropriate for
children with parents with MS to be taking on
moving with assistance or a personal caring role.
Therefore, we have supported those children to
return to school and to have a childhood. The
issues overlap.

If we have known that a child has been a carer
from a young age, and they are hitting 18 or are
older and they are still detrimentally affected, we
should be looking at ourselves and asking what
we have been doing with them up to the age of 18.
We should be asking big questions not just of
social work but of wider services and how we
alleviate the impact on children.

We have adopted a family-based approach. There are ways of taking children out of
households, providing the services and then
putting them back into the same environment. We
must raise questions with the whole family. If we
need to move down the adult support protection
route or the child protection route, we have to do
that, but we should be asking families what they
are doing to allow their child to have a future. We
should be asking whether there are small changes
that we can make to prevent us hitting a crisis
further down the road.

There are also a lot of services that support
young people in schools, such as careers advice.
Are they aware of the issues that face young
carers? Do we just write off people’s future plans
for college or higher education because they are a
young carer, or do we look at how their named
person finds out about the situation? They are
passing through the system—they do not just get
into crisis at 18. It is a question of having
preventative, anticipatory services.

Trisha Hall: I fully agree with what has been
said, but I also think that it is helpful for there to be
a formal point of recognition that there is
somebody or something that allows for the young
carer to have additional input. It may well be that
somebody has divided loyalties and will not want
to say that they want to move out or to have a
relationship and go somewhere else. There may
be issues about attachments and about being
frightened, or they might not want to say, “I want
more help”. However, the fact that they are coming
to the end of their support statement and going
into something else might allow for somebody else
to come in to make an assessment and allow a bit
more freedom.

Bob Doris: That is very helpful. Having all of
that on the record will help us with our scrutiny
and enable us to pose some questions to the
Government.

We have heard that the young carer statement
will allow anticipatory planning and that, if people
can see an emergency happening down the line,
they will be able to mitigate the effect, but the
young carers we met as part of our evidence
session in Glasgow—I am not talking about the
legalistic aspect of the bill, because they were
over 18, but they still define themselves as young
carers as they are young and in a caring role—
said that going to college and getting on with their
life was their respite break.

How do we tie in other agencies to future
planning? That is not about mitigating the burden
of care or anticipatory planning for emergencies; it
is just about future life planning. Is there a role for
wider public agencies such as schools, colleges,
universities and Skills Development Scotland in
relation to the awarding of apprenticeships? Who
is doing that job? Where does it fit in?
I am trying to paint a picture of a web of support to allow young people who happen to be carers to get on with their lives in as close to normality—or their normality—as possible. They will have the same aspirations as everyone else. Sometimes, although not today, the chat has been about how we support young carers who have significant burdens of care to get some respite, but my question is about the longer term planning aspects and ensuring that they are not held back in their personal lives as individuals because of the burden of care.

Does the bill fit into any of that? Can you give us any pointers on how we can give a nod to some of it? That is the evidence that I got from the session that we had in Glasgow recently.

Tam Baille: You might want to look to the approach to corporate parenting responsibilities that is taken in the Children and Young People (Scotland) Act 2014. There is a long list of public bodies in schedule 4 to that act, and they are now under the obligations in part 9 of the act. For example, my office is part of the corporate parenting responsibilities—people who read this evidence will find it quite amusing, because we opposed the proposal.

The 2014 act takes a wide perspective to the agencies that are responsible for young people leaving care, and a long list of bodies were included as having duties under it. If you have a list of relevant agencies, you might want to think about that. My advice would be to keep the list to those that are absolutely relevant. You have already mentioned some of them.

David Formstone: I take on board Mr Doris’s point, but I would like to widen out the support to include all carers.

Transitions are important. For example, carers who are parents might get full-time support from schools and, often, a lot of support from health services. Suddenly, the child leaves school—maybe a special school—and the local authority might struggle to provide a five-day replacement service through day care and other activities. Carers who are in employment might then struggle to stay in work, and they come to us saying, “If you don’t give us this support, I’ll have to give up my job.” In other cases, carers may want to take on education, or they may be reconsidering the whole caring role, saying, “I have done this for 21 years. I would like some respite.”

That touches on one of our concerns about the whole issue of outcomes as opposed to needs, which you may have rehearsed previously. How do we distinguish between personal outcomes for the carer and outcomes that are to do with the caring role? If the bill is couched in terms of aspirations and outcomes, we may struggle to distinguish a caring outcome from wider outcomes.

Fred Beckett: I reiterate what David Formstone says about the difficulties of looking at the carer in isolation and looking at the cared-for person.

We need to get better at future planning. A child does not just decide at age 18 to go to college or university. If they decide further back down the road, there is an opportunity for conversations. We overlap with SDS. We look at telecare and assistive technology in order to allow people to have more freedom and more choices. We need to get better at looking forward at those issues and planning for them.

Dennis Robertson: I may be picking this up wrong, but I am slightly concerned by David Formstone’s remarks. I am looking at empowering carers as individuals to have lives of their own outwith the caring role. If I understand David’s remarks, he is saying that he is concerned that he may not be able to facilitate the care of a person if their carer suddenly spreads their wings and goes off to college, university, employment or wherever and leaves a vacuum. Is that what you are saying—that the resources might not be there to facilitate care?

David Formstone: I would be absolutely in favour of empowering a carer or person who no longer wants to be a full-time carer to be allowed to do all those things, and we should be doing our part to facilitate that, but there is a harsh reality of limited resources. The fact is that social work departments and local authorities are increasingly struggling to fill in a whole week of support to allow a carer to carry on employment or enter education.

It is certainly not something that we would be against. We would absolutely wish to empower carers as far as possible.

The Convener: If there are no other questions, I thank the witnesses for being with us today and take note of the written evidence that they have given us. That concludes our business for today.

Meeting closed at 13:17.
Carers (Scotland) Bill: Stage 1

The Convener: We move on to agenda item 2, which is an opportunity for the members who attended the fact-finding visit to Glasgow and the meeting with members of the Marie Curie expert voices group for Scotland to report back. Bob, do you have any comments from the group that you sat with in Glasgow?

Bob Doris: Yes. I sat with a group of younger carers—that term does not necessarily mean carers of the age that is specified in the bill—and a couple of things came through quite strongly to me. First, the carer support that they feel that they need is not necessarily support in their caring duties, because it is not just their duty to care. It is also the duty of social services and the wider support agencies. Some of the support that they need is support to get on with their lives so that they are not seen only as being in a caring role. That could be support to facilitate access to college, university, training or work, or to enable them to socialise with their peer group. They feel that they also need that support as part of any carer plan that might emerge.

There was also recognition that schools are not always as attentive as they could be to the carer issues of young people who attend them. That is of some concern. The support that other agencies could provide, whether within the school or elsewhere, is important. Also, as we would expect, the issue of transitions came up quite strongly.

Those were the initial points that I picked up. The thing that I was most struck by, to repeat myself, was that young carers sometimes want support to get on with their lives. One person talked about respite care and told me that what they were looking for was to ensure that they could get a couple of hours to go out in the evening once a week and socialise with friends. That would be respite for them, knowing that they could do that and not have to worry about the loved one that they routinely have to care for. Often, the asks are not huge. They are specific, focused and unique to their lives and family circumstances.

It was pretty humbling to speak to the young carers. Their asks are really important, and they are not always huge. We just have to focus on and drill down into what is most important to the person. After all, they just want to be able to get on with their lives as well as performing their caring duties.

The Convener: Thanks, Bob. Does anyone else wish to comment on their groups?

Rhoda Grant: I had quite a varied group, but what they had in common was that a lot of them were from more rural areas. There were parents who look after their adult children, someone who had cared for a partner but they had passed away, and others who care for elderly parents.

The people in the group raised a number of good points. They were glad about the bill and thought that it would provide a focus on caring, which was good. They also welcomed the change in terminology from references to “carer’s assessment” to references to “adult carer support plan”.

However, they felt that a number of things were missing from the bill, such as emergency planning, carer involvement in admissions to hospital and discharge planning, and what the carer needs as their personal outcome in how they go about living their lives. They also referred to a carer’s ability to say, “I can’t do this any more” and to opt out of caring altogether; they thought that that was missing from the plan in the bill.

They also had concerns about the eligibility criteria and were keen for there to be a national minimum level, which would mean that everybody had equality of support; that was really important to them. They also said that when people were being assessed, it should be about not only how long they had been caring for, but the skill that was involved.

A lot of people in the group were concerned about what they were being asked to do and the level of skill involved. Indeed, they were concerned about being asked to do things that paid carers would not be asked to do. For example, they said that carers on their own were being asked to use ways of lifting and handling that were appropriate for two people to do together, but they were being asked to do that without any expert training or help, or, indeed, equipment. That is an example of the level of help and assessment that they said was required.

People were concerned that the support they receive at present is crisis support rather than ongoing preventative support that would allow them to care properly. There was also concern about advice and information services. Many people had been involved in local groups that were set up through the voluntary sector to provide advice and information services, and they were concerned that because provision for such services was part of the bill, local authorities might take the services in-house instead of supporting good practice within communities. That concern is why I raised the issue with the local authorities at last week’s meeting, because it is important that there is expertise within the community.
As I said, the carers were concerned about hospital admissions and discharges, and in that regard felt that they were not being treated as equal partners. They believed that people should be discharged with a care plan, but that the carer’s needs should also be assessed when the cared-for person was being discharged. They felt that an awful lot was put on them; someone said that they felt they were being bullied by being asked whether they loved their partner, when they were being asked to take on a large amount of care. It is really important that carers are valued for the contribution that they make, but they should not be forced into doing it.

The group talked about identifying carers, which is really important. They also talked about short breaks; perhaps we need to think about that issue, given that others have also talked about it and the context seems to be short breaks versus respite care. The group said that they were being asked to work long hours without a break, so perhaps respite care needs to be part of their day to allow them to go about their lives or, indeed, to go to work or whatever. That ability for carers needs to be put into the care plan.

The issue of short breaks is different, because it is about people being able to take a holiday. However, people from the islands pointed out that that sometimes does not work, because by the time they get off the island, they have lost half their week, and they never get their full entitlement. That issue needs to be looked at.

Another issue that was raised was that if the cared-for person was also the carer’s partner, the carer would not necessarily want to have a short break without them. The question then was how to facilitate their care on holiday and find the right accommodation and support to allow both the carer and the cared-for person—or even the whole family—to go away together and enjoy a break. It is a difficult issue, but it has to be considered in the proposals for short breaks and, in a different vein, respite care. The two issues were being confused, and we need to ensure that that does not happen.

The important issue of the right to advocacy was also highlighted, as was the inverse relationship between deprivation and the amount of care that was received. Articulate people who can stand up for themselves get more help and support, whereas people with lower expectations who might not know the systems or who are not quite as articulate are not getting the care that they need. It was felt that it was important to tackle that in looking at support for carers.

The Convener: Thank you, Rhoda. Does anyone else wish to comment? I note that Dennis Robertson is not here. Colin, did you attend any of the sessions?

Colin Keir: Yes, I attended the expert voices group session. Given that it covered a lot of the issues that have already been highlighted, I will be fairly minimalist in my comments.

What came out at the end of the session was that, as one of the attendees commented, we are trying to get a bill that addresses certain obvious difficulties. When a person is diagnosed with a terminal illness and a carer duty is foisted upon someone else, someone somewhere has to take the lead in helping the carer through the bureaucracy of the benefits system, removing the stress of filling in endless forms and making the links between the partners in social care, local authorities and so on and helping them get a handle on how to deal with the fact that they are living with someone who is coming to the end of their life. To cut it down to the basic points that people were making, I think that they wanted help with getting through the bureaucracy and help with the various issues that my colleagues have highlighted.

The Convener: Thanks very much.

I attended the Glasgow session, which comprised a group representing minority interests and backgrounds. As one would expect, one of the issues that arose was the need to understand and respect the cultures and the community who were being cared for. That context was important and was being looked into.

Other issues that were raised have already been covered, but I note that with regard to work and employment there was an assumption that, if there was a strong family in place, people could do everything. As has been mentioned, there were issues not just with dealing with employers but with self-employment; after all, this is about not just social services, but the work situation, and having a good employer or the ability to work in a flexible way can change a person’s situation and care dramatically.

Following on from that are the cultural aspects with regard to those who provide support and the issue of training for carers to allow them to understand the condition in question and to recognise the line between what they can and cannot do. I think that Rhoda Grant referred to that.

I do not know whether it was mentioned in other groups, but as a committee we have recognised that we are all living longer lives and, as a result, carers are becoming people who need care for themselves: they are carers, but they are also living with conditions that limit their quality of life. That needs to be recognised. In terms of financial support, there were issues around flexibility, respite care and other such things.
11:30

Rhoda Grant mentioned that a change in environment can be as good as a break, and that taking someone out of the home environment and creating a holiday environment for the family and those who are close can feel like respite and a break from that situation. However, that does not seem to be recognised. As we discussed this morning, if a carer is looking after someone in a terminal situation, they do not want a break away for a week; rather, they want to be there as often as possible, but they might need a break within that developing situation. Again, that led us into discussions about the importance of assessment and the rapidly changing needs of someone who is caring for someone in a declining situation. People just struggle on and two people could end up in hospital as a result. That is not good for them as human beings and it is certainly not good for the national health service, as we know.

The people in the group had access to support and information, but they value the independent information services. They have some concerns about access to that and the importance of face-to-face information and dealing with people rather than with phones and answering machines. If there is a bit of a crisis developing, or the carer just feels low that day and wants to call on support, they do not want an answering machine and no one getting back to them for two days. As we know, that breakdown in confidence can lead to unplanned hospital admissions. The committee has heard evidence that that can happen.

The carers told me strongly how important it was that they could have confidence in the continuity of services, and in people who they could rely on—people who were valued, trained and could do the job. The assessment process is seen as sometimes being a bit random and ad hoc; if families do not know or understand the rules of engagement, the process can become adversarial and very stressful. Families do not necessarily understand the timetable—if any has been set—and they are anxious that there is no set review process, which is particularly important if someone has a progressive terminal illness.

The other areas that we discussed included identification. There was an anxiety in the group about identifying more carers and why we would do that. I suggested that we were doing that because, if we anticipated someone’s caring role at an earlier stage, we could help them cope, even though they might not need help at that given point. There was anxiety that, if we started to identify more carers, that would put pressure on the limited resource that exists at present, which would affect members of the group as carers.

There is a point to be made about transition, and how we support the carers who are already identified and who in some cases do not feel that they are supported adequately at all times. How do we reach the unmet need while striking a balance so that we do not put a question mark around the care packages that are already in place? There was a wee debate about that, and we could well understand that people were getting a bit anxious, but there is a point about unmet need. There are carers out there who need to be identified and supported—perhaps at a lower level—or even just recognised as carers. That is important if we are to manage the situation.

There was quite a long discussion with the groups, but it was very well organised.

I see that Bob Doris wants to come in with a quick point before we finish the session.

Bob Doris: My apologies, convener—I also apologise to the young carers I spoke to. I have just consulted my notes, and I see that there are some points that I think the young carers would be surprised that I did not mention earlier, so I will do that briefly.

First, picking up on Rhoda Grant’s point about the lack of communication when the cared-for person is in hospital, a lot of young carers felt that there was no mention in hospital records of who the carer was. Young carers felt that they were being squeezed out of the process. They even suggested having a young carers card that could aid recognition when they were engaging with various public services, so that people knew that they were the carer. They noted that there is already an emergency carers card; the committee has not looked at that but it exists, although it is not universal.

The bill refers to young carers rather than specifically to young adult carers, and there was a feeling among the young carers that, because there is no statutory obligation to provide services specifically for young adult carers, the young carer services and the more generic adult carer services might evolve while young adult carers do not get what they need. There is a need for specific services for that group, and the carers wanted me to put that point on the record.

They also wanted me to put on the record a question about the review process in relation to assessments. If a carer disagrees with the local authority assessment about what a young person’s support plan includes, what recourse do they have, and how independent is that recourse?

I have covered most of the points that the young carers raised. They spoke about their feeling that social services were not particularly good at signposting young people to support services. They thought that the young carer statement could be an opportunity to improve that, but they felt that, quite often, identification as a carer came far
too late in the process. They felt that, deliberately or otherwise—I am sure that it is otherwise—social work seemed to focus primarily on the cared-for person and not enough on the carer and their role in the process. However, they were hopeful that the young carer statement could address that. Again, they said that it is about driving change at a local level, not just having words in a piece of legislation.

I offer my apologies to the young carers for not putting those points on the record when I had my first cut at reporting back.

Rhoda Grant: A lot of what the expert voices group said is reflected in what we have discussed, but there is one point that we have not highlighted. One member of the group suggested a named person for carers to be able to contact. The member of the group who raised that point is used to dealing with children’s services and the like: she works in that field, and thought that it would be good to have one person who co-ordinated all the services to whom she could speak. She made a really good point in that regard.

Colin Keir: That takes us back to our earlier discussion. The patient, so to speak, may be on a benefit of some kind, but we are moving towards a situation in which a change in that benefit may be due to come into effect. Not everybody knows about the system, and the point about having someone to help carers through the bureaucracy came through strongly from the people we spoke to.

The Convener: That point was reflected in both the events.

I have spoken to people who attended the Marie Curie expert voices group meeting, which I was unable to attend, and the Glasgow event. Those events were a great opportunity for the committee to meet people who are on the front line of caring across Scotland. The carers were young and old and from diverse groups. I express our sincere appreciation to those who made it possible for us to engage in that way in Glasgow and in Edinburgh. It was very useful indeed, and I hope that we have reflected those discussions in some way in today’s discussions, which are now on the record and will be considered further during our scrutiny of the bill. I thank the organisers very much on behalf of the committee.

As I said earlier, we do not expect the Cabinet Secretary for Health, Wellbeing and Sport to arrive until 12 o’clock. We have time to consider agenda item 4 now, return to agenda item 3 when the cabinet secretary arrives, and have our break in between. Do members agree to do that?

Members indicated agreement.
The Convener: Agenda item 3 is our final evidence session on the Carers (Scotland) Bill at stage 1. The Minister for Sport, Health Improvement and Mental Health has been joined by a new set of officials, who support him in this policy area. They are Dr Maureen Bruce, deputy director, and Moira Oliphant, team leader, care, support and rights division, population health improvement directorate; and Ruth Lunny, principal legal officer. Welcome to you all.

Before we begin, I express the committee’s thanks to a group of young carers who spent time with us last Thursday, to share their experiences of their caring roles and their views on the bill. Their experience has allowed us to reflect on the reality of caring as a young person. That experience was quite varied, and the evidence was very good.

If the minister does not mind, I ask Bob Doris whether he wants to say anything about that session.

Bob Doris (Glasgow) (SNP): I will be very brief. I am sure that the minister will be interested to know how much the young carers value the support of the Princess Royal Trust for Carers centre in Falkirk. Many of them had a complete lack of information about the support that is available for young carers until they found that vital resource.

I will mention two issues that the young carers raised that are relevant to the bill. They are absolutely convinced that short breaks are vital in supporting them to be not just carers, but normal young people getting on with their lives, separate from their caring responsibilities. They also want greater status in relation to the healthcare system in order that they can deal with situations such as the cared-for person being taken into hospital unexpectedly. I am sure that those matters will be teased out, but given that that is what the young people told us, it is nice to mention them at the start of the session. Thank you for giving me the opportunity to do that, convener.

The Convener: Thank you. The session may come up later. Minister, you wish to give an opening statement.

Jamie Hepburn: Thank you for the opportunity to say a few words about the Carers (Scotland) Bill and why I believe it is important.

Both adult and young carers are integral to our society. They provide vital care and support to their families, friends and neighbours. I thank the
committee for its scrutiny of the bill; it was very positive to hear about the committee’s productive session with young carers, and I know that there have been other evidence sessions as well. I thank the committee for the work that it has undertaken so far.

We have seen much progress in supporting carers. I hear directly from carers about how their lives have changed for the better and the personal outcomes that they have achieved as a result of the support that they receive. The Scottish Government has invested over £114 million between 2007 and 2015 on a range of programmes and initiatives to support carers, and it is investing further in this financial year. However, some carers are not being supported and that can have a adverse impact on their physical, emotional and financial wellbeing. That is a concern for us all. Another concern is that carers can experience very challenging circumstances, including economic and social disadvantage. Sometimes young carers do not have the best childhood.

A crucial role for the bill is to complement important policies and drivers such as the integration of health and social care and the roll-out of self-directed support. Integration of health and social care with the progressive roll-out of integrated joint boards is vital in providing seamless services and empowering local communities to take charge of their own health and wellbeing in innovative ways.

There is a key role for new legislation to accelerate and sustain the progress that has already been made to bring about a step change in the way that services support carers and to inspire renewed ambition about supporting carers. This is within a wider context, which is really important. As we all know, Scotland has a growing population of older people who are successfully living longer, but often doing so with a range of complex and multiple physical and mental healthcare needs. There are more children with complex health needs or disabilities.

We need to support Scotland’s carers so that they in turn can support the many people with illnesses and disabilities or who are frail, many with dementia. Of those carers, 47 per cent live in the most deprived areas, caring for 35 hours a week or more. It is striking that that is almost double the level found in the least deprived areas. We need to support carers who experience considerable disadvantage, especially if the impact of caring is taking its toll. Therefore, our wider work to tackle health inequalities within the even wider context of tackling economic disadvantage is crucial.

The Carers (Scotland) Bill is a fundamental part of delivering the wider strategy to tackle inequalities and the work that we are doing to deliver the Scottish Government’s vision for carers. Our vision is that carers, whatever their circumstances, should enjoy the same opportunities in life as people without caring responsibilities. It is my intention that Scotland’s carers should 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.

The objective of the bill is to make real that ambition by furthering the rights of both adult and young carers. The bill is designed to deliver on fundamentals such as carer involvement and participation, comprehensive yet person-centred support planning, preventive and community-based approaches to supporting carers, a strategic overview, and development through the local carer strategies. I believe that the bill strikes the right balance between making the necessary requirements on local authorities and health boards to deliver support for carers and providing the flexibility to ensure a personalised approach to support.

In reviewing the evidence from a wide range of interests, it is clear that there is broad support for the bill’s principles. We have listened carefully to carers and carer organisations in developing the bill’s provisions, and I hope that carers will be able to recognise their voices in the bill as it stands. As I said in Rhoda Grant’s members’ business debate on carers in the Parliament on 10 June, I welcome any suggestions that seek to improve the bill and the lives of carers and young carers across Scotland.

We are engaging with important stakeholder interests to consider their views further, and we will give full consideration to all good suggestions as we take the legislation forward. I hope that we have been able to demonstrate that willingness with the Mental Health (Scotland) Bill, which will be debated at stage 3 tomorrow. It is my intention to proceed on that basis with this bill, too.

I look forward to the committee’s continued consideration of the Carers (Scotland) Bill and the contribution that scrutiny and consideration can make to the bill’s improvement. I also look forward to the discussion that we are about to have, and to any questions that members may have.

The Convener: Thank you, minister. The first question is from Dennis Robertson.

09:15

Dennis Robertson (Aberdeenshire West) (SNP): Minister, you will be aware that we have taken evidence from a number of carers and carers organisations, and one issue that has been raised concerns the criteria for eligibility. Local
authorities state that it is necessary for them to set the criteria so that they can reflect local need, but carers and carers organisations would like some certainty and stability. If those criteria are set by local authorities, there is a concern that many carers may not meet them, and that would not reflect your aim of ensuring that carers have a life outwith their caring role. How will you reassure carers and carers organisations that have raised those concerns?

Jamie Hepburn: Thank you for that question. We need a balance between ensuring a more consistent approach and recognising that each local authority is a body corporate in its own right and has democratic accountability, given that councils are ultimately accountable to their electorate. The intention behind the bill is to ensure better support for carers across the board. The bill also contains a duty for each local authority to publish the local eligibility criteria that are to apply in its area, and those must be reviewed every three years. We decided that the criteria should be set locally to ensure local decision making, but that is overlaid by national guidance. In that regard, the bill refers to “such matters as the Scottish Ministers may by regulations specify.”

When each local authority sets its local eligibility criteria, it must have regard to that national direction, and we will consult on those regulations.

That is essentially a balance between the bill's intention to ensure a better, more consistent level of support for carers and recognising that local authorities are ultimately democratically elected bodies.

Dennis Robertson: If you feel that the criteria have been set such that many carers will not be eligible for support, will you intervene?

Jamie Hepburn: We will monitor the implementation of the bill, as Parliament would expect, and we will pay particular attention to the efficacy of the provision and how it is being rolled out on the ground. We have retained the ability to set national criteria in regulations, should that be determined necessary. My clear preference is for us not to get to that stage, and to have the national direction as set out in the bill. As I have said, the local eligibility criteria will be overlaid by national guidance. That is my preferred approach, but should it be necessary at some point down the line, we could introduce national eligibility criteria.

Dennis Robertson: So if individual carers or organisations feel that the eligibility criteria for support have been set too low, if you like, they can approach the local authority. If they do not get a satisfactory outcome, they could come back to the Government and say, “We are not being treated fairly. The provision is not meeting the objectives and outcomes set by the Government in order to give people a life outside of caring”, and you would intervene.

Jamie Hepburn: Even if I wanted to say to national carers organisations, “You can’t raise this issue with me as the minister responsible”, they would raise it with me anyway. We are in regular contact with national carers organisations on a range of issues, not least the bill. If people have concerns, I expect them to raise them with me.

We want to get this right at the outset. Under the bill, it is necessary for carers and carers organisations to be involved in local carer strategies. They should also be involved in drafting what the application of local eligibility criteria should mean. It is about empowering carers. They must be involved in the process.

Dennis Robertson: However, you can understand some of the concerns. If a family moved from one local authority area to another, the eligibility criteria might be different, so they might drop out of support.

Jamie Hepburn: I can understand that perspective. The key point for me is that the eligibility criteria in a local authority area have to be clear to people in that area. If, by their nature, the criteria are local, there might be differences from one local authority area to another but, as I said, any local eligibility criteria have to be informed by the matters that we set out in regulations.

The bill also includes a more general power to support carers who do not meet eligibility criteria. The bill is writ through with an approach that is designed to support carers.

Dennis Robertson: There is general support for the integration of health and social care in all sections of society, but there will be a greater emphasis on local authorities meeting need as we move people from acute services to primary care services. Therefore, local authorities suggest that there will be a greater burden on them. Does that not mean that care and support for carers could be diluted to an extent, because authorities will prioritise people who move from acute services to primary care services?

Jamie Hepburn: No, I do not think that there is evidence to suggest that that will be the case. We are all supportive of the integration agenda, which is about trying to ensure a more seamless interaction between the health service and social care. I cannot envisage the particular challenge that you refer to. It is true that we want to get more folk out of acute care and into primary care and community settings. The bill could be a significant advance in achieving that, because one of the barriers might be that carers do not feel...
particularly well supported in their caring role, which could cause delays in that transfer.

Dennis Robertson: Surely the challenge is a resource one.

Jamie Hepburn: We have set out a significant resource in the financial memorandum over the lifetime of the forecast. We will resource the bill's provisions.

The Convener: I am a wee bit surprised by you saying that you were not aware of any concerns. Dennis Robertson was referring to evidence to the committee that indicates that, although many people—including many members—support the bill, there will be challenges in delivering on increased expectations. Those challenges have been well rehearsed by the Convention of Scottish Local Authorities.

Various professional organisations told us that if we go beyond the regular and substantial test to a universal position, the numbers will be greater than the estimate in the financial memorandum. That relates to the producer side of the story, if you like—the people who are paid to deliver the support.

However, we heard the same from the other side of the story in a couple of the evidence-taking sessions with carers. We found ourselves explaining the position and why it would be a good idea to extend support and to identify carers at an earlier stage. The carers had their own experiences of difficulties in being assessed appropriately and in getting appropriate help. Young carers asked us last week about the impact on them, and the older carers we met in Glasgow said that things were difficult enough already. They were concerned that, if we broadened the measures out and increased expectations, they might lose out.

Does Nanette Milne want to supplement that point?

Nanette Milne (North East Scotland) (Con): I wanted to raise a slightly different topic—I can wait.

The Convener: I will let the minister answer the point first, then.

Jamie Hepburn: Of course I recognise that, in any demand-led process, which is ultimately what we are instituting, there are forecasting difficulties. We are confident that our forecast is appropriate, although I know that COSLA has expressed concerns about it and that the matter was explored with the Finance Committee recently.

The removal of the regular and substantial test is a positive step. It is sensible to broaden out the scope of the bill to cover carers who should be eligible for assessment and, potentially, for support. I think that the removal of the test will not in itself result in a large increase in the number of carers requesting an adult carer support plan, because, as we know, the majority of councils do not use that test just now. Indeed, we have supportive quotations from councils about removing that barrier to assessment. Aberdeenshire Council, for example, says that it will "improve equity and consistency".

Those who decline a carer's assessment now might not want the new adult carer support plan—perhaps those who feel that the current assessment is stigmatising. Others might decline the assessment because they are content to be involved with the community care assessment of the cared-for person, because they do not feel that they are a carer—that is an issue in itself that we might touch on—or because they feel supported already. We know that about carers who do not come forward for support quickly—again, this is an issue in itself for carers as a group. The carers allowance is a case in point.

We are dealing with a low baseline, and the forecast for demand is not unreasonable. I accept that it is difficult to come up with an absolute or certain figure when we are dealing with a demand-led process.

The Convener: Yes, I am not arguing over the principle; I am trying to articulate the concerns of carers who have told us in evidence that there can sometimes be a long wait for assessment and for a package to be put in place. If people with a low level of need are going to be assessed, what will that do to carers who need assessment quickly? Carers say that resources are scarce when it comes to getting access to social workers and having on-going and changing needs addressed. In practice, we are searching for assurances that what is a worthwhile measure will not impact on those who are in more urgent need of care, and that regular, on-going care will be provided.

Jamie Hepburn: Of course, it will be for each local authority to manage the case load. It will be a question of how authorities handle the cases that they deem more urgent. Some of that could be determined by the processes that are set out locally.

In the financial memorandum, we have set out substantial additional resource. By the financial year 2021-22, there will be more than £63 million for support for carers, which I think we would all agree is a considerable sum. We are proposing to resource the recognition that, over time, a rising number of people will come forward. I hope that that takes care of people’s concerns. We are going to resource the measures properly.

The Convener: COSLA said that another issue will arise over time. It made the case that making
the support available would result not just in a
greater number of people coming forward but in
people being likely to take up support. There are
elements from England of where such processes
have not been as slow as people thought they
would be. COSLA argued that in England there
was take-up in the short term, over a three-year
period, rather than a slow build-up in demand. It
said that there was a surge at the beginning. I do
not know whether that has been taken care of.

09:30

Jamie Hepburn: We will assess any evidence
that is available; in fact, we have done that as part
of the process. A comparison has been made with
free personal care, on which the take-up rate has
been higher. I do not necessarily think that that is
comparing apples with apples. We would expect
the take-up rate for free personal care to be
higher, because most of the people who are
titled to it are already known to local authorities.
We will take on board any evidence that is
available, but there is plenty of evidence to
suggest that the take-up rate will rise steadily on
an incremental basis.

The Convener: If there is a short-term surge,
how will the Scottish Government cope with that?
What would your reaction be if there was a surge
in the early weeks and months of implementation?
We are dealing with vulnerable people, and we
cannot necessarily deal with them retrospectively.
What contingencies are in place to ensure that, if
there is a surge, you can respond to it?

Jamie Hepburn: We are in dialogue with
COSLA. We have set up a finance group to look at
the issue in further detail. You alluded to the
concerns that have been expressed by COSLA
about the resourcing of the bill. We have made an
offer to look at any different forecasts based on
COSLA’s evidence. Thus far, it has provided no
such evidence. We have set up a finance group to
look at such matters in greater detail, and COSLA
will be represented on that group. We will continue
to explore those matters in detail with COSLA.

You mentioned that there has been a surge in
England, but I am not convinced that there has
been anything that could be described as a surge
per se. Officials are in dialogue with colleagues
down south, and they are not talking of a surge
per se. Of course, we will continue to—

The Convener: Has there not been a significant
increase in demand in England?

Jamie Hepburn: Perhaps I can invite—

The Convener: Maybe my use of language is
poor—maybe it cannot be described as a surge.
What can we learn from the experience in
England? Has it affected your thinking?

Jamie Hepburn: I have no doubt that there has
been increased demand in England, and we are
forecasting an increase in demand as a result of
the Carers (Scotland) Bill. Maybe it comes down to
a matter of language; I would not necessarily
describe that as a surge.

The Convener: I accept that it is recognised
that the bill will result in increased demand over
time. I used the word “surge”—you can choose
any word you like.

Jamie Hepburn: Well, I would describe it as
increased demand.

The Convener: The experience in England is
that that has happened in the shorter term rather
than the longer term. Does that give you any
cause for concern?

Jamie Hepburn: I invite Moira Oliphant to say a
bit more about the contact that she has had with
colleagues down south. I think that the use of the
term “surge” is probably unhelpful.

The Convener: I am not here to argue over
words. A point has been made about an increase
in demand in the shorter term. I ask Ms Oliphant to
tell us about the experience in England and
whether it should give us concern. If it should not
give us concern, I will have my answer—that is
fine.

Moira Oliphant (Scottish Government): The
experience in England is that there has not been a
surge in demand in the first few months of
operation of the Care Act 2014 down south.

The Convener: There has not been a surge, so
COSLA is wrong.

Moira Oliphant: We have spoken to officials
down south and they have said that the demand
that they might have anticipated has not emerged,
but the act has been in operation for only a few
months, so we will have to look at the situation
again.

The Convener: So COSLA is wrong to use that
as part of its argument. The committee can
discuss that.

Jamie Hepburn: Ultimately, the committee will
have to come to its own position. I suggest that the
use of the word “surge” does not reflect reality. We
are confident in the figures that we have set out.

The Convener: What is your view of the
evidence that has been put to the committee by
COSLA, which represents the people you will be
putting in charge of delivering the policy?

We have established—I do not know why it took
us 10 minutes to do so—that we should not take
into serious consideration COSLA’s claim that
there will be a surge or unpredicted demand in the
early implementation period. We have been told
that we should not worry about that and we can
discount that view when we are producing our
report.

**Jamie Hepburn:** If you want to put it that way,
that is the way you want to put it. The point that I
am making is that we are confident in the figures
that we have set out in the financial and policy
memorandums. We are confident in our
methodology. We invited COSLA to provide us
with its methodology, and it has not done so thus
far. We will continue to work with COSLA, and that
is a reasonable position to take.

**The Convener:** Good. Thank you.

**Bob Doris:** I will not explore the idea of a surge
any further, but I want to mop up one or two other
aspects of the very relevant points that the
convener made.

The first was the comparison with free personal
care, which I thought was interesting. In Glasgow,
for example, there is a time period within which
someone who would qualify for free personal care
is assessed. Once the person has been assessed,
there is a time period that he or she has to wait
before the package is delivered. I am not sure
whether that is the case for carers who are getting
assessments currently across local authorities.

To what extent will the decisions on acceptable
waiting periods for assessment and delivery be for
the discretion of local authorities? I would feel
more comfortable, not with the Government
dictating what the time periods should be but
perhaps with it giving some guidance on carer’s
assessments to which local authorities should
operate. Some information on that would be
helpful.

**Jamie Hepburn:** That is likely to be the space
that we will occupy on that issue. There is a
spectrum of people involved in caring
responsibilities dealing with a spectrum of different
conditions. I accept that there could be some
circumstances in which the assessment would
need to be done very urgently. I am thinking of
those who have caring responsibilities for people
who are perhaps near the end of their lives, who
might have a greater need than others to be dealt
with on an expedited basis. There is nothing in the
bill at this point about timescales. We are only at
stage 1 and we are open to hearing arguments as
to why there should be. The argument for them
might be particularly persuasive in the
circumstances that I have just set out. That is
something that we can deal with as we move
forward into stage 2.

**Bob Doris:** Just to follow up very briefly,
because you gave more information than I thought
you might—

**Jamie Hepburn:** I like to be helpful.

**Bob Doris:** I am not sure how I feel about the
information, but it was interesting, because this
committee is at the stage of considering what
should or should not be in the bill.

What I was considering was not so much
prioritised cases but the generic, routine carer’s
assessments. Any gaps between identifying
someone who needs an assessment, getting that
assessment done, identifying a package and
delivering that package are unfortunate. Gaps
happen in other aspects of local authority delivery
at the moment. Some guidance from the
Government would be helpful—we can deal later
with whether that should be in the bill or
elsewhere.

You moved on to my second point, which the
convener made well, about the carers who are
already in the system and getting a reasonable
service—not a superb service, but everything is
relative—from local authorities. They have
conscerns that their service might be diminished
somehow. I am sure that that will not be the case
for them, but what about those new carers coming
into the system who should get priority? Will any
guidance be given to local authorities to make
sure that there is a fast-track process via social
work departments or integrated health and social
care boards?

To finesse it slightly, there are two issues here.
The first is to make sure that there is no
gatekeeping or other undue delay in the routine
carer’s assessments, which will take place
universally now. Can that be dealt with in
regulations? Secondly, can regulations deal with
the need to prioritise?

You might want to comment further on those
points and I wanted to be clear that I saw them as
two separate issues.

**Jamie Hepburn:** That is the point that I was
trying to make in response to your initial question,
which was about whether this issue will be dealt
with in guidance. As I have said, that is the space
that we are occupying right now. Of course, that
guidance has not been written or bottomed out,
and I will be very happy to take on board any
perspective that the committee might have on the
matter. Equally, if it emerges that this issue should
be covered in the bill itself, I am open to hearing
that case, too. We are just at the start of the
process, and I am not going to be taking an overly
prescriptive approach; instead, I want to do
whatever is most effective to support carers. I
suppose that, in my previous response, I was
simply highlighting a particular subset of carers—
for example, those providing palliative care to the
cared-for person at the end of their life—for whom
the process might need to be expedited.
The Convener: There are a number of supplementary questions.

Richard Lyle (Central Scotland) (SNP): Minister, you said that the finance-led group had been established. Who are the members of that group, and when do you expect it to report?

Jamie Hepburn: We have invited a number of organisations to join the group. COSLA has been invited to send two representatives. When I gave evidence to the Finance Committee, I was asked whether COSLA had responded positively to my invitation; at that stage, it had not, but I can now confirm that it will participate.

Other members of the group include, from the Scottish Government, the deputy director for finance, health and wellbeing; the head of internal financial performance; the team leader for local government finance; the deputy director of the care, support and rights division; the team leader for the carers policy; and two representatives from analytical services. There are also the two representatives from COSLA I have just mentioned; a representative from Social Work Scotland; three policy reps from councils; two local authority directors of finance; one representative from a national health service board; and, crucially, two representatives from the national carers organisations.

As for timescale, we want the group to meet and report to me as soon as possible.

Richard Lyle: COSLA continually says that the Scottish Government does not fully fund the legislation that it passes. What if a local authority comes back to you and says, “We have spent more than you have given us?”

Jamie Hepburn: At this stage, we are trying to bottom out any concerns that COSLA might have; indeed, that is—in part—why the group has been established. As I have pointed out to the convener, we invited COSLA to provide an alternative figure and an alternative methodology, but it has not been forthcoming. I am very willing to receive that information from COSLA and to let my officials have a look at it.

Nanette Milne: In his reply to Bob Doris, the minister touched on the issue that I wanted to raise in my substantive question; basically, it was about those who provide what one might describe as terminal care. Clearly, those people need to be identified quickly. For a start, a lot of them do not recognise themselves as carers in the first place, because they are just husbands, wives and so on. They also need to have their care plan reviewed quite quickly and, indeed, quite frequently, given that their circumstances will change regularly and in a fairly significant way as time moves on.

The minister will not be surprised to hear that I have been speaking to Marie Curie Cancer Care about this issue, given that I have raised it before. It feels that a care support plan for these carers should be in place within seven days of their being identified as carers and then, as I have said, reviewed regularly. It also feels that the stipulation in the policy memorandum that “local authorities must set out their plans for identifying carers within the context of the ... carer strategy” could be strengthened either in the bill itself or in guidance if general practitioners and primary care were included. After all, an awful lot of these people will come to light via their GPs and the primary care team rather than through local authorities.

The final point in that context is the need for short breaks for respite and for local authorities to be in a position to offer them.

Those issues can be covered either in the bill or in guidance. I would like to have them on the record and hope that consideration will be taken of them.

09:45

Jamie Hepburn: I have touched on that issue with Mr Doris, and I recognise that it is important. We are committed to looking at the provisions in the bill that might relate to those who are caring for people who are at the end of life. The point is well made that, if it is identified that they need a support plan, they will need it pretty quickly, as is the point that the support plan may need to be reviewed fairly regularly—almost on an on-going basis.

We are happy to hear any concerns that may be expressed by Marie Curie or any other organisation about how we can get that right; at the end of the day, that is what I want to do through this bill process. We will continue to look at that issue. We are not a million miles apart on it.

I recognise that carers not self-identifying as carers is a challenge. People may not always think of themselves as such; you made the point that they think of themselves as the parents or the children of the person that they are caring for. We recognise that it is important to encourage carers to come forward to seek assistance, which is why we are trying to widen the scope of people who can be eligible for the assessment process. I am not convinced that it is necessary for us to do anything on a legislative basis to improve carer identification, but I am open to hearing any perspective that should be set out by the committee members as we assess the bill’s provisions.
The bill contains three provisions that relate specifically to short breaks. The first is that local authorities,
“in determining which support to provide to a carer ... must consider in particular whether the support should take the form of ... a break from caring.”

There is also a duty on local authorities to
“prepare and publish a short breaks services statement.”

Another provision is that the adult carer support plan and young carer statement must contain
“information about whether support should be provided in the form of a break from caring”.

Breaks from caring are part of the process as it is set out in the bill.

Rhoda Grant: I want to ask a few more questions about costs. In their evidence, the councils raised the costs of preparing the support plan. They said that the amount of money that is given in the financial memorandum as a maximum is what they calculated as being the mid-range of costs for the preparation of a support plan.

There were also concerns about the cost of a short break. It might be useful to put on record what you see a short break as consisting of. You were at the cross-party group meeting at which carers said that it would cost more than £1,000 to replace them for a week to allow them to have a short break for that time. That sum is vastly higher than what the financial memorandum identifies.

Those are two cases in which we have heard specific evidence that the actual costs are not reflected in the financial memorandum.

Jamie Hepburn: I am aware that COSLA has expressed concerns about the unit costs of the adult carer support plan and the young carer statement. The method of establishing the unit cost was very much steered by COSLA, which was concerned about league tables of unit costs appearing. COSLA wanted instead to ask local authorities for the total number of carer assessments carried out in a year and the total costs, and then for Scottish Government officials to work out the unit costs, which it has done.

It was COSLA that wanted the average unit cost worked out, and not the median. That was not a particular problem from our perspective. The £176 unit cost for the adult carer support plan is the average based on questionnaire returns from 14 local authorities, and I think that it compares favourably with the median unit cost of £116 in England. That is a similar picture to the unit cost for the young carer statement.

On the unit cost of support for short breaks, we are taking short breaks seriously. We have included a short breaks enhancement of £2.36 million in the financial memorandum because we recognise the importance of short breaks. We have also committed in the financial memorandum—the spending review permitting—to continue the short breaks fund. We take short breaks seriously and we provide substantial financial resources for them.

Rhoda Grant: Are you saying that short breaks are dependent on the amount of money in the fund rather than on an entitlement for each carer to have short breaks?

Jamie Hepburn: No. I am saying that that is what we are providing towards it. Of course it is to be person centred and based on the assessed needs of the individual carer who comes forward seeking that assistance. However, I am making the point that we are providing a substantial amount of resource towards that area.

Rhoda Grant: Carers are telling us that the cost is greater than is allowed for in the financial memorandum. Will that cost fall on councils or will the Scottish Government top up the fund?

Jamie Hepburn: I go back to the finance group that we have established. These are matters that we will continue to discuss with COSLA. Our perspective is that we have set out in the financial memorandum that we will provide a substantial amount towards the support of short breaks. I think that £2.36 million per year could fairly be described as substantial. There is also the short breaks carers fund, which we want to continue as well.

Rhoda Grant: Will the Government fully fund the costs of the bill? I think that that is the question. Financial provisions are being made, but it is not clear whether the cost of the bill will fall on local authorities or whether it will be fully funded by the Scottish Government.

Jamie Hepburn: We are funding the provisions of the bill and we have set that out in the financial memorandum.

Rhoda Grant: If there are additional costs that the financial memorandum has got wrong, will you fully fund them as well?

Jamie Hepburn: We will continue to maintain dialogue with local authorities. We have to fund local authorities on an annual basis through the budget settlement, so there will always be that process of dialogue with local authorities as part of setting any Scottish Government budget.

Rhoda Grant: So you are not going to guarantee fully funding the costs of the bill.

Jamie Hepburn: 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.
Rhoda Grant: I think that that is where councils are concerned, because they feel that the costs of the bill will be greater than the Scottish Government has estimated. If that comes out of their existing resources, which are declining, it means that the services that they provide to other people—including, indeed, cared-for people—may be put on hold because they are obliged to fund the carer support primarily.

Jamie Hepburn: I have made the point a couple of times now, Ms Grant, that if COSLA wants to make an alternative estimate and bring forward its methodology for how it came to that estimate, we will receive that and analyse it. We have not received that.

Rhoda Grant: Would you fund it? That is the question.

Jamie Hepburn: The first point is that we would like to receive it and see what it is. We have not seen it thus far.

The Convener: I realise that Dennis Robertson is still waiting to ask his supplementary, but as Bob Doris is seeking further clarity on the short breaks issue, I will bring him in first.

Bob Doris: I will really try to be brief, convener.

As I was listening to the dialogue between Ms Grant and Mr Hepburn, I sensed a disconnect in what was being discussed, which brings us back to the need to define what a short break is for the individual, for the local authority and under national criteria. For some of the people whom I and other committee members spoke to, a short break might be an evening off to go to the cinema with friends so that they can continue to be a young adult and do what young adults do. For others, it might mean a week away. Some local authorities will invest significantly in short breaks while, in other local authorities, what looks like a short break might be a little bit different.

I am not sure how any group can resource short breaks fully, given that the process is based on individual circumstances, on each local authority’s individual strategy or, indeed, on what is defined as a short break under this bill, which I hope will soon be an act. The disconnect relates to how we can ever cost short breaks, and I must repeat the minister’s view in that respect. Is this more about individual, for the local authority and under national criteria. For some of the people whom I and other committee members spoke to, a short break might be an evening off to go to the cinema with friends so that they can continue to be a young adult and do what young adults do. For others, it might mean a week away. Some local authorities will invest significantly in short breaks while, in other local authorities, what looks like a short break might be a little bit different.

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The Convener: To see if we can get some clarity here, I will come in at this point with a question that brings us back to Rhoda Grant’s comment. The minister mentioned a number of duties that will be placed on local authorities to consider and whatever, but the carers organisations have expressed disappointment at the absence in the bill of a right or an entitlement to a short break, which is something that you have fallen short of providing. Is it the case that the bill places no duty on local authorities to provide a short break?

Jamie Hepburn: That is correct, convener. At this stage, the bill includes no such duty; it is not the case that local authorities have to provide a short break. I can go over the details again if you want, but in any assessment of an individual carer’s needs, authorities must ensure that they assess whether a short break should be part of the package of support. That gets to the heart of Mr Doris’s point. It has become very difficult for us to be overly prescriptive and definitive about what constitutes a short break, because it can mean very different things to different individuals.

As a result, I think that the approach should be led by the assessment process. We should remember that we are removing the “regular and substantial” test, which means that someone who provides one or two hours of care a week could be entitled to an assessment—and rightly so, in my opinion. Now that those carers are encompassed by the assessment process, there is even more of a need for the decision on whether short breaks should be part of the package of support to be assessment-led.

That said, convener, I have already made the point that we are at the start of this process and that if a compelling case can be made for a statutory right of all carers to a short break and if that is something that we can accommodate, we will of course look to do that. The national carers organisations have told my officials that they believe that they have come up with some mechanism and have undertaken to provide us with information on that. I do not think that they have done so thus far, but when they do, we will of course take their submission seriously.

The Convener: We appreciate that answer.

Dennis Robertson’s supplementary might take us back a wee bit, but it is only a one-off. We will then move on.

Dennis Robertson: I will try to be very brief, convener. My point goes back to Mr Doris’s questions. We have established that we can prioritise for end of life, and I suspect that, for end of life, the referral route to provide support for the carer will come from the health profession. I am trying to understand how we prioritise who gets the assessments and who carries them out, given that we cannot establish priority until the assessment has been carried out. A fundamental issue about the provision of care is that the care plan can be established only after we have gone in and carried out an assessment. How do we
prioritise who gets the assessments in the first place, and how do we decide who carries them out?

**Jamie Hepburn:** With the removal of the “regular and substantial” test, someone who is a carer is now entitled to seek an assessment. I recognise that there is also an issue about how quickly that assessment should be undertaken, but I think that Mr Doris’s point was about how quickly the package of support can be put in place after the assessment is carried out. I merely observed that there might be particular circumstances in which that could be felt to be particularly urgent. I recognise that any carer who comes forward for assistance, who is assessed and whose assessment leads to their being entitled to a certain amount of support will want that support to be put in place as quickly as possible.

10:00

**Dennis Robertson:** I think that you are missing my point altogether, minister.

**Jamie Hepburn:** Okay. Why do you not explain your point to me, Mr Robertson, and let us see whether or not I can get it?

**Dennis Robertson:** I shall endeavour to do my best, minister.

My point is that the amount of care that a person requires cannot be established until an assessment has been carried out, which means that a difficulty for providers is prioritising who requires assessment. How do we enable providers to prioritise? It could be about the referral and whether it is the carer or whoever who makes the referral, but someone needs to be able to establish where the priority lies. The end-of-life example is a fairly easy one, but in general terms, I am simply saying to you that what is required to meet need cannot be established until the assessment has been carried out.

**Jamie Hepburn:** I accept that. My point was that anyone who meets the broad criteria for being a carer will be entitled to that assessment. Obviously, we need a system that is finessed to deal with how they are prioritised; we are at the start of this process, and I am open to suggestions about how we can do that most effectively. The point that I was making was that we want to ensure that the process is as seamless and expedited as possible for everyone who goes through the system. Indeed, that is my ambition. However, I recognise that there are particular groups of carers—I have offered one example, and I am willing to hear others—who should be expedited further.

I hope that I have understood Dennis Robertson’s point.

**The Convener:** The issue of priority that has been raised could be another layer or barrier in addition to the contentious issue of whether people have actually been assessed properly that we continually get in our case work and, indeed, hear about in evidence. When the person gets their assessment is another process that has to be gone through. It is all very challenging.

The broader question is: has there been any discussion with other professional bodies about a standard assessment process across local authorities? We could easily make a presumption in respect of a person who is near death or has cancer—although cancers are progressive and can build up, which leads to an urgent need at the end—but we can also take a preventative approach to support carers dealing with someone who, although not at the end of their life, might nevertheless be in an urgent situation. If the carer collapses, that will leave two people in hospital. How can we deal with the whole issue of prioritisation with limited resources? Surely it is not going to be left to politicians.

**Jamie Hepburn:** No. Not to put too fine a point on it, I hope that a degree of common sense will kick in. If someone is in the circumstances that you have set out—if they have collapsed and are in hospital, and the carer needs an urgent assessment—that situation can be taken care of. My point to Mr Robertson is that we have not necessarily been overly prescriptive about the issue of prioritisation at this stage, and I am open to hearing other suggestions.

Nanette Milne mentioned Marie Curie Cancer Care’s particular concerns. We have heard those concerns, and we are committed to looking at the particular case that the organisation is making. If it becomes clear that other subsets of carers need to be prioritised, we will be happy to look at such matters as we progress the bill.

**The Convener:** I presume that your officials and organisations are discussing what a prioritisation model would look like. Was your comment about end-of-life care a casual one? Is that an obvious area for priority?

**Jamie Hepburn:** No, my comment was not casual. I was simply observing that those dealing with end of life present themselves as an obvious group.

**The Convener:** And that view is not based on any work that you have carried out.

**Jamie Hepburn:** It is based on our awareness of groups that have raised particular issues, which we will respond to. I will bring in Moira Oliphant at this point.

**Moira Oliphant:** Given that we are meeting the national carers organisations soon, we will be able
to discuss the issue further with them. I note that looking at the impact of caring is important in helping with prioritisation, once a carer has received an adult carer support plan, but we will certainly pursue the matter.

The Convener: The fact is that carers are worried. If there is a universal right to a carer’s assessment for non-urgent matters, it raises questions about the diversion of resources, and people want to be reassured that if an assessment is urgently required, it will, as the minister has said, be put in place. Common sense will prevail in 90 per cent of cases, but it is important that we reflect some of the questions that have been put to us in the evidence that we have received.

Jamie Hepburn: That is the virtue of this process: questions are raised with you, you gather the evidence and we respond to that evidence. You have my commitment that we will do so.

Rhoda Grant: I want to ask about carers’ right to refuse to care. Carers’ assessments are always carried out on the basis that the carer will care, and assistance is then put in place to allow them to do that. A number of carers have told me that it is assumed that they will care. That is particularly the case for couples in which one partner is caring for the other. If the relationship should end, there is no way out of that for the carer—they cannot walk away. When a relationship is at an end and someone wants to make a new life elsewhere, it is still assumed that their caring role will continue. Should there be in the bill a right for the carer to decide whether they will care and for how long?

Jamie Hepburn: First, the words in the bill are “able and willing” to care, so people’s willingness to care is part of the process. The impact on young carers’ lives could be particularly acute. Part of the young carer statement process will deal with whether it is appropriate for the young person to undertake caring responsibilities and whether they want to continue caring.

We would not want to compel people to undertake caring responsibilities: people must want to continue that caring responsibility. The bill is designed to support those who want to do that, but who also want to have a life beyond that caring responsibility.

Rhoda Grant: A carer could, for example, say that they are, as part of their carer support plan, willing to care between the hours of six and midnight, but that they need a night’s sleep because they need to go out to work. Their local authority must then provide the care outwith that.

Jamie Hepburn: The ambition is to have a person-centred focus in which it would be incumbent on the local authority to respond to and to take seriously points that are made about an individual carer’s circumstances. If the carer has other commitments or needs that must be met, that has to be part of the assessment process.

The bottom line is that we cannot compel people to care for people. We would not want to do that.

Rhoda Grant: I think that that happens at the moment; in fact, I know that it does. A constituent of mine was sent home in the middle of the night with someone who could no longer walk or talk, and all they had been given was a Post-it note with the name and phone number of a person who might have been able to help. It turned out that that person could not help, but the assumption on discharge was that the person in question would give up their own life to care for someone without any support or assessment.

That brings me on to discharge planning—

Jamie Hepburn: I am happy to talk about discharge planning, but I have to say that it is hard for me to talk about the particular case that you have just highlighted. If you want to contact me about it, I will be happy to respond. On the face of it, however, I think that that case speaks to the need for the bill; after all, it sounds from what you are saying as though the person in question had not had any form of assessment.

Rhoda Grant: As I said, that case leads me on to discharge planning, because the individual was discharged from hospital in the middle of the night without any reference having been made to support that might be available. Should the bill contain a right for carers to be consulted, on discharge, about the support that they might need, before the person to be cared for is discharged from hospital? It did not happen in the case that I highlighted, and has not happened for many other carers to whom I have spoken.

Jamie Hepburn: I start by making the general point that I have already made a few times to the convener, which is that we are happy to take on board any amendments to the bill that might be suggested. I know that some organisations that have provided evidence to the committee have stated that they would like the bill to include specific provisions on the role of carers, and on admission and—crucially—subsequent discharge of the people for whom they are caring. My commitment is that I will take seriously any suggestion that might be made as we move into stage 2.

Richard Lyle: It has already been mentioned that COSLA has said that it is not going to get enough money for this. I note that a number of concerns have been raised about the bill, and I have to say that I am particularly concerned about the waiving of charges. At present, regulations state that a local authority must waive charges for support services that are provided to carers under section 3 of the Social Care (Self-directed
Support) (Scotland) Act 2013. I was a member of the committee during the passage of that bill. However, the bill will repeal that section, which means that the services that will be provided to carers under the bill could be charged for, unless ministers regulate otherwise. Why do we need to do this? A number of years ago, we made a promise to carers, which we seem—from looking at that provision—to be going back on. Some organisations have expressed concern that it will mean that the commitment to waive charges will be reneged on. Surely we are not going to do that.

Jamie Hepburn: That is correct; there are no plans to renge on any commitment that has been made.

Richard Lyle: In that case, can you explain to me why the bill will repeal section 3 of the 2013 act, thereby making services that are provided to carers subject to charges, unless ministers regulate otherwise? Are you going to take that provision out of the bill? If you were to do that, it would assure me and others that what you have just said is the case.

Jamie Hepburn: What I have said is the case. I am not quite clear what part of the bill you are referring to, Mr Lyle, but I can tell you that we are working with local government colleagues on the waiving of charges. Our commitment is as it has been set out, and we have no plans to move away from it.

Richard Lyle: There will be no charges at all.

Jamie Hepburn: That is our commitment.

Richard Lyle: That is good enough for me, minister.

Jamie Hepburn: I am glad to hear that.

10:15

Bob Doris: This might be a slight fly in the ointment, minister, or it might be that I have not understood the situation, in which case please accept my apologies in advance.

A local authority might wish to provide a subsidised service for carers or cared-for people outwith the assessed needs that are being met in a package. For example, a local authority might decide that it wants to provide subsidised day trips that are separate from any short-break commitment, care package or whatever; and it might say that carers and so on can have the subsidised activity for £5, otherwise it will not exist. Would such provision be allowed under the bill? I think that it is allowed at the moment.

Again, maybe I am just floating something that I do not fully understand. I have just heard chat at local authority level about providing additional opportunities at subsidised rates, so I want to make sure that waiving of charges would not prevent that.

Jamie Hepburn: I need you to write to me on that specific example, about which I am not sure. However, we certainly do not want to do anything that would curb any available activities and support.

Bob Doris: I appreciate that. Thank you.

The Convener: You have no other comments on that point just now, minister, but you might want to respond on it at a later point.

Jamie Hepburn: If we try to discuss it without knowing the specific circumstances, we would just end up talking ourselves into a guddle. I would much rather know the circumstances and how they interact with waived charges, and respond in writing on that.

Bob Doris: On reflection, perhaps I should have written to you about the matter because I am not sure about the specific example. I had heard of it and thought that I would take the opportunity to raise it with you. However, I will write to you about it.

Jamie Hepburn: That would be helpful.

The Convener: Dennis Robertson, very quickly.

Dennis Robertson: I have a quick question on young carers, whom we mentioned at the beginning. How do we identify our young carers? What process can we put in place? Is putting information in schools being considered? Young carers have suggested to the committee that there could be posters or whatever in school nurses’ rooms or their libraries. We need a process to help young carers to identify themselves and/or to be identified by teachers and so on. What can you do to help in that?

Jamie Hepburn: I accept that identification of young carers is important, but we do not necessarily need to legislate for it. It strikes me as being something that we should probably just get on with.

Dennis Robertson: The bill has provision for information services and so on.

Jamie Hepburn: Indeed. Those information services will exist, but the point is that carers need to self-identify. We know from carers’ own experiences that there is a problem in respect of people not identifying themselves as carers, which we already touched on. I suppose that people would have to be at the stage of self-identifying before they would access information services.

In terms of how we support carer identification better, that is something that we just need to get on with. A variety of national policy initiatives support identification of carers by professionals.
There are other initiatives that support it: for example, there is the Scottish Government’s funding of NHS Education for Scotland, the Scottish Social Services Council and the college development network for workforce development. However, if there are good ideas that we can help to roll out by sharing best practice or by providing some other form of assistance, I am willing to listen to them so that we can take them forward.

The Convener: An important point that was made earlier about young carers generally in terms of our engagement with them was that local authorities, rather than independent organisations, could provide advice and information for them, although I realise that that would have challenges. However, it was interesting to note that the young carers who visited Parliament last week said that the information that they get at different points in their caring varies widely. Some of them related their stories about having been carers for two or more years before any help for them kicked in. Sometimes the help came from the school and in other cases it came from a GP. There seems to be a real opportunity to do something in that regard through the bill.

Of course, not all carers want other people to know that they are carers. Unfortunately, they might be stigmatised by other young people because they are caring for people who have addiction or mental health problems. However, there seems to be an opportunity with the bill to have greater co-ordination around identifying and supporting carers in all their interactions.

One place that has not been mentioned is the business workplace, where appropriate support can have a dramatic impact.

Jamie Hepburn: On that last point, the Scottish Government has supported the carer positive kite-mark initiative that is designed to work with businesses to support carers better. A number of businesses and public sector bodies are involved in that. We are committed to working with businesses across Scotland to encourage better take-up of the scheme so that we can identify businesses that are carer friendly and which support carers who work for them.

The convener mentioned the duty on local authorities to provide carer information services, and concern has been expressed about the impact of that duty on existing services. We are implementing a statutory duty on every local authority to provide a carer information service, but they do not necessarily have to provide that service directly or in-house. There are many positive examples of the third sector providing such services; local authorities can work with the third sector to provide local services. Some people have called for the bill to be amended, and we will listen to any arguments that are made. We should seek to amend the bill in a way that reflects the existence of such third sector organisations in parts of the country. I am not convinced that we can include that in the bill, but it is common sense 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.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): Let me follow on from the point that was raised by Dennis Robertson about identifying young carers, which is a major difficulty. May I invite the minister to look at the drug and alcohol information system that is being established, and ensure that young carers are part of the data collection so that it is possible to identify the young carers of people who have drug or alcohol problems? Can we link the system to the named person under the getting it right for every child initiative? The named person is supposed to be responsible for ensuring that children are adequately cared for and so on, so that is another route by which young carers could be clearly identified without massive interference.

Jamie Hepburn: The first question is fair and the point was well made. I will readily commit to considering that. The bill includes a named person for young carers, and that named person must be informed that the young person has a young carer’s statement, and about specific provision, so that they can ensure that support is provided. Concerns have been raised about that process, so I am willing to consider how we can finesse it, if need be. I do not want to do anything that would reduce the likelihood of a young carer coming forward for assistance, so if we need to finesse that provision we will. Dr Simpson’s point was that there could be a role for a named person if they are aware of a young person who has not yet received a young carers statement, although I suppose the fact that the named person is already involved in the process will make them more aware of such matters. If we need to look at any form of revision or guidance to make that clearer, I commit the Government to doing that.

The Convener: As there are no further questions, I thank the minister and his officials for their attendance this morning and for the evidence that they have provided.

10:25

Meeting suspended.
WRITTEN SUBMISSIONS TO THE HEALTH AND SPORT COMMITTEE

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

SUPPLEMENTARY WRITTEN EVIDENCE

NHS Lothian
National Carer Organisations

ADDITIONAL WRITTEN EVIDENCE

Scottish Huntington's Association
Angus Carers Centre
Fraser MacLean
Carers (Scotland) Bill

Macmillan Cancer Support

Introduction

Macmillan Cancer Support welcomes the opportunity to respond to the committee’s call for views on issues around the Carer’s Bill.

The number of people living with cancer in Scotland is expected to grow from 220,000 in 2015 to almost 400,000 in the next 20 years, and 30,000 people are expected to receive a cancer diagnosis every year. This will have huge implications for carers - and for carer’s services.

1. Do you support the Bill?

Macmillan responded positively to the initial Consultation in 2014 and is pleased that the Bill has taken forward the key recommendations from the original Consultation.

2. What do you feel would be the benefits of the provisions set out in the Bill?

If the Bill increases awareness and uptake of Assessments then that would a huge success. Introducing the new Adult Carer Support Plan model with lower eligibility criteria could be a great catalyst to increasing support for carers.

The Bill provides for the establishment of an information and advice service for carers in each local authority area: Macmillan Cancer Support place great emphasis on Information & Support to help people through their cancer journey. In most parts of Scotland we work closely with local authorities and health services to help people get information and advice including financial advice, as well as through our nationwide phoneline support service. We would be keen to investigate how Macmillan could help local authorities and health services provide information & support to carers dealing with cancer patients.

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

We had expected more reference to Health & Social Care Integration, and working with the Health & Social Care Partnerships. It is vital that Carers issues are at the heart of each Strategic Plan and just as importantly in locality planning. The committee may wish to seek to strengthen the link between the two.

In a similar vein, we are keen to understand the relationship between this new Bill and the Government’s Framework for Action on end of life care – which is an enormously important issue for carers. There should be dialogue about how the emerging provisions of the Carers Bill will impact on the Government’s end of life care strategy.
4. Is there anything that you would add to the Bill?

We back the SPPC submission to you regarding the Bill being silent on the role of General Practitioners and primary care in the identification of carers. We would welcome the Committee looking into the role of GPs and others as another route to drive up assessment identification and uptake.

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

N/A
Is there anything that you would add to the Bill?

I would propose that the Bill should contain a specific Duty on local authorities to provide and promote a range of short breaks to benefit carers and the people they care for. Such a Duty would require local authorities to plan and commission provision to ensure there is sufficient supply and choice of short break opportunities to meet the needs of eligible families.

I would propose that carers meeting eligibility criteria should have a quantified and guaranteed minimum entitlement to short breaks support.

Those not reaching the eligibility threshold would be helped to access a range of mainstream services such as accessible recreational and holiday provision, as well as other community-based leisure activities.

Andrew Findlay
Project co-ordinator
Interest Link Borders
Carers (Scotland) Bill

East Renfrewshire Community Health and Care Partnership

1. Do you support the Bill?

- The East Renfrewshire partnership recognises the invaluable role carers play across Scotland, and support legislation that is geared towards supporting positive health and wellbeing for carers.

- There is apprehension that additional funding may not be available to meet the new duties to support carers as well as to ensure appropriate resources are available to meet the expected expansion in duties around the assessment and support plan.

- The resulting loss of income to local authorities from charging at a time when there are system wide budget pressures may impact on successful implementation of the legislation.

- There could be further resource implications arising from formalisation of the Carer Assessment and Support Plan, which would be helpful to be reflected in a Financial Memorandum.

- There are challenges on how to best support family carers who are also paid to provide support under Self Directed Support legislation Option 1. It would be helpful to clarify how this could be managed within accompanying guidance.

- There is the potential to raise expectations amongst carers through the change of title from ‘assessment’ to ‘support plan’ – particularly for those who may go through assessment but may not be ultimately deemed as eligible for support.

2. What do you feel would be the benefits of the provisions set out in the Bill?

- The East Renfrewshire partnership recognises the important role unpaid carers have in supporting family members, friends and neighbours. The partnership supports drives to improve the identification of carers requiring support, improved provision of support as well as plans to ensure carers are fully engaged in the decisions which affect their lives and those for whom they provide care for.

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

- It would be helpful for explicit mention in each instance on whether the support is intended to benefit the carer of cared for person.

- The responsible authority for meeting costs for carer support could potentially be different from the authority which is assessing and providing for the supported person’s needs.
For example, when the cared for individual and the carer resides in different areas. There is recognition that the responsible local authority would be the one where the carer resides. This however may impact on local authorities’ ability to agree flexible arrangements.

Clarity would be helpful on whether there is potential for one local authority area to make independent decisions about another’s expenditure in such cases.

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

It may be helpful for a clearer definition of ‘carer’ as the current one used as ‘someone who provides regular and substantial care’ may broaden scope of what we mean by carers. For example, parents of children with mild behavioural difficulties may be considered within this current definition, which does not take into consideration the care required simply because of their age and stage of development.

It may be helpful for a specific reference to the role of health professionals in identifying and signposting carers to appropriate resources, as this requirement on Health Boards is understood to be ceasing following the withdrawal of Carer Information Strategies. As an Integrated Partnership we recognise this is a principle we would apply to all our health and social care staff, to support improved health and wellbeing in our communities.

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

There are apprehensions on the stated duty to provide an Adult Carer Support Plan for all carers irrespective of the level of care they provide.

The Bill proposes a duty to support carers which will be framed within the context of locally determined eligibility criteria - to be developed with regard to matters set out in subsequent regulations, for example equalities issues. However, there is also a Ministerial power to establish national eligibility criteria via subsequent regulation. Further clarity is required on this power as assurance is sought that it will not extend beyond criteria and involve an ability to set eligibility thresholds.

The Bill includes a prescribed form and content for assessment, support plans and reviews, defines carer ‘personal outcomes’ as outcomes which would support continuation of caring role and establishes a Ministerial power to re-define personal outcomes in regulations. This may be limit local partnership flexibility in developing processes for carers in line with local arrangements for Self Directed Support.

There is the potential that the Ministerial power to re-define personal outcomes could effectively result in a duty for partnerships to consider any outcome, including those not related to the caring role at all, in carers’ assessments and support plans. This may adversely raise
expectations and potentially cause tensions with eligibility criteria. For example, carers may expect access to services and support to pursue their own life aims, where those types of needs may not meet eligibility criteria.

- The Bill includes a duty on partnerships to develop and publish a Young Carer Statement. We express a similar apprehension to those outlined on Adult Carer Support Plans. Also, there is a proposal such a statement will remain in place after an individual turns 18 years until the point the adult carer support plan is implemented. This could effectively extend eligibility for children/young person’s services in a manner that is difficult to forecast and place pressure on partnership budgets.

- The partnership supports the principle to involve carers in service planning however this is has already been a stated expectation in the Public Bodies (Joint Working) (Scotland) Act and Self Directed Support Acts and supporting regulations.

- Local carer issues require to be considered flexible and through an integrated approach across strategic planning as opposed to silo activities. This needs to be dynamic and evolve over time in response to the most up to date knowledge on best practice and evidence informed views, it may be helpful to therefore include an overview of carer strategic direction as opposed to a high level of detail on carer strategies in primary legislation.

- Where the duty regarding the establishment and maintain of information and advice services for carers, it would be helpful for a greater level of emphasis on supporting resourcing existing local carer support services and organisations and establishing services only when necessary.

East Renfrewshire Community Health and Care Partnership
Carers (Scotland) Bill

Lorraine Allan (Individual)

I want to inform this department of the many needs of an Unpaid Carer and my views on the proposed Carers Bill. I supply support for four persons age range from 19 to 60 years. I have been an unpaid Carer for over 25 years.

I am concerned that there should be regular paid breaks/ respite for unpaid Carers at local level. I am continuously tired, overworked with the constant onslaught of the various responsibilities that I have in relation to my caring role. It should be a responsibility of the Scottish Government to provide funding in order for regular respite breaks for unpaid Carers. Preventative measures have to be introduced for unpaid Carers in order for them to maintain their caring role otherwise they themselves face illness and retrospectively add cost to the NHS.

Investment is the key issue for unpaid Carers to be given and in my opinion offered regular respite officially otherwise more monies will be required in the long term as a result of 'burn out' for unpaid Carers.

Stress levels are ridiculously high especially for those unpaid Carers looking after more than one person. However, ALL carers have health threatening issues that is aggravated by lack of regular 'time off' to recuperate their own health. Many unpaid Carers provide more than 35 hours of support weekly. 35 hours is the minimum input of hours. Continual work hours is against any Union regulation however as unpaid Carers we have no Union. We deliver services for a ridiculously 'low' benefit...not in line with 'other' DWP benefits and receive only one Carers Allowance no matter how many persons we provide support for. We cannot possibly 'save up' monies for ourselves to finance respite/breaks/ holidays in regards to the income we receive. As a result of the millions of pounds we 'save' Scotland in respect of public expenditure as a result of supporting our 'loved one's' in the community, it is morally appropriate to support unpaid Carers by funding regular 'test' opportunities.

Lorraine Allan
Together (Scottish Alliance for Children's Rights) is an alliance of children's charities that works to improve the awareness, understanding and implementation of the United Nations Convention on the Rights of the Child (UNCRC) in Scotland. With over 260 members, our key aims include progressing children's rights at a local and national level through the provision of support and expertise, and providing robust monitoring of UNCRC implementation in Scotland at a national and international level.

With reference to the Carers (Scotland) Bill, our 2014 State of Children’s Rights report stated that: "Children's organisations have called for a child rights approach to be taken in the development of this legislation and for it to be used as an opportunity to improve the identification of, and assessment and support for young carers". Therefore, I would like to recommend that the Health and Sport Committee considers in its scrutiny:

- **Undertaking a Child Rights Impact Assessment (CRIA):** A CRIA should be undertaken to ensure that the Bill is fully assessed in terms of its impact on the rights of children. This will help to predict, monitor, and if necessary, avoid or mitigate the impact of the Bill on young carers. It will also help the Committee to determine the extent to which the Bill can enhance the identification, assessment of and support for young carers. The Health and Sport Committee should refer to the CRIA model which the Scottish Government is currently developing in relation to the new UNCRC duties on Ministers introduced through the Children and Young People (Scotland) Act.

- **Integration with the Children and Young People (Scotland) Act and other legislation:** Furthermore, scrutiny of the Carers (Scotland) Bill should focus on integration with the Children and Young People (Scotland) Act and corresponding guidance. In order to protect, respect and fulfil the rights of young carers, the Carers Bill must be consistent with, and complementary to, existing duties to promote the rights and wellbeing of children and young people. In addition, consideration must be given as to how the Carers (Scotland) Bill interacts with the Social Care (Self-directed Support) (Scotland) Act and the integration of health and social care through the Public Bodies (Joint Working) (Scotland) Act.

Please let me know if the Health and Sport Committee would like the support of Together to ensure a child rights approach is taken in scrutinising the Bill and furthering the recommendations included above.

**Juliet Harris, Director**
**Together (Scottish Alliance for Children's Rights)**
n As Highlighted in Together’s response to the previous consolation on Carers legislation:
http://togetherscotland.org.uk/pdfs/Together%20Carers%20Consultation%20Response%20Final.pdf
Carer (Scotland) Bill
East Dunbartonshire Council

Introduction

This Council welcomes the opportunity to further comment on such an important Bill as we fully recognise the growing demands on informal carers throughout Scotland as a result of demographic trends and the continuing drive for people to be cared for within their own home or with relatives rather than within hospitals or other institutions.

East Dunbartonshire Council has demonstrated a longstanding and robust commitment to working with and supporting carers for example by the establishment and funding of East Dunbartonshire Carers Link and a multi-agency approach to implementing a local carer strategy.

We therefore start from fundamental principles that those carers in need of support to continue in the role should be assisted in any way possible and should be given a voice in how services both for carers and those who are cared for are delivered.

Definitions

Although we accept that the current terminology around ‘substantial’ and ‘regular’ is too restrictive we believe that the proposed definition is far too broad and will potentially bring relatives or neighbours into a statutory framework where we should be encouraging family responsibility, voluntarism and community participation.

Removing the requirement for the cared-for person to be receiving (or be eligible for) services under other legislation may be seen as less stigmatising but it will create a potentially universal demand on social work services which are already under severe financial pressures even in providing for those assessed as having the highest priority. It is unlikely that any additional funds attached to this legislation will sufficiently ameliorate this.

Support plans/statements

We are aware of the reluctance of some carers to be ‘assessed’ (even if this is to determine their requirement for support rather than their competence as a carer) or even to be badged as a ‘carer’.

We would also acknowledge the low uptake locally as well as nationally of ‘carer assessments’. However we would suggest that this has been more related to carers declining such assessments (either believing that they will not generate any additional resource or because of the overlap with their
contribution to the cared-for person’s assessment) rather than social work staff failing to offer or ‘sell’ them.

However in ostensibly removing ‘assessment’ from the process and moving directly to an entitlement to a support plan the Bill removes both the ability to judge someone’s level of priority when resources are scarce and raises the expectations of carers that it is all about ‘wishes’ and outcomes rather than needs and eligibility.

In fact throughout the documentation to the Bill the activities of ‘assessment’ and ‘support planning’ are interchanged and overlapped. Similarly the terms ‘need’ and ‘eligibility’ are used alongside that of ‘personal outcomes’ without a recognition that ‘assessment of need’ has to precede the setting of outcomes and agreement on resource allocation (within the support planning stage) unless budgets are infinite.

For example sections 7 and 11 of the explanatory notes refer to the identification of ‘needs’ to be met by the responsible local authority and section 6 notes that ‘the assessment process’ will be set out in regulations. Paragraph 52 comments that an ACSP will be ‘very much the same as a good quality carer’s assessment’.

We suggest that there will need to be a much clearer distinction between the stage of needs being assessed and that of setting outcomes and agreeing on the allocation of resources to prevent potential confusion amongst both professionals and carers.

The financial memorandum (para 20) sensibly talks about an ‘outcome-focused and co-produced assessment and support plan’ which retains the distinction between these two stages whilst emphasising the requirement for ‘assessment’ be a more participative and aspirational experience for the carer.

We would also have concerns around the potential increased demand for assessment/support planning as an ‘early intervention’ or ‘preventative’ measure (para 86) drawing scarce practitioner resource away from a focus on those most in need. This could only be achieved by adopting a non-assessed baseline entitlement approach which would start to impinge on carer allowances within the welfare benefits system.

We are unclear as to the reasons for using the face of the Bill to specify in such detail around the content of a ACSP or YCS given that the aspects provided are essentially components of an ‘assessment’ and represent current good practice within carer assessments. The importance of agreeing outcomes for carers would be retained via sections 6(1) and 11(1) and could be reinforced via guidance.
The proposed use of Ministerial powers to determine the frequency of the reviewing of ACSP and YCS could serve to redirect scarce professional resources when authorities are already stretched in completing such reviews for substantive support packages for clients (where there is no such statutory requirement) under local procedures. The likely absence of any grading of carer support would also prevent the prioritisation and varying of frequency of reviews as occurs with clients.

**Provision of support/eligibility**

We would be concerned about the practicalities of devising and administering eligibility criteria in the absence of clear thresholds for determining priority between needs and between carers.

The policy memorandum describes a move away from an ‘eligibility framework’ as unworkable but does not give reasons for this. The concept of ‘eligibility’ without a priority framework will mean that all carers regardless of status (as the bar will need to be set well below ‘substantial and regular’) will qualify for the same level of assistance with the average cost of support having to be downgraded to meet all demands.

The memorandum refers to a ‘duty to support carers with eligible needs which are the carer’s eligible needs which meet local eligibility criteria’. Again it is not clear how ‘needs’ (which need to be assessed in some way) will sit alongside ‘personal outcomes’ (which cannot be assessed only evaluated post hoc) if there is no assessment and simply a move straight to a support plan.

We appreciate that once the requirement for ‘substantial and regular’ care and support is removed it might be seen as inconsistent to set gradings for the support then offered but notwithstanding any additional funding from the Government this will create impediments in budgeting for all carer demands (especially where - as with this authority – there are no dedicated carer budgets or carer-specific funding so that monies will need to come from existing budgets for cared-for people).

**Duty to provide support to carers**

The policy memorandum recognises that many carers are not looking for specific services for themselves (as opposed to for the cared-for person) and will need to have an eligible need.

However whilst it is acknowledged that engagement with and support for carers (via advice and information) could be improved it is questioned whether the universalising of what will in effect be at least an initial ‘assessment’ across a much greater population will be both resource-intensive for professionals (taking away from other more urgent activities) and not necessarily what a good proportion of carers are looking for. As stated the low
take-up of existing carer assessments reflects an ambivalence both around being classed as a ‘carer’ and formalising of the contact with social work agencies so that the offer of a ‘support plan’ may not be any more acceptable.

We do recognise that an undue focus on the cared-for person has in some instances meant a consequent lack of focus on the personal needs and aspirations of the carer. However we have concerns as the Bill is currently drafted both that the expectations of carers will be raised beyond what can (or should) be provided from current resources and that entitlement for carers around eligibility will in some cases exceed that for the cared-for person (and other service users) in particular around preventative and low-level interventions. The refocusing of resources towards carers in their own right will in many cases at least indirectly benefit the cared-for person (break from caring role or enabling non-caring activities by carer) but could reduce the overall funding available for service users themselves.

The guidance proposed within the policy memorandum around cross-local authority responsibility would need to be strengthened. We welcome the concept of a ‘responsible authority’ for both carer and cared-for person but the allowance for ‘certain justifiable circumstances’ is currently too broad and will not prevent potential disputes between areas given that the notion of dedicated support and funding to a carer (especially where the cared-for person lives in another area) is a new step for authorities who have always funded carer support as part and parcel of the client’s support package.

General comments

The Bill in effect represents a consolidation and enhancement for carers across individualised support and participation in the planning both of the support of the cared-for person and of services for carers and clients more strategically. This is to be welcomed.

However a balance needs to be maintained between the rights and influence of carers and the voice of clients. The vast majority of carers will exercise this influence wisely and disinterestedly on behalf of the cared-for person. However entitlement for clients remains spread across a wide range of legislation so in areas such as advocacy, self directed support, eligibility for services and influence around individual support and strategic planning. This needs to be considered as part of the modernisation of social care covering those with restricted mental capacity as well as the most articulate.

The potential impact of the Bill on scarce local resources has been covered above. More generally the issue around the ‘private to public’ shift of the caring role from this more universalised approach needs to be considered. Undoubtedly there are many ‘hidden’ carers (notably children and young people) but the implications of rebadging valuable but less substantial day-to-
day altruism by neighbours and wider family as formal care with attached support plans may have unforeseen consequences.

Finally for an initiative which apparently seeks to distance carers from a potentially stigmatising approach by removing the notion’ of assessment and capability and emphasising empowerment and partnership the Bill remains embedded within the sphere of social work with its references to support plans, reviews and outcomes rather than linking to wider policy domains such welfare benefit changes, flexibility around employment and community capacity-building as alternative routes to individual and mutual support envisaged within any carers’ rights charter.

East Dunbartonshire Council
Carers (Scotland) Bill

Scottish Council of Independent School (SCIS)

The Scottish Council of Independent School (SCIS) is providing views on behalf of our members as opposed to the impact on the organisation itself. SCIS feels that at present the degree to which it is able to comment is limited, as it remains unclear what the full impact the Carers (Scotland) Bill will have prior to more detailed individual data being gathered before the Bill being enacted.

1. Do you support the Bill?

2. What do you feel would be the benefits of the provisions set out in the Bill?
   - SCIS recognises that independent school pupils who are young carers may benefit from the provisions of extra support set out in the Bill
   - However, SCIS remains uncertain of the impact it will have, positive or negative, at present. There is insufficient data on the number and range of young carers in the independent school sector in Scotland

3. How do you feel the Bill could be amended or strengthened?
   - If independent school staff are expected to undertake training to carry out their new duties then their right and access to nationwide training needs to be strengthened (along with clarity as to who is expected to provide the training and meet the costs for it)
   - There is a need for further clarification of how pupils at independent schools are to be able to access the information and advice service local authorities must provide under this Bill. Links between local authorities and independent schools are not uniform or consistent at present, despite the requirements of GIRFEC. SCIS would be concerned if a pupil at an independent school was unable to access a service solely on the basis of their attending an independent school
   - This Bill places a duty on local authorities to prepare a local carer strategy. It would be essential that independent schools and Named Persons therein could contribute to, and have a voice in, this process to ensure the needs of their pupils are considered and met
   - There are potential concerns that an independent school could identify a young carer and the local authority could contest that young person’s eligibility meaning the individual could potentially miss out on access to advice, information and services available to young carers

4. Is there anything that you would add to the Bill?
• Guidance on the Bill must ensure that when local carer strategies are prepared independent schools are consulted (if duties relevant to independent schools are to be included in these strategies/if they will affect pupils at independent schools)

• Clarity would be helpful as to whether or not independent schools will be expected to provide ‘general services’ under point .13 in the Explanatory Notes

• SCIS hopes that confirmation could be provided that independent schools will not be expected to provide information and advice to pupils who are young carers under point 16 of the Explanatory Notes. Under the GIRFEC approach it is clear that all children should be able to access these services, regardless of where they attend school. SCIS hopes this service can be provided by the local authority to all children and young people within their area. Moreover, it may be that those within local authorities have greater expertise in relation to young carers and more experience of working with this group than staff within independent schools

• Further information is required about how independent schools are expected to identify pupils who are young carers (and may therefore wish for, and be entitled to, some additional support as a result of the Bill) within their school roll. The Scottish Government no longer collects any comprehensive data, via a census, on the independent school sector. SCIS is aware that several independent schools will already have detailed plans in place to assist young carers on their school roll. However, SCIS does not have comprehensive information regarding this

• SCIS would welcome information about how a young carer’s statement prepared by an independent school will be shared in order for approval by a local authority. As highlighted above this is dependent on local relationships and there needs to be clear links between local authorities and local authorities

• If independent schools are expected to produce young carer statements detail is required as to how will staff be trained in this area and who is expected to provide this training

• Further information is required about whose responsibility it would be to undertake awareness-raising with young carers in independent schools would be welcomed

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

Scottish Council of Independent School (SCIS)
1. **Do you support the Bill?**

   West Lothian Council is committed to supporting Carers and Young Carers and believe that this is demonstrated by the development and implementation of the West Lothian Carers and Young Carers Strategies.

   We support the general principles of the Bill, however we are not clear about the need for primary legislation in this area and have concerns about how the proposed legislation would sit alongside existing legislation, in particular the Social Care (Self-directed Support) (Scotland) Act 2013 and the implementation of the Carers Charter.

   We also have some concerns regarding the resourcing of the proposal detailed within the Bill and the potential risk of some of the proposal restricting our ability to evolve our approach to processes in the future to meet local needs.

2. **What do you feel would be the benefits of the provisions set out in the Bill?**

   There is a range of benefits that could be derived from the provisions set out in the Bill including the potential to increase the uptake of Carers Assessments.

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

   We believe that the Bill could be strengthened by ensuring that it sits well with current legislation, the implementation of the Carer’s Charter, acknowledges local structures and processes and is adequately resource.

   We also believe that an amendment to the proposals detailed in Part 2 – ACSPs and YCSs: Section 17 – Responsible Authority – would be beneficial. We believe that this should be amended to read that the local authority where the cared for person resides will be responsible for arranging the ACSP (or YCS) and for meeting the cost of any support provided. We believe that this would provide both clarity and accountability in this area.

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

   No

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

   West Lothian Council would like to see the removal of the proposal to delete the definition of regular and substantial and believe that insufficient funds have been identified in the Financial Memorandum to support the removal of this definition.
We are of the view that the increase in demand resulting from the removal of the regular and substantial definition has been underestimated.

We believe that the proposal to mandate that a formal assessment is undertaken for all carers, irrespective of the level of need, runs counter to the requirement to effectively target resources towards need should be removed from the Bill. This requirement would force Councils to invest scarce resources inappropriately and may result in carers having unrealistic expectations about the level and type of support that can be provided.

We believe that definition should continue to be limited to those who provide, or intend to provide ‘a substantial amount of care on a regular basis’.

We would like to see the removal of the proposal to change the terminology from Carers Assessment to Adult Carer Support Plan and Young Carers Statement. We believe that there is a clear distinction between an assessment’ and a plan, while an ‘assessment’ gives consideration to need, a ‘plan’ assumes it. We are concerned that the term ‘will raise expectations in this respect and does not allow for sufficient separation between the concepts of assessment and care and support planning. We are not clear that a change in terminology will achieve better outcomes for carers and instead believe that that solution lies in empowering carers to become equal partners in care.

**West Lothian Council**
Carers (Scotland) Bill
Borders Carers Centre

The Borders Carers Centre has had an opportunity to review the response from the Scottish Government and the content of the draft bill. We would like to make the following observations –

- Young carers statement – all should be offered an ACSP at 18 – specific to the needs of Young Adult Carers moving into adult services and preparing for the future.
- National eligibility criteria essential to stop post code type issues
- Third sector capacity issues need to be addressed in general, impact of low level support via CA needs careful consideration
- Equality of access to services and a life outside caring needs to be strengthened – carers should wherever possible, within the constraints of their caring role, be able to have a life of their own
- Emergency planning and anticipatory care planning is essential
- Carer engagement and consultation needs resourced
- Discharge planning statement needs strengthened – start at admission
- CIS funding should protected so good work practices established will not be lost
- Carers strategies should be signed off by local carers
- There should be a duty on GP’s to identify carers
- Fast track palliative carers
- Recognition of the unique needs of Young Adult Carers
- Short breaks statement needs to be clear and unambiguous, stating eligibility and minimum entitlement
- Build on the years of good practice that have been developed via Carers Centres
- Recognition that rural areas have specific needs, takes longer to establish services, cultural issues that do not exist in cities

Fiona Morrison
Strategic Development Manager
Borders Carers Centre (SCIO)
Stirling Carers Centre

Stirling Carers’ Voice consists of a membership of 42 carers living within the Stirling Council area – this paper acts as a collective response from the group to the call for evidence from the Health and Sport Committee for The Carers (Scotland) Bill.

Overall, the group welcome the Carers Bill and are pleased that the Scottish Government has decided to introduce legislation, which will deliver new rights and entitlements to unpaid carers. They particularly welcome that local authorities will have a duty to support carers who meet eligibility criteria, as the current power means that there is a great deal of variation across Scotland in the level of support which carers can access. There is also no clarity in what support carers are entitled to. We hope the Carers Bill will bring greater equity and transparency for carers.

Some areas of the Bill do require strengthening, including the lack of entitlement to short breaks, the role of Health Boards in delivering change, particularly in relation to hospital discharge, the omission of emergency and anticipatory care planning on the face of the Bill and the need for a stronger equalities focus.

In addition, we are particularly disappointed that the Bill makes provision for a duty on local authorities to provide support to adult carers who meet local eligibility criteria. Carers locally are clear that they believe the eligibility criteria must be national rather than local, as this is the only way to avoid a postcode lottery and to ensure that carers have access to the same rights and entitlements across Scotland.

Universal, Preventative Support

The Bill includes the provision for local authorities to have a power to support carers who do not meet eligibility criteria, as well as a duty to support those who do. This is essential in ensuring a preventative approach is taken to supporting carers and protecting their health and wellbeing.

In addition, the Bill makes provisions for all carers to access an Adult Carer Support Plan and information and advice. What needs to be clarified is what support is viewed as universal and preventative and what support will require a carer to meet eligibility criteria.

To put this in context, only a small percentage of carers access a Carers Assessment and statutory support, with the majority accessing support through universal services. Furthermore, with an increase in the number Adult Carer Support Plans being undertaken there will be a corresponding increase on the demands on universal services. It is essential that these supports continue, are properly resourced and that they are not defined too narrowly.
Eligibility Criteria

The Carers Bill will only be viewed as successful if it delivers real change in the form of a right to support and provides resources to assist carers in their caring role.

In order to access this entitlement, carers must first meet eligibility criteria. In other words the eligibility criteria is the key to them unlocking their right to support. We therefore cannot underestimate how important it is to get this criteria right, because as well as delivering an entitlement to carers it also has the potential to tighten eligibility, undermine the preventative approach and make it harder for carers to access support.

We agree that there needs to be local variation, however we do not believe there needs to be variation in the level of service that carers are able to access. If local authorities have a duty to develop local eligibility, we will continue to have 32 different systems operating across Scotland. Inevitably some local authorities will develop stricter criteria than others, meaning some carers will be at a disadvantage. It will also mean that the system will be less transparent and carers will be unlikely to have an understanding of what they are entitled to. By introducing a national eligibility criteria, this is more likely to provide carers with the right to a consistent level of support and care regardless of where they live. The type of service to support the carer will be determined by the local service landscape.

Carers Support Plans

The group support many of the intended changes in the Bill in relation to Adult Carer Support Plans, i.e. the name change from ‘Carers Assessments’ and the removal of the ‘regular and substantial’ test to ensure that all carers are entitled to a Support Plan. There are however some areas where the group feel that the Bill should further strengthen and improve the intended Adult Carer Support Plan.

In particular, Carers’ Voice believe that the Support Plan should be strengthened in relation to emergency, anticipatory or future planning. In order to take an anticipatory approach, it is important that the Support Plan enables carers at the earliest possible opportunity to discuss and identify an emergency plan. This can be overcome by ensuring that Emergency & Anticipatory Care Planning are included as an explicit requirement within the Adult Carer Support Plans.

Within the Bill it states that Local Authorities will be required to set out intended timescales in their local Carer Strategy in relation to the undertaking of an Adult Carer Support Plan following a request. Locally, many carers currently receive a Carers Assessment from the Carers Centre which is undertaken in a timely fashion (i.e. usually no longer than two weeks from request), so this is currently working well. However, issues often arise when carers are assessed by the Local Authority as meeting their current eligibility criteria for support, but then have to wait for a long time to receive the support that they are entitled to. This wait can result in increased pressure for the...
carer and the person(s) they care for, and can have a negative impact on both their health and well-being. Therefore, the Bill should ensure that as well as reasonable timescales being set for the undertaking of the Support Plan, there should also be clear guidelines on the intended timescales for support to be put in place for carers who are assessed as meeting the eligibility criteria.

**Information & Advice**

Within the Bill it states that Local Authorities will have a Duty to establish and maintain an information and advice service. We believe that emphasis should be placed on supporting and resourcing existing local carer support services and therefore the wording should be changed to “the local authority will have a responsibility to maintain existing carer support information & advice organisations or where there is no existing one, then they will have a responsibility to establish a service where required”. The group feel that the Bill should further safeguard and support local Carers Centres, which are a vital lifeline for many, and worry that the current terminology of ‘establish and maintain’ could result in the de-commissioning of valuable local services.

Stirling Carers’ Voice welcomes any feedback from this submission, and are happy to further discuss and clarify any points made within this paper. Again, we would like to echo our overall support for the Bill, and are extremely hopeful that in Scotland there will be specific legislation for carers which addresses the key issues and inequalities that carers face.

**James Marshall (Development Manager)**

**Stirling Carers’ Voice**
The Carers (Scotland) Bill - Share Your Views

What are the main strengths of the Carers Bill? (What are you most pleased about)

Caring, a care ovg. being covered
A declared too

What areas do you feel need to be strengthened?

Support for CARERS CENTRES

Is there anything you think should not be in the Carers Bill or anything you thing is missing and needs to be added?

Involvement of Health Boards
Advice / assess carers on patient discharge for hospital

What do you think about councils setting local criteria for those who would be eligible for support?

Not

What difference do you think the Carers Bill will make to the lives of carers?

Hopefully gives support as a right.
The Carers (Scotland) Bill - Share Your Views

What are the main strengths of the Carers Bill? (What are you most pleased about)

I support the bill as believe it will benefit all carers and the people who are cared for.

What areas do you feel need to be strengthened?

Emergency planning should be introduced to the Carers Support Plan.

Is there anything you think should not be in the Carers Bill or anything you think is missing and needs to be added?

I believe the Carers Support Plans should be national and not local.

What do you think about councils setting local criteria for those who would be eligible for support?

Each Council should have the same criteria for assessing carers.

What difference do you think the Carers Bill will make to the lives of carers?

Support carers having more hours ability to cope with.
The Carers (Scotland) Bill - Share Your Views

What are the main strengths of the Carers Bill? (What are you most pleased about)

GETTING LISTENED TO.

What areas do you feel need to be strengthened?

HOSPITAL DISCHARGE

Is there anything you think should not be in the Carers Bill or anything you think is missing and needs to be added?

More Support.

What do you think about councils setting local criteria for those who would be eligible for support?

What difference do you think the Carers Bill will make to the lives of carers?

LESS PRESSURE
**The Carers (Scotland) Bill - Share Your Views**

What are the main strengths of the Carers Bill? (What are you most pleased about)

I am pleased that help will be readily available if I become ill and require immediate help.

What areas do you feel need to be strengthened?

Is there anything you think should not be in the Carers Bill or anything you think is missing and needs to be added?

What do you think about councils setting local criteria for those who would be eligible for support?

What difference do you think the Carers Bill will make to the lives of carers?

Carers will be less stressed and more relaxed, knowing their health is a concern too!
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<th>Response</th>
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<td>What areas do you feel need to be strengthened?</td>
<td>HOSPITAL ARRANGEMENTS</td>
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<td>ONGOING INCREASING SUPPORT FOR CARERS CENTRES</td>
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<td>What do you think about councils setting local criteria for those who would be eligible for support?</td>
<td>DON'T LIKE THIS ARRANGEMENT - TOO VARIANCE BETWEEN LA'S</td>
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<td>What difference do you think the Carers Bill will make to the lives of carers?</td>
<td>BETTER RECOGNITION FOR CARERS &amp; LOCAL CENTRES</td>
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<td><strong>I don't agree; I believe that criteria should be set nationally to provide a fair &amp; level 'playing field'!</strong></td>
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The Carers (Scotland) Bill - Share Your Views

What are the main strengths of the Carers Bill? (What are you most pleased about)

- **Respite care being recognised**
- **Duty to do carers’ support plans** is good.

What areas do you feel need to be strengthened?

- **Respite care should be a duty, albeit there will need to be some kind of cap.**
- **Information/care plans** - essential that NHS has duty to liaise with carers of family on discharge.

Is there anything you think should not be in the Carers Bill or anything you think is missing and needs to be added?

No.

What do you think about councils setting local criteria for those who would be eligible for support?

- We should set national criteria to avoid a postcode lottery.

What difference do you think the Carers Bill will make to the lives of carers?

- Carers should feel more supported.
- Carers should be healthier.
We welcome the opportunity to respond to the Health and Sport Committee call for views of the Carers (Scotland) Bill. We particularly want to highlight issues facing carers that support people living with a terminal illness or at the end of life.

The Scottish Health Survey shows that an estimated 759,000 people, that’s 17% of the adult population (aged 16+) in Scotland are carers, and 29,000 are young carers (4% of the child population). Between 2001 and 2011 the number of carers, or rather the number of people identifying as carers, has increased. There has also been an increase in the number of hours of care provided with 27% of carers providing over 50 hours and 18% of carers providing between 20-49 hours of care a week.

Scotland’s population is ageing; the number of people aged 75 and over is projected to increase from 420,000 to 780,000 by 2037 (an 86% increase). This shifting demographic, coupled with an increasing average life expectancy means that people are living with more complex needs than before, often with multiple long-term conditions. Many of these people will be living with a terminal illness. By that, we mean they will have reached a point where their illness is likely to lead to their death. Depending on their condition and treatment, they may live with their illness for days, weeks, months or even years after this point. But one thing we do know is that they will need care and support for all or part of that time. The demand and need for carers will also rise alongside this.

Much of this care will be delivered in the home by family members and policy initiatives are aimed at supporting carers to care for an individual at home for as long as possible. Family carers play a critical role in end of life care for those people living with a terminal illness, enabling people to be cared for and die in their place of choice. Recent research suggests that people with spouses or partners are those most able to die at home. They are also more likely to have experience better pain control. This highlights the very important role carers play in providing support to people living with a terminal illness and at the end of life.

Caring for someone at the end of life can be both physically and emotionally demanding, and is often accompanied by a carer struggling to come to terms with the loss of a loved one. These carers can often have very specific needs and requirements which need to be considered in the care and support available to them. Caring for someone at the end of life can involve symptom management, personal care, attending to household duties, and negotiating

2 Equity in the provision of palliative care in the UK: Review of Evidence, London School of Economics (2015)
3 http://www.biomedcentral.com/1471-2296/15/48
financial and employment concerns among others – all alongside psychosocial distress. Often people providing this care do not self-identify as carers and as a result do not access the support that they need. The Carers (Scotland) Bill offers a considerable opportunity to ensure that all carers, including those that don’t identify as such, get access to the care and support that they need when they need it.

Marie Curie is the UK’s biggest provider of high quality care for people living with a terminal illness. We care for over 7,500 patients across Scotland through our hospices, community nursing services and support services. Every day matters when you’re living with a terminal illness and we want to help people make the most of the time that they have left. As part of this, we need to ensure that carers are appropriately involved at the centre of people’s care, and that they receive appropriate and equitable access to care and support packages.

**Do you support the Bill?**

We support the overall policy objectives of the Bill and agree that all carers should be supported on a more consistent basis so that they can continue to care, if they wish to do so, in good health and have a life alongside caring.

However one of the most pivotal issues that comes before this is that of carer identification. Many carers of people living with a terminal illness, or someone at the end of life, are not identified by health or social care services, or self-identify formally as carers. Identification is crucial as the gateway to gain access to support, services, rights and entitlements for carers. We support the Bill’s provisions to establish that local authorities must set out plans for identifying carers within the context of the local carer strategy. We would like to see further information as to how this will link with the health and social care partnerships/integrated joint boards under the Public Bodies (Joint Working) (Scotland) Act 2014 to ensure that carers identified through GPs, healthcare and social services all receive timely and appropriate identification and access to Adult Carer Support Plans. We welcome Scotland-wide guidance and regulations on identification of carers reflected in the accompanying articles to the Bill.

The Bill, as introduced, is centred on the assumption that the carer is the sole provider of care. However, it is very unlikely that someone will be the sole carer for a person that is terminally ill or at the end of life. These people may also be in receipt of GP care, condition-specific care, specialist/palliative care, district nursing and potentially other services too. There are therefore numerous carers of someone at the end of life, but the role of the informal carer is one that can often be overlooked by statutory services, but at the same time be the linchpin on which everything else depends. This complexity needs to be recognised on a Scotland-wide basis and reflected in regulations and guidance accompanying the Bill.
Being the informal carer for someone who has a terminal illness, when someone is dying, can also be a very isolating experience. A family member may unexpectedly find themselves in a carer position, and be balancing other home and familial responsibilities, work and other commitments. Often carers in this situation become ambivalent about their own needs and are reluctant to identify that they themselves need support. Carers we have spoken to have reported that they felt unable to access carer support without having or knowing about specific entitlements.

At a public health level, there needs to be increased awareness of what support is available to carers. At the local level, GPs need to be able to effectively identify and support carers, and the carer needs to feel connected to the right sources of support from the very beginning of their journey. This not only includes sources of information and support for themselves, but also involvement in the care and decisions of the person they are caring for. Health and social care professionals should ensure that carers are part of conversations with the patient about their condition so that they are included in the care team. This is particularly significant in caring for a person with a terminal illness where the cared-for person may not necessarily want to know the trajectory of their condition, but the carer still needs the information.

We agree that the Bill should be centred on personal outcomes and should link to the principles of the Social Care (Self-directed Support) (Scotland) Act. Under person-centred care, carers should have dignity and be supported to have choice and control over the support they need to go about their daily lives. Carer support packages should embrace individualised and flexible approaches to support and assessment that takes account of both social and medical needs and outcomes. This should acknowledge the different dynamics across the carer trajectory and be cognisant of the different health and social care needs of caring for people with different conditions. Caring for someone with dementia, for example, will require different levels of support to caring for someone with cancer or COPD.

Audit Scotland estimates that by the age of 65, nearly two-thirds of people will have developed a long term condition and that older people are also more likely to have more than one long term condition with 27% of people aged 75-84 having two or more. With our increasing older population, this means that more people will have multiple, complex conditions that need to be cared for. This will be a challenge for carers as well as statutory partners, but also, as the demographic of carers also increases in age, the likelihood is that they too will have one or more conditions themselves, which they will need to manage as they care.

We also believe that carers should be supported to continue their lives outside of caring. This would include not only opportunities for work, training and learning, but also gives carers the confidence to engage in these activities.

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4 http://www.biomedcentral.com/1471-2296/15/48
5 http://www.gov.scot/Topics/Health/Services/Long-Term-Conditions
knowing that their family member is supported and cared for when they are not there.

**What do you feel would be the benefits of the provisions set out in the Bill?**

Many carers supporting someone living with a terminal illness, or someone at the end of life, are not identified by health or social care services, or self-identify formally as carers. Many see them simply as a family member caring for a loved one in that capacity, not associating this with formal requirements, eligibility and obligations as set out in current carer assessments. This often means that these carers are not aware of, or accessing, support that they both need and are entitled to.

We welcome the definitions of adult and young carers as set out in the Bill, which removes the need for carers to have to provide, or intend to provide, a substantial amount of care on a regular basis and be in receipt of community care services. This places recognition on the diversity of caring arrangements and removing the assessment of whether care is regular and substantial will open up carer support for a wider range of carers. It is hoped that this will make the identification, and self-identification of carers easier and earlier – sometimes a significant factor when caring for someone with a terminal illness. We further note the potential of the electronic Key Information Summary for identifying carers.

The change from Carers Assessments to Adult Carer Support Plans (ACPS) and Young Carer Statements (YCS) is also welcomed. Alongside removing potentially stigmatising language preventing people from accessing or applying for carer support, these provisions also move the responsibility from the carer to request an assessment to the Local Authority and responsible authority (in the case of a young carer), giving them a duty to prepare an ACPS or YCS. The focus on personal outcomes within the ACPS and YCS is also welcome alongside content, review and provision of information. We are hopeful that this focus on personal outcomes will explore areas that may prevent carers to provide care and identify ways to enable them to do so, where they want and are able to, while maintaining and improving their own health and wellbeing. We also welcome the addition of defined timescales for the preparation of an ACPS or YCS. Some carers, particularly those with complex caring situations including caring for someone with a terminal illness or at end of life will require to be offered and have an ACSP prepared very quickly. For example, many carers of people with a terminal illness find the benefits process slow and confusing and often only receive the correct decisions about benefits and funding when it is too late. We would like to see a commitment of no more than seven days to prepare an ACPS for carers of those with a terminal illness or at the end of life, in the accompanying regulations.

We further support the provision to have a review process for the ACSP formalised in law. Currently not all carer’s assessments are reviewed. When
caring for someone with a terminal illness at the end of life, the trajectory of that person’s condition is not always known. Terminal cancer often has a known trajectory with high functionality followed by a relatively short rapid period of decline. However, not all terminal illness follows the same path. Conditions such as heart or lung failure may have long term limitations with a series of intermittent serious episodes and others such as frailty and dementia are characterised by prolonged deterioration. A person’s condition, and therefore their caring needs, is likely to change throughout their terminal illness with both the person, and the carer, needing varying levels of support. Review of carer support is therefore vital to ensure the maintenance and continuation of their lives outside of caring and their health and wellbeing. Reviews of ACSPs for carers of people living with a terminal illness must be carried out at short notice and completed rapidly depending on the changing circumstances of the carer. Changes in support packages must be implemented quickly in order to ensure that the carer can continue to fulfill their caring role and other commitments.

Emergency, anticipatory and future planning is often a concern for carers and it is essential that carers are confident that they have the support that they need when these situations arise. We therefore welcome the intention to include this in regulations about what an ACSP must contain. However, we also feel that there needs to be provisions to support carers when the period of caring becomes prolonged or is longer than expected. Estimating life expectancy is problematic in the case of terminal illness and uncertain trajectories can mean that people become carers for longer or shorter than expected. A supportive employer may not be as supportive if caring arrangements are prolonged indefinitely. We believe these should be taken into consideration when preparing a carers support package and would like to see this reflected in guidance or regulations accompanying the Bill.

We welcome the provision in the Bill for the establishment of an information and advice service for carers in each local authority area. Many carers draw on a range of personal, family and community resources to help them cope with their caring responsibilities. We believe that support for carers should not solely be about providing a service, but should also be about helping carers to do what they do well, using their own resources and actively engaging with local and community services. This crucially, will not only support carers but also empower them to exercise their rights. We recommend that local authorities should not only have a role in determining what support to provide to carers, but also have a duty to embed carer support within the locality and connect carers to health and social care practices and communities. We would like to see this reflected in guidance or regulations that accompany the Bill, particularly around local carer strategies, and the involvement of carers in carer services.

Respite Care can often make the difference in enabling a carer to continue their caring role or prevent them from becoming unwell and in need of direct care themselves. Without respite carers can face serious health and social risks due to the associated stress, and may also enjoy little time for leisure or feel isolated. We therefore welcome that local authorities will have a duty to
prepare and publish a short breaks statement, albeit without the duty on local authorities to provide short breaks. The policy memorandum states that the third sector should continue to influence short break provision. However, we would recommend the inclusion of carers of people living with a terminal illness in the short breaks statement. Often respite care and short breaks for carers are seen as days or weeks, but for those people caring for people with a terminal illness this may not always be appropriate. When a loved one or family member is dying, the carer may not want to be away for a day or a week, but may need a few hours to fulfill other responsibilities or commitments or simply as rest. This could include volunteer visitor services which provide social, emotional and practical support to terminally ill people and carers - usually through regular visits to their home. This should be should form part of each ACSP and this reflected in the regulations and guidance that accompany the Bill to ensure it is taken into consideration Scotland-wide.

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

The Policy Memorandum recognises the myriad of different caring situations and the complex relationships between a carer and the cared-for person. This is particularly significant when caring for someone at the end of their life or with a terminal illness and we believe that many of the Bill’s provisions – such as local carer strategies and local information and advice services – would be enhanced with the inclusion of recognition of these needs. We strongly recommend that these are included in regulations that accompany the Bill to ensure that carers supporting someone with a terminal illness can access the support, advice and information when they need it.

We need to ensure that there are effective and appropriate ways of identifying carers of people with a terminal illness as early as possible, that these carers are empowered to identify personal, community, health and social care services and carer organisation resources to help them manage, and that there are processes to embed this identification and support across Scotland. We further advocate for the provision of bereavement services for carers, throughout their caring experience and following the death of the cared-for person.

We believe that the third sector has a vital role in identifying carers, and providing support and advice. We would like to ensure that any duty on local authorities includes engagement with the third sector and communities. We would like to see a standard for carers, which is represented in advice given by health boards, local authorities and third sector organisations, that gives consistent and coherent guidance on where to get support, how to ask for help, and rights and entitlements of carers. We would further like to see an additional standard for carers of people living with a terminal illness as they have very specific and different needs to other carers. Many carers are not claiming the benefits and support that they are entitled to, due to lack of identification as carers, what they are eligible for and how to apply. A standard approach to information and sources of support, which can be adapted to
reflect local circumstances, is only possible through an overarching Scotland-wide approach to carer services and eligibility criteria.

The Bill makes the provision for local authorities to set local eligibility criteria to determine whether local authorities would be required to provide support to carers to meet carer’s needs. It is intended that this will allow a flexible approach to enable local authorities to respond to need in their areas. However, we are concerned that this will lead to different criteria in different locations causing inconsistent rights and entitlements for carers across Scotland and confusion and lack of clarity for carers. We are concerned that eligibility at a local level may exclude some carers from support and could create a postcode lottery across Scotland. While local strategies are needed to take into account the needs of carers in particular locales, particularly rural settings, we believe that carers in every setting should receive the same level of information, advice and support as others. Eligibility criteria acts as a gateway to rights for carers, these rights must be available to all and not subject to the discretion of local criteria.

Section 21 of the Bill refers to National eligibility criteria by which each local authority must assess its local criteria and the accompanying Policy Memorandum states that there should be a Scotland-wide approach. We would like to see more exploration of this national criteria and a consistent Scotland-wide approach on the face of the Bill and supported by regulations. We would further like to see mechanisms to allow automatic qualification for support for those people caring for someone with a terminal illness. Those people caring for someone who has a terminal illness as indicated by the Palliative Care Register or DS1500 form, which enables someone who is terminally ill to claim Disability Living Allowance or Attendance Allowance from the DWP, should be automatically eligible for carers support.

Is there anything you would add to the Bill?

Identification and self-identification of carers is imperative for carers of those with a terminal illness, yet many of these carers remain unidentified. While the Policy Memorandum stipulates that local authorities must set out their plans for identifying carers within the context of their local carer strategy, we believe this should be strengthened in the Bill with links to primary care and how this will work going forward with health and social care integration. Health and social care professionals may also require additional support and training to help them identify carers of people at the end of life, or training to help the carer to self-identify. This could include training to have sensitive conversations with carers about what a person’s diagnosis will mean for the carer, at the point of diagnosis and as the condition progresses, including the degree of commitment that is required to care for them. Such support should be identified within National legislation.
We would like to see mechanisms on the face of the Bill that allow automatic qualification for support for those people caring for someone with a terminal illness. Caring for someone at the end of life can be physically and emotionally demanding and is often characterised by uncertain and unpredictable condition trajectories. These carers often need unique and responsive support, however, many are not identified by health or social care services, or self-identify formally as carers. They often don’t know about or access the support they need and financial support is often received late in a person’s illness, or even after the person’s death. Applications for support for people at the end of their lives, and their carers should be dealt with as quickly as possible. We call for automatic eligibility for carers support for those people caring for someone who has a terminal illness as indicated on a person’s electronic Key Information Summary, an information sharing system for advanced care planning, or upon receipt of a DS1500 form, which enables someone who is terminally ill to claim Disability Living Allowance or Attendance Allowance from the DWP. We would also like to see a commitment of no more than seven days to prepare an ACPS for carers of those with a terminal illness. This should be included in National legislation and apply on a Scotland-wide basis.

We would also like to see a standard for carers, which is represented in advice given by health boards, local authorities and third sector organisations, that gives consistent and coherent guidance on where to get support, how to ask for help, and rights and entitlements of carers. We would further like to see an additional standard for carers of people living with a terminal illness as they have very specific and different needs to other carers.

We also believe that the Bill should include a duty for health boards to inform and involve carers in the care and decisions of the person they are caring for. Health and social care professionals should ensure that carers are present in conversations with the patient about their condition so that they are included as part of the expert care team. This is particularly significant in caring for a person with a terminal illness where the cared-for person may not necessarily want to know the trajectory of their condition, but the carer still needs the information. This is particularly relevant in hospital admission and discharge procedures, but also necessary for care at home or in other establishments.

There are also a number of areas associated with carers for those with a terminal illness or at the end of life that we would like to see strengthened in guidance and regulations. These include:

- Scotland-wide guidance and regulations on identification of carers to inform local carer strategies
- Recognition of the complexity of ‘carers’ for those living with a terminal condition and a commitment to support informal carers within that role
- Timely and appropriate identification and access to support, including respite care
- Provision of consistent support packages for carers, including employment, training and learning
• Inequity of access across conditions and areas A duty to embed carer support within the locality and connect carers to health and social care practices, communities and third sector organisations
• Provision of support for intense, short-term care often associated with terminal illness, but also provisions to support carers when the period of caring becomes prolonged or is longer than expected
• Recognition of the complexities of the provision of respite care, especially for carers for people living with a terminal illness or at the end of life

Is there anything you would remove from the Bill?

No.

Susan Lowes
Policy & Public Affairs Manager, Scotland
Marie Curie
<table>
<thead>
<tr>
<th>The Committee are seeking views on:</th>
<th>NHS Tayside response:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you support the Bill?</td>
<td>NHS Tayside welcomes the Bill. It clearly strengthens the provision of support to both adult and young carers and gives recognition to the immeasurable role they have in providing care for their cared for.</td>
</tr>
<tr>
<td>What do you feel would be the benefits of the provisions set out in the Bill?</td>
<td>The Bill gives assurances to carers and authorities by clearly stating what support carers are entitled to and will raise the priority of support for carers on a more consistent basis. Importantly the provision of short breaks as a key form of support is recognised. It ensures that Carers are involved in the planning and delivery of the services that affect them and their cared for.</td>
</tr>
<tr>
<td>How do you feel the Bill could be amended or strengthened?</td>
<td>With the Integration of Health and Social Care the Bill needs to allow for clarity around joint working and the potential for the carer statements to be jointly prepared.</td>
</tr>
<tr>
<td>Is there anything that you would add to the Bill?</td>
<td>No</td>
</tr>
<tr>
<td>Is there anything that you would remove from the Bill?</td>
<td>No</td>
</tr>
</tbody>
</table>
Carers (Scotland) Bill

North Lanarkshire Carers Together

Organisation Profile

North Lanarkshire Carers Together is a company limited by guarantee with charitable status (Scottish Charity No, SCO33795), and (Company No. SC284126). The charity is a member organisation open to carers, professionals and anyone who supports carers. The charity operates from offices/carers centre at 51 Hope Street Motherwell, North Lanarkshire.

North Lanarkshire Carers Together pledges to improve the lives of carers by actively linking carers and professionals in meaningful relationships. The charity works in partnership with North Lanarkshire Council, NHS Lanarkshire and the third sector to influence policy development and service provision that affects carers and the people they care for.

The charity aims to:

- raise the profile of carers’ issues and needs locally and nationally
- influence policy development and service provision at the strategic planning stage
- establish innovative and meaningful consultation processes with carers and service providers
- represent the views of all carers, including the many young carers in North Lanarkshire
- provide accurate, relevant information and signposting for carers
- promote the inclusion of all carers

Background

New legislation to improve the identification and provision of support to carers was promised by the then First Minister, Alex Salmond at the 2nd Carers Parliament in Edinburgh on 1st October 2013. The Carers (Scotland) Bill was subsequently introduced to the Scottish Parliament on 9th March 2015. Like all new legislation it will go through a three-stage process, allowing for debate, additional evidence to be gathered and amendments to be made.

The Health and Sport Committee at the Scottish Parliament is looking for views from carers on The Carers (Scotland) Bill. It is the role of the Committee to scrutinise the Carers Bill and to make recommendations to the government on how it should be strengthened. The closing date for carers to submit their views is the 22nd April 2015

The Carers Bill

The Carers Bill (9th March 2015) contains a number of proposals about a range of measures. North Lanarkshire Carers Together worked with carers, partners and national carer organisations to help shape the Bill so far. However, as things stand, we feel that there is considerable scope for improving the Bill before it moves to the next stage in the legislative process.
The Management Committee of North Lanarkshire Carers Together met in seminar on Monday, 13th April 2015 to discuss the Carers Bill and how it might be improved. This paper reports the outcomes of those discussions.

Comments on Proposals

Proposal 1:

Carer Assessments will change their name to Adult Carer Support Plans.

Comment on Proposal 1:

We agree that ‘Carer Support Plan’ is a better descriptor of the end product of the assessment process. It also ensures that ‘assessment’ is not viewed as an end in itself.

Proposal 2:

At the moment only carers providing care on a ‘regular and substantial’ basis are legally entitled to a carer assessment. This test will be removed so that all carers can access an Adult Carer Support Plan.

Comment on Proposal 2:

We support the development and implementation of a national framework of eligibility criteria to determine whether a carer is eligible for support. We would expect any consideration of criteria such as ‘regular’ and ‘substantial’ to be an agreed part of the development of the national framework. We would also expect all such criteria to be clearly defined, which was never the case in respect to ‘regular and substantial’.

Proposal 3:

The requirement that the person being cared for must be someone to whom the local authority provides a community care service will be removed.

Comment on Proposal 3:

We believe that the quality and quantity of care provided by many carers not only ensures that the cared for person is able to remain in the community, but often negates the need for social care support to the cared for person i.e. it is not unusual for unpaid carers to provide 100% of the social care needed.

Parent carers often continue to provide 100% of the care required as the cared for person makes the anticipated transitions from childhood through adolescence to adulthood.
Proposal 4:

There will be two routes to assessment – a carer can request one and the local authority can offer one.

Comment on Proposal 4:

We believe that the important issue in either scenario is that the conversation takes place with the carer and that it is formally recorded as having taken place, so that the assessment process kicks off. We feel that at this stage carers should be advised about their rights, and that the expected timescale for completing the assessment and implementing a Carer Support Plan is communicated in writing.

Proposal 5:

Emergency, anticipatory or future planning will be covered in regulations about other information that an Adult Carer Support Plan must contain.

Comment on Proposal 5:

Making provision for emergency planning within subsequent guidance does not go far enough. Emergency and anticipatory planning should be included as an explicit requirement within Adult Carer Support Plans.

Proposal 6:

The reference to a carer’s ability to provide care will be removed. Instead it will refer to a carer being ‘able and willing’ to provide care.

Comment on Proposal 6:

We believe it is more appropriate to refer to a carer being ‘able’ and ‘willing’ to provide care. This provides a direct link to a carer’s right to decide whether or not - and to what extent - they are willing to provide care. This should be determined at the earliest opportunity i.e. when the initial conversation takes place between the (potential) carer and the professional.

Proposal 7:

Local authorities will have a duty to prepare and publish a Short Breaks Statement.

Comments on Proposal 7:

We are extremely disappointed that a specific duty to provide short breaks has not been included in the Carers Bill because carers had campaigned so hard for its inclusion. We feel there is the potential to address this through a national framework of eligibility criteria to ensure that carers with the greatest need get the breaks from caring they need. North Lanarkshire Carers together believes that the Adult Carer Support Plan should identify if a carer requires a
short break and appropriate actions taken to ensure that a short break is provided.

We welcome a duty on local authorities to prepare and publish a Short Breaks Statement. We want this to set out clearly both strategy and available service provision. The Statement must also set out relevant eligibility criteria and access routes e.g. through Carer Support Plan and Self Directed Support assessment processes.

Proposal 8:

Local authorities will have a duty to support carers who meet eligibility criteria and also a power to support carers in a preventative manner where they do not meet eligibility criteria.

Comment on Proposal 8:

We agree that local authorities should have a duty to support carers who meet eligibility criteria within a national framework of eligibility criteria. We also agree there should be a discretionary power for local authorities to support carers and young carers in a preventative way where they do not meet the agreed eligibility criteria.

Proposal 9:

Guidance will be issued on Adult Carer Support Plans, which will include information on the different stages of caring and the need for a review to address periods of transition.

Comment on Proposal 9:

We welcome guidance to support the implementation of Adult Carer Support Plans. However, we need to get the scope and content of such guidance right. It needs to cover, for example, how transitions should be managed and how reviews will be monitored and reported.

Proposal 10:

There will be a duty on local authorities and health boards to involve adult carers, young carers, carer organisations and other relevant organisations in the planning, shaping, delivery and review of services. This duty will extend the provisions within the Public Bodies (Joint Working) Act.

Comment on Proposal 10:

This proposal is consistent with accepted best practice and available guidance on stakeholder engagement, participation, and involvement, and goes some way to acknowledging and working with carers as ‘equal partners in care’.

Proposal 11: Local authorities will be required to take into account the views of the carer when determining the needs of the person being assessed and deciding what services to provide and how to provide them.
Comment on Proposal 11:

This proposal is consistent with accepted best practice and available guidance on stakeholder engagement, participation, and involvement, and goes some way to acknowledging and working with carers as ‘equal partners in care’.

Proposal 12:

There will be a duty on local authorities to develop and publish local Carer strategies and to involve carers in the development of review of such strategies. Carer strategies must be reviewed every 3 years.

Comment on Proposal 12:

The scope of the local Carer Strategy must, however, be extended to include the themes of carer identification, information and signposting currently embedded in NHS Carer Information strategies. This is the model we have successfully implemented in North Lanarkshire. In consideration of the Integration of Health and Social Care agenda, a key difference under this proposal would be that the requirements to identify, inform and signpost apply equally to Health and Social Care staff.

Proposal 13:

Where the carer and the cared-for person live in a different local authority area, the local authority in which the carer resides should prepare the Adult Carer Support Plan and they will be responsible for the cost of providing any agreed support.

Comment on Proposal 13:

This is a pragmatic approach. There are no advantages but many potential drawbacks to a carer being supported by a local authority other than the one in which they reside.

Proposal 14:

Local authorities will be required to take into account the care provided by an unpaid carer when conducting an assessment of the cared-for person. Where there is an Adult Carer Support Plan in place they must take account of this. Where there is not, they must still take account of the care provided and ascertain that this is what the carer is ‘able and willing’ to provide.

Comment on Proposal 14:

This proposal is consistent with carers being accepted as equal partners in care as well as recognising the carer’s right to decide whether or not and to what extent they are willing to provide care.
Proposal 15:

Instead of specifying a maximum waiting time for local authorities to carry out an Adult Carers Support Plan, they will be required to set out intended timescales in their local Carers’ Strategy.

Comment on Proposal 15:

If local authorities are required to set out timescales in their local Carers’ Strategy, they must be required to set out reasonable timescales so that carers can access a Carer Support Plan in timely fashion.

North Lanarkshire Carers Together believes that it is absolutely crucial that local authorities set out reasonable timescales in relation to the completion of a Carer Support Plan and equally as important to set out a reasonable timescale for reviewing them.

Local Context: North Lanarkshire Council in partnership with carer organisations and carers has developed the Carers Journey, a process that enables early identification of a carer’s needs and the actions that need to be put in place to achieve good outcomes. North Lanarkshire Carers Together has supported this development and believes that the Carers Journey is an early preventative engagement tool that is much more effective than the more formal carer’s assessment. However, we feel that more needs to be done at the review stage. While Social Work staff and Lanarkshire Carers Centre staff are carrying out Carers journeys, limited resources means that few reviews are being carried out, therefore evidence on outcomes for carers is not available. North Lanarkshire Carers Together believes that reasonable timescales should be set to review Carer Support Plans and resources made available to ensure that local authorities have the capacity to carry them out.

Proposal 16:

Emergency, anticipatory or future planning will be considered on an individual basis and will be covered in regulations about other information that an Adult Carer Support Plan must contain.

Comment on Proposal 16:

Making provision for emergency planning within subsequent guidance does not go far enough. Emergency and anticipatory planning should be included as an explicit requirement within Adult Carer Support Plans. There should be a requirement to identify a Lead Person to ensure that the plan is actioned and reviewed.

Proposal 17:

Local authorities will have a duty to establish and maintain an information and advice service.

Comment on Proposal 17:
Emphasis should be placed on supporting and resourcing existing local carer support organisations and the wording in the Carers Bill should be changed to 'the local authority will have a responsibility to maintain an information, advice and service for carers and young carers, or establish a service where required.

Local context: The North Lanarkshire Carers Strategy seeks to identify, inform, engage and support carers by developing in partnership a wide range of actions and interventions that will assist them achieve their aims. The North Lanarkshire Carers Strategy Implementation Group has developed a strong and effective partnership with North Lanarkshire Carers Together and commissions the charity to provide information and signposting to carers, which as a result, has achieved significant outcomes for carers over many years. North Lanarkshire Carers Together believes that the local authority is committed to maintaining this partnership.

Proposal 18:

The requirement for health boards to submit a Carer Information Strategy will be repealed. The Bill will establish that local authorities must set out their plans for identifying carers within the context of the local carer strategy.

Comment on Proposal 18:

We are concerned that with the withdrawal of NHS Carer Information Strategies there is no longer any requirement on health boards to identify and signpost carers to sources of support. We recognise that this will form part of the devolved function of Integrated Health and Social Care Partnerships. However, the section on identification could be strengthened and reference should be made to the crucial role of all health professionals to identify and signpost carers, to continue the good practice established by NHS Carer Information Strategies.

Local Context: North Lanarkshire Carers Together believes that the well-established NHS Carer Information Strategy in Lanarkshire has resulted in significant developments in relation to the identification, signposting and support of carers. The NHS Carer Support Team that works within acute and primary care settings has greatly advanced carer awareness amongst health professionals resulting in much needed support for carers. North Lanarkshire Carers Together believes that the NHS Carer Support Team is an integral part of the wider Carers Strategic Framework and should be recognised and supported within the devolved function of the Integrated Health and Social Care Partnership.

Proposal 19:

There will be a requirement on local authorities to consider if the support provided should take the form of or include a break from caring.
Comment on Proposal 19:

The government has decided not to introduce a specific duty on local authorities to provide short breaks. This duty was almost unanimously supported by carers.

Proposal 20:

Local authorities must set local eligibility criteria which will determine whether a carer is eligible for support.

Comment on Proposal 20:

Carers are clear that the eligibility criteria must be national rather than local. This is the only way to avoid a postcode lottery and to ensure that carers have access to the same rights and entitlements across Scotland.

North Lanarkshire Carers Together will campaign together with the Coalition of Carers in Scotland and other carer organisations for a change at Stage 2 of the Carers’ Bill for this change from a 'local' to a 'national' framework to be reflected.

Carers were clear in their response to the consultation on the Carers Bill that they wanted new rights linked to national eligibility criteria. There needs to be equality across the board – everyone assessed using the same eligibility criteria with the same entitlements to support and resources. There is clear evidence from around the world that adopting a universal approach to care provision is the fairest approach. Both England Wales have recently introduced national eligibility criteria for social care services, including support for carers. Most developed countries have universal social care arrangements, accessible to all those with defined levels of care and support needs. National eligibility criteria would be a fair system. It would put an end to the frustration carers feel when they are not able to access the same level of support as other carers living in a different local authority area. We don’t want people having to move area to get a better service. Eligibility Criteria is ALSO the gateway to new rights for carers. They must be clear rights available to all, equally, fairly and consistently across Scotland.

Additional Comment

The proposals do not include the duty that carers campaigned for which would place a responsibility on health boards to inform and involve carers in hospital admission and discharge procedures.

North Lanarkshire Carers Together believes that the Carers Bill needs to recognise carers, in hospital admission and discharge planning. The lack of carer involvement in these processes is creating undue pressures and major issues for carers.

North Lanarkshire Carers Together welcomes the invitation from the local authority to take part in a RAID (Reduce Admissions Increase Discharge)
week. North Lanarkshire Carers Together is currently negotiating membership of the recently established Delayed Discharge Board.

North Lanarkshire Carers Together continues to campaign for the inclusion of this proposal in the Carers Bill.

**North Lanarkshire Carers Together**
Carers (Scotland) Bill

Mental Health Carers Forum

The Mental Health Carer Forum is a collective platform for carers of someone with mental health problems and the people they care for, to have their voices heard within mental health services and beyond. The mandate for the Forum comes from carers of people with mental health problems via the organisations represented in the Forum, who provide support, advice, training and information to carers of someone with mental health problems, as well as seek the views of carers of someone with mental health problems on a variety of issues specific to the needs of carers of someone with mental health problems.

The aim of the Forum is to provide an influential, collective voice for carers of someone with mental health problems in Scotland, leading to improved experiences and enhanced recovery outcomes for people living with mental health problems and their carer.

The Mental Health Carers Forum have compiled the following response to the Scottish Government’s Carers Bill and would like to submit this on behalf of carers of someone with mental health problems.

Comments on Adult Carer Support Plan

The Forum agrees with the removal of the “regular and substantial” test so that all carers can access an Adult Carer Support Plan. Many carers of people with mental health problems felt that this testing was discriminatory towards them, as it can be difficult, due to the fluctuating nature of mental illness, to ‘fit into’ the criteria of ‘regular and substantial’, so this change is very much welcomed by carers of someone with mental health problems.

Similarly the removal of the requirement of the person being cared for must be in receipt of community care services is also welcomed by mental health carers. Again due to fluctuating nature of mental illness, and eligibility for community care services, many people with lived experience of mental health problems do not use community care services.

Many carers of people with mental health problems report that an issue for them is dealing with emergencies. Mental health problems can escalate into crisis or emergency situation very quickly. In order for carers of someone with mental health problems to feel able to cope with such times, emergency planning is crucial. This is an area which has not been covered in the Bill, but one which will be covered in regulations around the Bill. The Mental Health Forum feels that this is something which should be in place within the Bill itself. Emergency and anticipatory care planning is very important for mental health carers and it should always be a part of the Adult Carer Support Plan. This would also highlight services which may be needed to be put in place to support carers of someone with mental health problems at such times, such as mental health carer advocacy. Very often emergency care situations can
result in contact with mental health legislation (if someone becomes subject to compulsory short term detention in hospital for instance). This is a bewildering time for a lot of carers of people with mental health problems and a time when advocacy could prove vital.

**Provision of Advocacy for Cares of someone with Mental Health Problems**

The Mental Health Carers Forum is disappointed to note that specific mental health advocacy is not made part of the Carer Bill. It is only when mental health deteriorates to such an extent that a person requires care and treatment, that such medical treatment can be legally administered against her or his will, via Mental Health (Care & Treatment) (Scotland) Act 2003. As such it is vital that those who provide care to someone with lived experience of mental health problems should have support to help them plan for such instances, and deal with the necessary personnel and paperwork involved in such legal detentions. Whilst not every mental health carer will be involved in legal detention situations, we believe that they should have the option to put emergency arrangements in place via an Adult Carer Support Plan.

**Forensic Carer Issues**

Another area of great concern to the Mental Health Carer Forum is the lack of inclusion into the Carers Bill of the specific needs to support Forensic Carers. This can be a small number of carers, but they are a very under-represented group of carers and can be in some of the most complex of circumstances. Some forensic carers may have to deal with mental health legislation as well as other areas of legislation such as criminal justice processes. Having the needs of forensic carers acknowledged and included in the Carer Bill would go a long way to helping such carers to come forward and seek the help and support they may require.

One barrier to forensic carers seeking support is that, for some, they may not be seen as carrying out any carer role (as the person they care for is in hospital for lengthy times). However that does not stop a person being a carer, or having to deal with statutory and legal services. All carers are recognised as such with mental health legislation, and it would be good to see all carers equally recognised within Carer Bill. There is scope within the proposed content of the Adult Carer Support Plan to reflect the needs of specific groups of carers, for instance there may be a need to be able to come together with other forensic carers, but if you live miles away from nearest official group then transport could be an issue a carer would need help with.

**Eligibility Criteria – Call for National Criteria**

Lack of nationally set eligibility criteria for determining whether a carer is eligible for support is also something mental health carers have been disappointed in. Setting local eligibility criteria on paper may seem the reasonable way to go forward, but in times of budgetary cuts and local authority belt tightening, it is feared that this will become something of a post
code lottery. Carers of someone with mental health problems are especially concerned as they have already seen cuts to provision of services in the community for people with lived experience of mental health problems, which has resulted in more demands being made of carers, and so likelihood of carers’ health and wellbeing becoming affected by an increased caring role. In local authority areas already struggling with impact of financial cuts, the fear is that support specific to the needs of carers of people with mental health problems will not be seen as an important criteria for eligibility for support, and so some carers of people with mental health problems may in fact find they are not eligible for vital support, such as advocacy.

Involvement of Carers of someone with Mental Health Problems

Carers of someone with mental health problems are also very disappointed with lack of any duty to involve carers in hospital admissions and discharge processes. As with most carers, carers of people with mental health problems regularly report being left out of admission and discharge processes, but in the case of carers of people with mental health problems this can place them in challenging situations, particularly where there has been not involvement in discharge planning. Triangle of Care: Involving Carers in Mental Health Services, is one tool which promotes the carers as equal partners in care of person with lived experience of mental health. It is being actively used within some health board areas to improve carer involvement particularly around admission and discharge processes, as these health board areas have recognised the lack of such involvement. However this is not replicated throughout Scotland. It would therefore have been good to have seen some kind of statutory duty placed on health boards, and now integrated services, to include carers at admission and discharge times.

Background to Mental Health Carers Forum

This collective of organisations supporting and working with carers of people with mental health problems came about as a direct output of Mental Health Strategy Working Group for Commitment 2 “Involving Carers and Family Members”. The lead body for the establishment of the Forum is Carers Trust Scotland, who also provides Secretariat for the Forum. Chairing the Forum is carried out by Support in Mind Scotland.

Objectives of Mental Health Carers Forum

- Increase understanding of the expertise, knowledge and experience mental health carers can contribute to the care and treatment of person with mental health problems
- Influence mental health and carer policy and practices to reflect the distinct needs of mental health carers
• Increase recognition of the value placed on mental health carers by those being cared for, and the need for carers to be respected as equally important in decisions being made about a service user's life
• Improve communication between person with lived experience of mental health, mental health carers and professionals

Membership of Mental Health Carers Forum

• Support in Mind Scotland (Chair)
• Carers Trust Scotland (Secretariat)
• Voices of Experience (VoX)
• Edinburgh Carers Council
• User & Carer Involvement (UCI)
• Glasgow Association for Mental Health (GAMH)
• HUG, Action for Mental Health
• Scottish Independence Advocacy Alliance (SIAA)
Carers (Scotland) Bill Stage 1

MECOPP (Minority Ethnic Carers of Older People Project)

1. Information on MECOPP ( Minority Ethnic Carers of Older People Project)

1.1 MECOPP was established in January 2000 as an independent Charity. The organisation assists Black and Minority Ethnic (BME) carers access the supports and services necessary to undertake or sustain a caring role. MECOPP currently supports in excess of 750 carers including carers within the Gypsy/Traveller community.

1.2 MECOPP, as one of the National Carer Organisations (NCO’s) has contributed to, and fully endorses, the joint NCO submission. Our individual submission will therefore concentrate on issues which impact on BME carers specifically and carers with protected characteristics more generally.

1.3 MECOPP welcomes the main provisions of the Bill but would argue that all measures contained should be strengthened by the inclusion of an equal opportunities clause as permitted by Part 11, Schedule 5 of the Scotland Act (1998). This clause enables the Scottish Parliament to place a duty on devolved public authorities to ensure functions are taken forward with due regard to equal opportunities.

Our ‘Ask’

MECOPP is asking for an equal opportunities clause to be included on the face of the Bill. In subsequent regulations and guidance we ask that local authorities be required to produce an equal opportunities statement and action plan setting out how they intend to meet the needs of carers with one or more of the protected characteristics.

We ask that the statement and action plan is published as part of the local carer strategy and subjected to rigorous monitoring of, and reporting to, the Scottish Government

Evidence of the process followed in developing the Statement and the action plan should also be included.

1.4 MECOPP would also advocate that the Bill must pay due regard to international human rights and the obligations that exist as a State signatory to the International Covenant of Economic, Social and Cultural Rights (ICESCR). Given the substantial body of research which evidences the disproportionate negative impact on the physical, emotional and financial health of carers, we believe the Bill should consider how it can support the attainment of:

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1 The nine protected characteristics under the Equality Act (2010) are race, age, disability, gender reassignment, religion & belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity.
• the right of everyone to an adequate standard of living, and to the continuous improvement of living conditions (Art 11)
• the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (Art 12)

2. BME Carers in Scotland

2.1 According to the 2011 Census, Scotland's Black and Minority Ethnic (BME) population has doubled in the last decade (2001 – 2011) growing from 101,677 (2.01%) to 210,996 (4%).

Similar growth in the size of the BME carer population over the same period is also evident rising from 6,815 to 12,049. However, despite the substantial increase in the number of individual BME carers, as a percentage of the total BME population, there has been a slight decrease from 6.7% in 2001 to 5.7% in 2011. The key point is that every local authority in Scotland has seen a sizeable increase in the size of its BME carer population. Within individual ethnic groups, the largest increases are to be found in the Pakistani, Chinese and African populations in Scotland.

Analysis of Census information also indicates that the largest cohorts of carers within individual ethnic groups are to be found at the lower (1-19 hours caring per week) and highest (50+ hours of caring per week) points in the spectrum.

2.2 Information on the number of carers within the Gypsy/Traveller population can also be taken from the 2011 Census for the first time. The Census records the size of the Gypsy/Traveller population as 4,212 but community members and organisations working directly with the community estimate the population to be closer to 20,000.

Given the sizeable discrepancy, we believe that the size of the Gypsy/Traveller carer population is also significantly under-enumerated at 10% (although this compares with 6.9% of the general population).

2.3 Research conducted by MECOPP into the experiences of Gypsy/Traveller carers found that access to social care services was “at best problematic, at worst non-existent”. There was limited knowledge of individual rights and relationships with social care workers were characterised by a lack of trust. The research concluded that care services are “often ill-suited to the cohesive and private nature of the Gypsy/Traveller community”. These findings were echoed in 2012 by the Scottish Parliament Equal Opportunities Committee who found Gypsy/Travellers’ experiences of health and

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2 2011 Census
4 MECOPP, 2012, Hidden Carers, Unheard Voices: Informal Caring within the Gypsy/Traveller Community in Scotland
5 Ibid
social care to be “appalling”, “concerning” and “alarming”.° They stated that a lack of cultural competency amongst service providers was a major barrier in ensuring that carers receive the support they need: “It is clear to us that one of the greatest barriers to supporting Gypsy/Travellers ... is a lack of understanding about their lifestyle, population and travelling patterns”.°

3 Carers with Other Protected Characteristics

3.1 Whilst informal caring in itself does not constitute a ‘protected characteristic’ under the Equality Act (2010), individuals with protected characteristics are as likely to assume a caring role during their lifetime as the rest of the population.

3.2 Gender

3.2.1 Figures provided by the Scottish Government° highlight that women of working age are more likely to take on a caring role. 62% of carers between the ages of 25 – 49 are female. Given the heavily gendered bias, we welcome the strong Government focus on gender equality outlined by the First Minister. A key concern must be how the Bill will support women who are already experiencing a ‘carer penalty’ alongside more general concerns about the progression and status of women within the labour market°.

3.3 LGBT Carers

3.3.1 In addition to the challenges which all carers experience, we would argue that informal carers within LGBT (lesbian, gay, bi-sexual and transgender) communities can face additional barriers at all levels of the social care system. Informal care is very often, part and parcel of a wider network of support which can include health and social work professionals as well as services such as homecare, short breaks provision and longer term residential care. Yet the fear or actuality of homophobia and other forms of victimisation can and do prevent informal carers from seeking support and accessing services.

3.3.2 For the vast majority of people with limiting long-term conditions or disability, the family remains the primary source of support both emotionally and practically. Yet for many older LGBT individuals, these choices may be limited. They may not have children or grandchildren and may be isolated from their family of origin. Older LGBT people may be forced into concealing their sexual/gender identity for fear of harassment and discrimination within services.

“We were treated differently to heterosexual couples who meet in a private space during visiting times whereas we had to meet in the

° http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/54885.aspx
° Scottish Parliament Equal Opportunities Committee, 2012, Gypsy/Travellers and Care
dining room of the hospital ward. One day when I put my arm around Martin to comfort him I was told to stop by healthcare staff as they thought this may lead to ‘other things.’ As a very private person I was extremely upset and humiliated.”

3.4 Disabled Carers

3.4.1 No information currently exists on the number of disabled people or individuals with a long-term condition who provide informal care. We believe it is reasonable to assume that this cohort is sizeable and will continue to grow as the population ages and individuals enter into co-caring relationships. Similarly, people with learning disabilities may take on caring responsibilities for elderly parents.

4 Comments on the Bill

4.1 Despite a legal obligation to ‘advance equality of opportunity’ for individuals with one or more of the protected characteristics, there is substantial evidence regarding differential levels of access to services for carers from minority groups including carers from Black and Minority Ethnic communities, LGBT carers and disabled carers. Despite commitments within ‘Caring Together’ to ensure actions are taken forward with due regard to “fully address the equalities perspective”, this has not been evident across local authorities and health boards in Scotland. Whilst ‘pockets’ of good practice exist, MECOPP believes it is time for a more concerted effort to focus the attention of local authorities and health boards on meeting the needs of carers with protected characteristics. We believe the inclusion of an equalities clause on the face of the Bill will make these expectations explicit.

4.2 Part 1 – Duty to prepare Adult Carer Support Plan

4.2.1 MECOPP welcomes the Duty to prepare adult carer support plans but would argue that this section needs to be strengthened. As the Bill currently stands, the proposed Duty only applies where the local authority has made an offer and that offer is accepted or where the carer has requested a plan. We believe that a Duty should be placed on local authorities to inform carers of their right to an adult carer support plan.

In a practitioner survey conducted jointly by MECOPP and Carers Scotland to inform the development of the Carers Rights Charter, 60% of respondents indicated that disabled carers or carers with a long-term condition were less likely to know about their rights with this

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11 The General Duties under the Equality Act (2010) are to: eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct; advance equality of opportunity between people who share a relevant protected characteristic and those who do not; and, foster good relations between people who share a protected characteristic and those who do not.
12 http://www.mecopp.org.uk/resources.php?section_id=5
percentage increasing to 89% and 100% for LGBT and BME carers respectively. Without a Duty to inform, we believe the current situation will continue to the detriment of carers with a protected characteristic.

4.3 Adult Carers - Identification of outcomes and need for support (section 7)

4.3.1 The focus within the Bill on enabling carers to achieve personal outcomes is welcome but as currently stated within the Bill, too narrowly defined. We believe that the emphasis needs to be changed from ‘inputs’ that enable a carer to provide or continue to provide care to outcomes which reflect their status as citizens who are entitled to a life outside of caring. We argue that supporting carers to identify and achieve personal outcomes must be consistent with a human rights based approach grounded in dignity, autonomy and choice.

We raise an additional concern that achieving personal outcomes for carers with a protected characteristic may be further constrained by the lack of appropriate and accessible services both for themselves and the person they care for.

4.4 Content of adult carer support plan (section 8)

4.4.1 MECOPP has consistently argued that any assessment of need should be ‘culturally competent’ recognising that the nature and extent of care delivered by minority groups may differ from the majority population. As the adult carers support plan will be used to determine eligibility for services, we believe it is even more important that the assessment process is fit for purpose.

For example, the Scottish Parliament Equal Opportunities Committee inquiry into Gypsy/Travellers and Care noted:

“*It was clear that cultural sensitivities might be overlooked when providing care for Gypsy/Travellers … We were shocked to hear of Gypsy/Travellers feeling that they had no choice other than to settle in housing away from their own communities to access care services*.14

4.5 Part 3 - Provision of support to carers - Eligibility Criteria

4.5.1 MECOPP fully endorses the NCO position that a national eligibility framework should replace local eligibility criteria. We believe this offers more scope to embed equality outcomes as part of the overall approach. Concerns are already apparent regarding the imposition of local eligibility criteria in the implementation of the Social Care (Self

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Directed Support) (Scotland) Act 2013\textsuperscript{15} and we are keen that this is not repeated.

4.5.2 With regard to the setting of local eligibility criteria, we have significant concerns that they will disadvantage carers with protected characteristics. Whilst the Duty to consult is welcome, we would extend the scope of consultee’s to include organisations which support individuals with protected characteristics where there is no carer specific support. Without this, we believe that the needs of carers with protected characteristics will continue to be invisible from local decision making.

If local eligibility criteria are to be set, we argue that they should be consistent with local equality outcomes.

4.6 Duty to provide support to carers (section 22)

4.6.1 MECOPP welcomes the Duty to be placed on local authorities and health boards to support carers but would strongly argue that the Duty is only as effective as the services that are available to meet the assessed need. Without appropriate and accessible services, the Duty is, at best, ineffectual in supporting carers with protected characteristics.

As it currently stands, the duty to support carers will only apply where their needs cannot be met

“…by services or assistance provided \textit{generally} to persons in the area of the responsible local authority”

MECOPP has interpreted this (ie. \textit{general} support) to mean support which is available universally within the local community and which does not require any form of assessment or eligibility criteria.

The Bill does not define which services are ‘general’ but the Policy Memorandum describes eligible services as ‘bespoke services’ and states:

“\textit{Bespoke support would include, for example, short breaks, training, advocacy and emotional support}” (Page 22 paragraph 92)

We know from our own experience that many of the services described as ‘bespoke’ are, in fact, provided by carer organisations as part of a package of universal support and would include access to training or emotional support. We feel the terminology is unhelpful in this respect and potentially confusing but have a more deep rooted concern that this provision will work against the best interests of carers with a protected characteristic.

\textsuperscript{15} www.ldascotland.org/docs/The%20Start%20SDS%20report%20January%202015.pdf
4.6.2 Having worked with BME carers for nearly 20 years, MECOPP is well placed to comment on the historical ‘suspicion’ held by the communities we work with in relation to social work services. Many of the services we currently provide to our beneficiaries would now be seen as ‘bespoke’ services as defined in the policy memorandum and subject to an assessment. Assessment processes are, at best, problematic for BME carers due to the marked lack of confidence in the ability and capacity of mainstream providers to respond. Having to undergo an assessment for services that were previously available with no restrictions is yet another barrier.

MECOPP endorses the NCO position that all carers should be able to access universal services (e.g. carer training, advocacy, emotional and peer support) which are freely available to all carers.

4.6.3 The implementation of self-directed support with its focus on choice and control, on the face of it, provides carers with a protected characteristic (and those they care for) with an opportunity to acquire the support they need in the manner they require. However, we raise a broader concern that SDS and in particular, option 1, does not absolve local authorities and other bodies covered by the Equality Act (2010) of their legal duty to ensure that their services are accessible to all sections of the population. We are concerned that SDS may become the default position of local authorities who cannot meet the needs of minority communities within mainstream provision.

4.7 Part 4 & 5 – Carer involvement (section 25) & local carer strategies (section 28)

4.7.1 The Duty to involve carers in carers’ services and the development of local carer strategies is again welcomed but we have similar concerns regarding the exclusion by default of carers with protected characteristics (see 4.5). Any assessment of unmet need should actively consider the needs of carers with one or more of the protected characteristics.

4.8 Part 6 - Information and advice for carers

4.8.1 We welcome the focus on the provision of advice and information for carers as an integral element of informed decision making but would stress that such provision must take account of the communication, linguistic and cultural requirements of the intended audience. In many cases this will be a requirement of the Equality Act (2010), for example, the provision of BSL.
**Carers (Scotland) Bill**

**Carers of West Dunbartonshire**

**Do you support the Bill?**

Yes, the Bill is an important recognition of carers, the challenges they face and the compromises they make for the most vulnerable within our community.

However, for this Bill to have any chance of success it has to be implemented at a National level from the outset, so that like for like comparisons may be made (it's the only way all carers across Scotland can be treated equally) and the degree of mixed /wrong interpretations of how the Bill should work would be reduced. For each LA (as is intended at the moment) to do it's "own thing" in interpreting eligibility criteria will lead to a lot of unnecessary and expensive time wasting bureaucracy.

**What do you feel would be the benefits of the provisions set out in the Bill?**

If it strengthens the support which is on offer to carers and changes attitudes and practice towards carers then it would be welcome.

Short breaks should be a priority and a right for all carers - it is for everyone else in the caring profession

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

There needs to be proper, ongoing policing and accountability from the start at both local and national level. E.g. will LA be required to publish their "reasonable timescales" and will they be asked to evidence the factors that will be taken into account on each level of the eligibility criteria to enable carers to challenge decisions? An independent appeals procedure on this would be useful rather than the complaints procedure.

Eligibility criteria must be national to ensure equity across all areas.

A lot of the wording is vague and open to a wide degree of interpretation, support, eligibility, criteria. It is not clear how would the support etc would be structured, implemented and policed to make sure carers involvement was being actioned properly? E.g. in 2006 a duty was placed on Health Boards to develop Carer Information Strategies, in the intervening years this duty seems to have had no meaningful impact on carers.

How will the SG ensure that this Bill is directly benefitting carers?

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

When considering the eligibility of a carer for services they should not only take into account the carers needs but include the impact of those needs not being met on the cared for person e.g. low level of support to the carer could
prevent serious repercussions for the cared for person. Surely it is in the interests for Health Boards and LA’s to meet these needs to prevent unnecessary hospital admission.

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

Nothing recorded.

**Additional comments, questions and concerns.**

What additional resources will be made available to support the Bill, in particular where carer support services are delivered by the third sector?

Although what appears to have been costed is an additional two Carer Support Workers for each area in reality there could potentially be simply be a stand still position. i.e. as a result of CIS funding ending some staff contracts coming to an end therefore any “new” posts will only mean a stand still position as oppose to additional resources.

Who will carry out all these additional Carer Support Plans? There is concern among third sector staff that the LA will have an expectation that they can absorb the additional workload. Third sector services, in particular Carer Centres, are already dealing with increased workloads and no additional funding.

**Carers of West Dunbartonshire**
This response is from the Scottish Social Services Council (SSSC). The SSSC is a Non Departmental Public Body (NDPB) and was established by the Regulation of Care (Scotland) Act 2001. We are responsible for registering people who work in social services, regulating their education and training and the collation and publication of data on the size and nature of the sector’s workforce. We are also the Scottish partner in Skills for Care and Development, the Sector Skills Councils for the care sector in the UK.

Our work increases the protection of people who use services by ensuring that the workforce is properly trained, appropriately qualified and effectively regulated. We aim to protect people who use services, raise standards of practice, strengthen and support the professionalism of the workforce and improve the outcomes and experience of people who use social services. The social service workforce provides care and support for some of the most vulnerable people in Scottish society. The sector employs more than 189,000 people¹ in Scotland (Scottish Social Services Council, 2014). These workers often deal with complex care needs and make a real difference to individuals’ lives.

Our vision is that our work means the people of Scotland can count on social services being provided by a trusted, skilled and confident workforce. Our purpose is to raise standards and protect the public through regulation, innovation and continuous improvement in workforce planning and development for the social service workforce.

The SSSC and NHS Education for Scotland are working together to implement the workforce education and learning elements identified within the Carers’ Strategy.

¹ There are a number of groups of workers not captured by this data. These include childminding assistants and personal assistants employed by individuals in receipt of a direct payment (Scottish Social Services Council, 2014).
Equal Partners in Care (EPiC): Core principles for working with carers and young carers

Equal Partners in Care (EPiC) is a joint project between NHS Education for Scotland (NES) and the Scottish Social Services Council (SSSC) to implement the workforce education and learning elements of Caring Together 2010-15, the Carers Strategy for Scotland. We aim to support workers from health, social services and other sectors to work in partnership with carers and young carers, and to achieve better outcomes for all involved in the caring relationship. We do this by providing learning resources to help best practice become universal practice.

The EPiC project has developed six core principles. The principles are based on six key outcomes for carers and young carers. Each outcome is linked to the knowledge and skills workers need to work effectively with carers to achieve this outcome. The six core principles are as follows:

- Carers are identified
- Carers are supported and empowered to manage their caring role
- Carers are enabled to have a life outside of caring
- Carer are fully engaged in the planning and shaping of services
- Carers are free from disadvantage or discrimination relating to their caring role
- Carers are recognised and valued as equal partners in care.

Three levels have been identified for each principle:

- **Carer aware** (level one) is intended for all workers and volunteers who may come into contact with carers – from cooks and porters, receptionists and healthcare assistant, care workers and social workers. These workers should be able to signpost carers to support and a carers assessment.
- **Caring together** (level two) is for any worker who wants to increase their understanding of carers and improve their practice. Workers at this level should be able to work with carers in a person-centred way to achieve better outcomes.
- **Planning with carers as Equal Partners** (level three) is for anyone with a leadership role in involving carers in planning and shaping services and who already completed at least level one.

The principles are linked to the relevant National Occupational Standards (NOS) and the Codes of Practice for Social Services Workers and Employers (Scottish Social Services Council, 2009)

The EPiC network contains a number of examples which illustrate how this resource is used. For example, EPiC has supported the development of a new training strategy in the Highlands.

(Scottish Social Services Council / NHS Education for Scotland, 2013)
What do you feel would be the benefits of the provisions set out in the Bill?

We support the Bill. We particularly welcome the following proposals:

- the replacement of the current carer’s assessment with a new adult carer support plan (ACSP) and provision of young carer statement (YCS) for all young carers
- the plans to enhance the level of information and advice services for carers
- the requirement for local authorities and health boards to involve carers in carer services provided by the local authority or health board
- the duty to support carers who needs cannot be met by general services in the community.

We note that the duty described above is dependent on the carer’s needs meeting local eligibility criteria. The eligibility criteria should retain a focus on the outcomes for carers and their assets. The EPiC guidance can help workers to achieve these goals.

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

One of the EPiC core principles / key outcomes for carers is that carers are supported and empowered to manage their caring role. The new duty to support carers whose needs cannot be met by general services within the community is consistent with this outcome. Some consideration will have to be given to the workforce implications associated with increased eligibility for support. These areas could be considered as part of the Bill or the implementation process for this legislation.

The introduction of a new Adult Carer Support Plan (ACSP) and Young Carer Statement (YCS) are consistent with a number of the outcomes in the EPiC core principles. Consideration will need to be given to the skills implications arising from these changes. The skills required to implement these changes are articulated within the EPiC framework and resources (in particular at level 2: Caring Together).

We welcome the requirement to involve carers in carer services. The need to ensure that carers are fully involved in the planning, shaping and delivery of services is identified in a number of resources including the Carer’s Strategy and the EPiC core principles. It is also consistent with the ‘Standards of best practice for engaging carers’ developed by the Coalition of Carers in Scotland.

Is there anything that you would add to the Bill?

We would not add any additional items to the Bill.

Is there anything that you would remove from the Bill?

We would not remove anything from the Bill.
Bibliography


Scottish Social Services Council
Carers (Scotland) Bill

Scottish Partnership for Palliative Care

About the Scottish Partnership for Palliative Care

The Scottish Partnership for Palliative Care (SPPC) is the umbrella body representing the major organisations involved in palliative care in Scotland. Our membership includes all 14 territorial health boards, all 14 of Scotland’s voluntary hospices, 17 major national health charities, 7 professional associations and 1 local support organisation. The membership of the Partnership is detailed at www.palliativecarescotland.org.uk. Through a collaborative approach, the Partnership supports and contributes at national level to the development and strategic direction of palliative care in Scotland and the promotion of service improvement at local level. The Partnership’s aims are to promote equitable access throughout Scotland to high quality palliative care for all patients and families on the basis of need not diagnosis.

SPPC’s views on the Bill are informed by the work of our members with people with life threatening or life limiting illness and their families.

SPPC’s response is structured around the key questions posed by the Committee in its call for views.

Do you support the Bill?

SPPC supports the intent of the Bill and many of its provisions. Death, dying and bereavement create particular issues for family carers. Demographic changes mean that the numbers of people dying are set to increase. People will increasingly die at an older age, following a lengthy but individually unpredictable period of decline. Carers trying to cope with these challenges will be older themselves and will often be living with more than one long term condition.

Specifically SPPC welcomes that the Bill:

- replaces the current carer’s assessment with a new adult carer support plan (ACSP) and provides a young carer statement (YCS) for all young carers;
- provides for the establishment of an information and advice service for carers in each local authority area which must include a short breaks services statement;
- introduces a duty to support carers whose needs cannot be met by general services in the community (including the information and advice service);
- requires local authorities, in determining which support to provide carers, to consider in particular whether the support should take the form of, or include, a break from caring;
- requires local authorities to prepare local carer strategies for their areas; and
• requires local authorities and health boards to involve carers in carer services meaning services provided by the local authority or health board to carers and cared-for persons.

What do you feel would be the benefits of the provisions set out in the Bill?

Research\(^1\) has identified 3 key barriers to carer identification towards the end of life:-

1) The gradual process into caring, and the transition to, and identification with, the term ‘carer’.

2) The all-encompassing nature of caring for someone with advanced illness often resulted in carers prioritising the needs of the ill person at the expense of their own.

3) The legitimacy of carer needs and ambiguity of the role of primary care teams in meeting them.”

The replacement of the carer’s assessment with the Adult Carer Support Plan (ACSP) has the potential make identification of carers (and self identification by carers) easier and for this to happen earlier. The ACSP provides a lower threshold for the “legitimising” of carer needs (by both the carer themselves and health and social care professionals) than the current system.

The requirement that ACSPs include documentation of timescale/circumstances which would trigger a review is also welcome; demands often increase over time and towards the end of life circumstances and needs may change rapidly and require rapid and flexible responses.

SPPC welcomes the intention to include emergency, anticipatory, or future planning within regulations about information which the ACSP must provide (Policy Memorandum para 68).

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

Whether or not the Bill will actually lead to benefits which are detectable by carers and the people they care for will in large part come down to the quality and consistency of implementation. Much of the detail of implementation has been left either to future (as yet undrafted) regulations by Scottish Government and/or local decision by individual Local authorities.

MSPs are invited to consider whether better outcomes for carers and the people they care for might be achieved, and/or achieved more swiftly, if:-

1. Some areas covered by Scottish Government regulation might be included in the Bill itself and/or

2. Some areas left to local decision might be more centrally specified.

The most obvious and important example is around local eligibility criteria. The Bill proposes that local authorities will set local eligibility criteria which will “determine whether local authorities would be required to provide support to carers to meet carers needs”.

There is an extremely high likelihood that this will lead to different criteria in different locations, with an associated lack of clarity for carers. Locally set criteria are not consistent with a rights-based approach. There is also a risk that in current resource-scarce environment that criteria will be subject to ongoing revisions which restrict eligibility.

Whilst the Policy Memorandum associated with the Bill states that there should “be a Scotland-wide approach” what this might entail is not described in the Bill. Neither is it clear how such a Scotland-wide approach might be achieved in the absence of national specification. Neither does the Policy Memorandum commit Scottish Government to regulating in this area, stating only, in para 88).

“If the Scottish Ministers come to the view that the local eligibility criteria are not working in the intended way, then under the Bill’s provisions they could set out national eligibility criteria in regulations. Such national eligibility criteria would take the place of the existing local eligibility criteria.”

It would seem inevitable in the absence of a clear Scotland-wide approach that geographic variations will occur. These are likely to contribute to reinforcing health inequalities.

Eligibility criteria, whether determined locally or nationally should be fully informed by the views and experiences of relevant stakeholders.

**Parental Care of Children with Life Limiting Conditions**

The Bill ordinarily excludes parents as carers for the purposes of the Bill but the explanatory notes acknowledge that parents of disabled children are included within the intended scope of the Bill. SPPC believes that the Bill itself should explicitly state that parents of children with life limiting conditions meet the definition of carer for the purposes of the Bill. Such parents are providing significantly more care than would be considered normal parenting levels of care. Similarly siblings of children with life limiting conditions often assume carer roles within the family and we would wish to see this acknowledged too.

**Responsibilities of Integration Authorities**

The Bill places as duty on the ‘responsible’ local authority to prepare a carers’ plan. The Public Bodies (Joint Working) Act 2014 delegates functions and services relating to carers to the new integration authorities, and the Scottish
Government’s ‘Health and Social Care Functions Supporting Note’ specifies Carers Support Services as a function which local authorities must delegate.

Section 25(5)(b) of the Carers’ Bill seems to exclude any functions and services delegated to the integration authority from the Carers’ Bill from the duty to involve carers in carer services. Section 29(e) of the Carer’s Bill requires the local authority, in preparing its local carer strategy, to ‘have regard to’ any integration functions relevant to carers which are set out in the strategic plan prepared by an integration authority under s29 of the Public Bodies Act.

Perhaps the intention of these two clauses is to avoid duplication of duties (where there is an existing duty to involve service users under the terms of the Public Bodies Act). It would be helpful to clarify how the new provisions will work alongside the delegated functions under the Public Bodies Act. As it stands the Bill might cause confusion and even act as a barrier to providing integrated support for carers. Despite the integration of health and social care the Bill persists in allocating responsibilities to either local authorities or to health boards.

**Emergency Planning and Future Planning**

SPPC would like to see emergency and future planning specified as core content of the Adult Carer Support Plan in section 8(1) of the Bill. In referencing Emergency and Future Planning (whether in regulations or on the face of the Bill) wording should state “including planning for needs relating to death, dying and bereavement”. In Scotland there is a cultural reluctance on the part of professionals and the public to talk about and plan ahead for these issues, and for this reason there is particular value in explicit reference. Evidence shows that outcomes towards the end of life for people and their families are better when discussion and future planning takes place.

**Presumption of Eligibility**

SPPC believes that where a carer is caring for someone with palliative and end of life care needs there should be a presumption of eligibility.

Is there anything that you would add to the Bill?

**The Role of GPs and Primary Care**

The Bill is silent on the role of General Practitioners and primary care in the identification of carers. The Policy Memorandum does indicate (para 123) that local authorities must set out their plans for the identification of carers in their local carer strategy and that they must consult with NHS Boards before preparing their local carer strategies. However, given the centrally important role of primary care and GPs in the identification of carer’s there is an argument for stipulating more explicitly the need for their role to be considered in local carer strategies.
Reporting

SPPC would like the Bill, or perhaps more appropriately in associated regulations, to stipulate a requirement that responsible authorities report regularly against appropriate indicators relevant to the intended outcomes of the Bill.

Is there anything that you would remove from the Bill?

No.

Scottish Partnership for Palliative Care
Carers (Scotland) Bill

NHS Education for Scotland

Please find below responses from NHS Education for Scotland to the five questions being considered by the Scottish Parliament Health and Sport Committee.

1. Do you support the Bill?

We welcome the introduction of the Carer (Scotland) Bill. Much action and good practice to support carers has been developed or enhanced during the life of the National Carers Strategy. It is timely to secure this through legislation and strengthen action to ensure that carers are recognised and valued as equal partners and are free from disadvantage or discrimination related to their caring role.

2. What do you feel would be the benefits of the provisions set out in the Bill?

- The requirement that Adult Carer Support Plans and Young Carer Statements should be based on personal outcomes is consistent with other legislation and policy directives across health and social care (e.g. Public Bodies (Joint working) (Scotland) Act and Self Directed Support). This puts carer's needs on "equal footing" to the needs of the cared for person and should support correlation across a range of plans e.g. anticipatory care plans.

- The requirement to involve carers in the services provided should go some way to ensuring that the support offered, including short breaks, is based on achieving outcomes of people at a local level rather than service or resource driven.

- The preventative approach set out in the Bill will be beneficial to carers as will the consistency created by the Bill.

- Removal of the regular and substantial elements for carers and removal of the criteria that the cared for person must be in receipt of social care services will make for a smoother and faster journey for carers. Time will not need to be spent assessing the regular and substantial elements, thus leaving more time to focus on carer outcomes in the ACSP and YCS.

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

- The Bill refers to local authorities throughout with limited reference to health boards. Is it anticipated that the provisions and requirements would be delegated to the Integration Authorities? If not, then the requirements for the health sector could be strengthened. The provisions and requirements will have workforce development implications and it is important that this is recognised across the health and social care sector.
• Workforce Education could feature strongly in the provisions and requirements of the Bill. This should include provisions around carers in employment.

• Although the Bill will establish that local authorities must set out their plans for identifying carers within the context of the local carer strategy more strength should be given to the need to consult with health boards before preparing the strategy.

• More emphasis could be placed on health boards who should be ensuring that they provide information in relation to carer identification in primary, secondary and tertiary care e.g. GP practices, hospital admission and discharge services, AHP services, dental services, community pharmacies, etc.

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

• The Bill makes reference to carer involvement in relation to carer services, assessments, co production, carer strategies etc... In order that carer involvement is meaningful and effective, the Bill could potentially be strengthened by more emphasis being placed on workforce development. A duty placed on boards and local authorities to ensure we have a carer aware workforce. The Policy Memorandum highlights that the Equal Partners in Care (EPiC) initiative is helping to ensure that health and social service workers are aware of carers and know how to work with them as equal partners. The workforce should continue to become more carer aware and thus more enabled to empower carers.

• Preventative approaches could be strengthened by including requirements for integrated structures to work closely with directors of public health, statisticians and researchers. Inputs and outcomes could be evidenced in local strategies.

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

• No.

NHS Education for Scotland
ENABLE Scotland
Carers (Scotland) Bill – Stage 1

About this submission:

ENABLE Scotland is the largest voluntary organisation in Scotland of and for children and adults who have learning disabilities and their families. We have a strong voluntary network with over 5000 members in 44 local branches and via individual membership. ENABLE Scotland campaigns to improve the lives of people who have learning disabilities and their families and carers. ENABLE Scotland provides social care services to more than 2,000 people across Scotland who have learning disabilities or mental health problems.

Our extensive work with lifelong carers over the last 60 years underpins our evidence submission. From this work we know that planning for all eventualities reduces stress and anxiety experienced by carers. We believe that lifelong carers should be supported to make practical and financial provision for the individuals they care for. Furthermore, we know that the impact of the death of a parent / carer on a person with a learning disability is compounded by a lack of planning. We are clear that in supporting carers there should be an emphasis on early intervention and crisis prevention and, as such, our evidence submission reflects our belief that this will be delivered only if the provision for emergency and future planning is enshrined in the new carers’ legislation. As such we have focussed our response to the Committee’s call for evidence on questions 1, 3 and 4.

Within the national learning disability strategy ‘The Keys to Life’i, the Scottish Government made a commitment (recommendation 37) to work with ENABLE Scotland to drive forward the recommendations from our Picking up the Pieces report, published in 2012.

As such, ENABLE Scotland is currently funded by The Scottish Government for two years to deliver a project called Picking up the Pieces to:

- work with all local authorities to implement emergency and future planning pathways, improve access to and quality of emergency provision for the individuals they care for.
- improve access to and quality of emergency planning for carers
- analyse the impact of emergency planning on the health and wellbeing of carers
- research the barriers faced by rural and BME carers and facilitate access to emergency planning for these hard to reach carer groups

Our experience over the last 60 years working with family carers and more recently through our Picking up the Pieces project informs this submission.
1. Do you support the Bill?

ENABLE Scotland welcomes the Carers (Scotland) Bill. This legislation provides us with a unique opportunity to improve outcomes for all carers in Scotland. We support the intention of the Bill to extend and enhance the rights of carers, but believe that there are one or two areas which require further focus; and where the Bill could be strengthened to provide a more holistic approach to support for carers.

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

- Provision for emergency planning should appear on the face of the Bill
- Our initial reaction is that provisions should be made for emergency planning within Section 8 ‘Content of adult carer support plan’ and Section 13 ‘Content of young carer statement’
- Further, it is ENABLE Scotland’s position that provisions on the duty to provide information and advice contained in section 31 would be strengthened by extending this duty to include the provision of information and advice in regards to future planning.

ENABLE Scotland’s primary area of concern is the lack of emergency planning provision on the face of the Bill. It is our view that the Bill would benefit significantly from the inclusion of a specific provision on emergency planning, and we encourage the Committee to consider this point. We believe that there is scope for amending ‘Section 8 – Content of adult carer support plan’ and ‘Section 13 – Content of young carer statement’ to include emergency planning provision. Such an amendment has the potential to have a profound and positive impact on carers and the people they care for. ENABLE Scotland would bring to the attention of the Committee that emergency planning is relevant to all carers, irrespective of age or the needs or diagnosis of the cared-for person. The need for emergency planning provision is not unique to carers of people with a learning disability.

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**Emergency Planning**

An emergency is an illness, personal crisis or event which, unexpectedly, or at very short notice, results in either the carer being separated from the cared-for person on a short or long term basis or in the escalation of the cared-for person’s needs. It could include a family funeral, a transport delay, family illness, admission to hospital, last minute doctor or dentist appointment or a personal incident affecting the carer. An emergency plan sets out the practical arrangements for short term, unplanned circumstances when you are unable to fulfil your caring role.
These processes start conversations that result in considerable peace of mind for carers and the wider family, knowing that everyone’s hopes and fears have been discussed, taken into account, and that arrangements are recorded in a plan. Having a plan in place takes the guess work out of an emergency situation response for social work teams, and ensures that families are comfortable that their loved one will be cared for in line with their own wishes.

ENABLE Scotland have been mapping emergency planning provision across the country and provision differs greatly between local authorities, with some areas currently not offering emergency planning to carers.

It is our position that the failure to expressly include emergency planning on the Bill will be a missed opportunity to address this disparity in provision.

ENABLE Scotland suggests the Committee look to ensure standardisation of positive carer experiences nationwide and to increase access to planning by making recommendation to include express provision for emergency planning within the Bill.

ENABLE Scotland would emphasise to the Committee that emergency planning is a health and wellbeing issue for carers and the people they care for, which can – and should – be addressed within robust legislative provisions:

- Outcome 1: people are able to look after their own health and wellbeing and live in good health for longer
- Outcome 2: People, including those with disabilities or long term conditions, are able to live, as far as reasonably practicable, independently and at home or in a homely setting in their community
- Outcome 6: People who provide unpaid care are 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
The ‘Scottish Government Response to Carers Legislation – Consultation on Proposals – January 2014’ states that, “some respondents called for the ACSP to include provisions about emergency planning. We recognise this as a concern for adult carers and young carers too. Since not all adult and young carers will however 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.”

ENABLE Scotland would contest that all carers require discussion of emergency planning. The completion of a plan would be dependent on personal circumstances. With the omission of emergency planning from the content of Adult Carer Support Plans and Young Carer Statements, there is the risk that carers fall through the net and do not have the opportunity to have that discussion at all.

We believe the inclusion of specific provisions on emergency planning and future planning within the legislation ensuring that carers have the opportunity to have that discussion is essential to provide a holistic approach to support for carers.

This approach is in keeping with established principles of early intervention and prevention recommended by the Christie Commission. Failure to support carers to plan for emergencies results in crises which put a strain on the health and social care services.

Furthermore carers who are not supported to plan find their caring responsibilities compounded by anxiety and stress, as exemplified by the following real life case study:

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**Emergency Planning Case Study 1**

D. is a 47 year old man with a learning disability. He lived with his mother who was his main carer while receiving 8 hours support per week from ENABLE Scotland. When D’s elderly mother was hospitalised without any emergency plan for D’s care, he was placed in a care home which specialises in elderly, dementia, physical disability and sensory impairment. His mother died in hospital. There was no future planning. He has remained in this inappropriate placement since 2013. He wishes to move back into his community. A retrospective Community Care Assessment and capacity assessments in respect of Adults with Incapacity (Scotland) Act 2000 are ongoing.

An emergency plan could have identified informal interim care arrangements and prevented this crisis placement when his mother was hospitalised. Future planning would have highlighted the potential for crisis and provided a platform for the relevant professionals to work with the family to assess D., explore future care options and his legal and financial position should his mother pass away.

The STUCK! Report published by Learning Disability Alliance highlighted that people with learning disabilities living in elderly care homes are likely to be 20 years younger than the other residents and family crisis is one of the main reasons for their placement.
Former Minister for Public Health, Michael Matheson MSP stated his support for emergency planning in his foreword to ENABLE Scotland’s Picking up the Pieces’ research in 2012:

“Crucially, adult carers – and indeed young carers too – need to have peace of mind by knowing what arrangements will be put in place in the event of an emergency, either planned such as the carer going into hospital for planned treatment or unplanned such as the carer taking suddenly ill”

He continued, “I welcome the emphasis on carers taking control of their own arrangements for emergency planning through developing their own plans. This, combined with action by statutory and third sector agencies to support emergency planning, will help establish firm arrangements.”

Often carers know what would happen in an emergency but they need the support of professionals to formalise the plan and share it with relevant family members, friends and agencies. One carer told us, “I have a plan in my head”. Another carer commented, “no written plan. We had a recent experience which showed us that, while we all hold a good deal of information about my sister’s routines and needs, there is a great deal only in my Mum’s head. It probably would be a good idea to work with her to get it all written down.”

ENABLE Scotland is working with carers from the BME community to increase access to emergency planning. The case study that follows emphasises the positive impact that the process of emergency planning has on carer wellbeing.
Emergency Planning Case Study 2

Carers from the BME community were identified as a ‘hard to reach’ carer group during the initial ‘Picking up the Pieces’ research.

ENABLE Scotland are funded by The Scottish Government to deliver an emergency planning project for BME carers in Glasgow. The aim of the project is to facilitate access to emergency planning provision for BME carers. Furthermore, the project will seek to identify the unique barriers which exist for BME carers and make recommendations to address them.

Ms. A moved to Scotland 16 years ago. She has 6 adult children. Her youngest daughter has a severe learning disability and autism. Being a single Pakistani mum to 6 she has had to heavily rely on services available to her. She knows limited English and communicates in Punjabi. Ms. A spoke about her difficulty in approaching agencies and her frustration at not being able to communicate with them.

Ms. A wanted to know more about emergency planning for the care of her youngest daughter as she has multiple health conditions and her health has deteriorated. She has stressed that she is not oblivious to the fact that an emergency could arise at any time. The project worker facilitated a family planning session – focussing on the benefits of planning and which specifics they should consider. Each member of the family discussed what role they could play in their sister’s care should an emergency arise.

The family were then put in touch with an emergency planning worker from Glasgow Carers Pathway to formalise their emergency plan. Once the emergency plan had been completed Ms. A was very emotional and said she felt overwhelmed that her children would all step in at a time of crises. She said she felt very proud of her children for fulfilling her expectations.

Feedback received from the carer:

Ms. A: “I feel a huge weight has been lifted from my shoulders. I can now rest assured that my R will have familiar and friendly faces to take care of her”.

Ms A: “a gust of cold air has entered my head and given me peace” (a Punjabi saying when someone overcomes a worry or fear)

Feedback from her daughter:

Daughter “I’m grateful you have come and helped our family have these crucial discussions that would otherwise probably would have been done in a hospital waiting room”.

Daughter “Your service has allowed my mum to speak about things she probably would never be able to... She has been able to open up her heart”.

Our position is underpinned by ‘Caring Together: The Carers Strategy for Scotland 2010-2015’

vi,

which states that the current carer’s assessment “should cover the need for emergency planning so carers have a plan to cover emergency situations”.
This position is further supported by 22 of 29 local authorities who responded to our recent survey on emergency planning, stating that emergency planning should have a high priority within carer’s assessments (4/29 – medium and 3/29 – on an individual basis).

Scotland’s Carers\(^\text{vii}\) evidences the need for a preventative approach to supporting carers and draws a parallel between the quality of support offered to carer and the person they care for. Emergency and future planning with carers and the individuals they care for benefits all parties within the caring relationship. Furthermore, carers providing more than 35 hours of care per week are more likely to suffer lower mental wellbeing and there is strong evidence that carers are likely to neglect their own physical health.

ENABLE Scotland would emphasise to the Committee that with an emphasis on \textit{early intervention, crisis prevention} and personal outcomes for carers; emergency planning can alleviate carer stress and anxiety and provide carers with peace of mind that contingency care arrangements can be put in place to allow them to address their own health concerns – including attendance at GP and hospital appointments, as the following case study demonstrates:

\begin{table}
\begin{center}
\textbf{Case study 3}
\end{center}
Having an emergency plan in place has been invaluable for Jeanette Kelly when she faced health concerns of her own.

Jeanette cares for her daughter Vanessa, who has Down’s Syndrome, and was finally convinced to put together a plan when she was told she would need to go into hospital to have a knee replacement. Her doctor told her she would be off her feet for a long time and that she would have to make arrangements for Vanessa.

Jeanette said: “I had thought about having a plan for a while but always put it off. The knee replacement pushed me into action and I’m glad it did.

“It took months to put the plan together, starting with sheets of paper for every day of the week and talking to Vanessa’s support workers about when they could help by giving a bit more time when it was needed.

“The key thing was to provide continuity and security for Vanessa – keeping the people she knew around her even though I wasn’t going to be there.

“When I had another accident a few weeks ago, where I collapsed at home in the wee small hours, the emergency services were able to look at my plan and contact the right people to make sure Vanessa was looked after when I had to go to hospital.

“Within an hour of phoning the services, I was in Hairmyres Hospital safe in the knowledge there was someone Vanessa knew caring for her when I couldn’t.

“I’m on the mend now, but I shudder to think what might have happened if I didn’t have the plan in place.”
\end{table}

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

As per our response to Question 3 ENABLE Scotland would suggest additions should be made to the Bill to include:
• The provision of support for emergency planning. Ideally this would sit within the prescribed contents of Carer Support Plans set down in Section 8 of the Bill, and prescribed contents of the young carer statement set down in section 13.

• The extension of the section 31 duty to provide advice and information to include the provision of information and advice in regards to future planning.

ENABLE Scotland would be happy to work with members of the Committee to consider these issues in further detail at Stage 2.

ENABLE Scotland

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8 Case Study 1: STUCK!, Learning Disability Alliance Scotland, 2010 (http://www.ldascotland.org/docs/stuck.pdf)
Carers (Scotland) Bill

Scottish Independent Advocacy Alliance

The Scottish Independent Advocacy Alliance is the national membership body for Scottish advocacy organisations. The SIAA promotes, supports and defends independent advocacy in Scotland. A number of our members provide advocacy to carers.

The SIAA supports the Bill; we believe that it will be an important step in ensuring recognition for the many unpaid adult and young carers across Scotland. It should establish their rights to the kind of supports they might need in their caring role.

We believe that the removal of the test which currently restricts access to an Adult Carer Support Plan is to be welcomed. This is of particular importance in relation to carers of adults with mental health problems as the often fluctuating nature of mental ill health can mean that such carers cannot currently fit into the ‘regular and substantial’ criteria. We also welcome the introduction of the twofold route to assessment along with the duty to support carers meeting eligibility criteria and the power to support carers in a preventative manner where they do not meet the criteria. We believe that it will be important that Local Authorities will be required to demonstrate how they plan to support carers in a preventative manner.

The inclusion of the duty to involve adult carers and young carers in the planning, shaping, delivery and review of services is to be welcomed; as is the duty on Local Authorities to develop and publish local carers’ strategies and to involve carers in the development of review of strategies. It will however be important to ensure that there are adequate mechanisms in place to ensure accessible and meaningful opportunities for adult and young carers to be so involved.

We understand from information provided by members in varying parts of Scotland that responsibilities on Local Authorities to set local eligibility criteria in relation to Self-directed Support has led to somewhat of a ‘postcode lottery’ in relation to access to services. We are concerned that the inclusion in the Bill of a similar requirement on Local Authorities to set eligibility criteria locally rather than setting national criteria will lead to a similar situation for carers.

We believe that the Bill should include a right of access to individual and collective independent advocacy. Collective advocacy would ensure adequate support mechanisms to help groups of adult carers and young carers to be effectively involved in strategic and operational planning, design, delivery and review of services. Individual advocacy will enable carers to find out about their rights, understand legislation and navigate their way through official processes such as assessment, planning for the future and Self-directed Support. It is important in considering advocacy provision to be aware of the potential for actual or perceived conflict of interest when advocating for carers. Therefore advocacy for carers should be separate from other services such as counselling, advice.
Case Study - Jean

Jean, who is in her 70s, is the main carer for her husband Derek. He has dementia and recently his condition has begun to deteriorate. Jean was finding it difficult to get some of the help she needed such as additional hours of day care and occasional respite breaks. Her health was suffering and she was concerned that she was not going to be able to continue to care for Derek. She did not want him to have to go into nursing care, they had been together for 55 years and she wanted to be able to continue to care for him at home for as long as possible. She felt however that her ability to continue to care for Derek was being affected by her worsening health and levels of stress.

Derek had been referred to the local independent advocacy organisation and when his advocate visited he realised that Jean also needed advocacy support for herself. He discussed this with her and then referred her to the Carers’ advocate in his organisation.

When Sue, the Carers’ advocate visited Jean explained that she really wanted Derek to stay at home with her for as long as possible and discussed what she felt she needed to make that happen.

Sue now goes to meetings with Jean and with her support Jean has been able to access more support to care for Derek. Jean feels that the additional hours of day care and respite breaks have led to a reduction in her levels of stress and believes that she will be able to maintain her caring role.

We also feel that the Bill should make provision for emergency planning. This would provide carers and the individual being cared for reassurance and peace of mind regarding any emergency arising where the carer was unable to give the care they normally provide. In addition we believe that the Bill should also make provision for future planning, this would enable the person being cared for and their carer to be able to consider the future, discuss their changing needs and make appropriate arrangements. A future plan would also be a useful tool for statutory services as it would cover issues around the services that individuals and their carers have a right to as well as the specific needs regarding the situation, the unique needs of the individual and their carer.

Scottish Independent Advocacy Alliance

The Scottish Independent Advocacy Alliance (SIAA) is Scotland’s national membership body for advocacy organisations. The SIAA promotes, supports and defends independent advocacy in Scotland. It aims to ensure that independent advocacy is available to any person who needs it in Scotland.
Carers (Scotland) Bill

Scottish Young Carers Services Alliance

The Scottish Young Carers Services Alliance is an unconstituted network of over 50 organisations across Scotland who deliver, or intend to deliver services to young carers, or who have an interest in issues affecting young carers. The Alliance was formed around 2002 and is facilitated by a Co-ordinator, who is employed by Carers Trust.

Alliance members met recently in Glasgow to discuss the Bill as it stands. These members represent a good cross section of young carers services; urban and rural, small and large services. Some are from independent services, some sit within condition specific organisations, some are attached to an adult carers centre, some work within larger national children’s organisations. We also had representatives from NHS and social services. The group considered the questions put forward by your committee to form the basis of the discussions. The Co-ordinator has brought together the comments and responses from this consultation to present to the Committee to assist the process of the Bill and to ensure that it works as well as possible for young carers in Scotland.

Q1. Do you support the Bill?

The majority of staff support the bill, but some felt unsure, asking how will it impact on young carers, with a few asking how practical it is. It was explained that secondary legislation will be developed to help facilitate how the Bill is enacted. We look forward to being involved in the development of that.

Q2. What do you feel would be the benefits of the provisions set out in the Bill?

The most significant part of the Bill for young carers is the duty to provide a Young Carers Statement (YCS).

There was overall approval of the Young Carers Statement, if some uncertainty about how it would be delivered.

The national strategy for young carers in Scotland (Getting It Right for Young Carers, Scottish Government 2010) acknowledges a large gap between the numbers of children and young people who say they have a caring role and the numbers of those young carers who actually receive support from services. The ‘hidden’ nature of caring remains an issue. The majority of respondents felt that a YCS would be better at catching young carers as opposed to the more generic approach of GIRFEC, as it was specifically targeted at young carers. However, there was still concern around identification of young carers within universal services.

It was felt that there needed to be clarity about how the Young Carers Statement would connect to the Childs Plan under Children and Young People’s Act.

Alliance members also welcome the inclusion of young carer strategies within the Bill. Around half of the areas represented at our meeting have a local young carers strategy in place, and this has helped to progress multi agency as well as direct
service work to support young carers. We would prefer that Local Authorities and Health Boards would produce separate strategies for young carers to produce better outcomes for young carers and to acknowledge the very different needs of this group from adult carers.

We wholeheartedly welcome the duty on Local Authorities to provide support to young carers. Our audience voiced comments and concerns about how support would be funded. For young carers up to the age of 16, only 3 of the 4 options within Self Directed Support are applicable.

Involving young carers in planning, shaping and delivering services will be a benefit Scotland wide for young carers. There are services in our network who already do this and will be able to provide examples of local practice to help develop this measure nationally.

Q3. How do you feel the Bill could be amended or strengthened?

Q4/5. Is there anything you would add or remove from the Bill?

Our discussions raised a variety of issues. Many of them point to suggestions for strengthening or adding to the Bill, and they are grouped together to answer Questions 3, 4 and 5.

There were a number of questions posed around the YCS, and how it would work. Whilst some of these concerns might not be able to be directly turned into change within the Bill, we hope that the Committee will find it helpful to consider how the Bill might impact on young carers, and how it is being viewed by practitioners.

People were concerned about the sharing of the YCS with the Named Person (where there is one). We would want to see robust guidance produced about this.

Staff felt that information had to be protected but were concerned about how this was done. There was acknowledgement that there could be occasions where disclosing the young carer statement to Named Person may actually help the young carer, for example it might flag up that the young person is a young carer requiring additional support. However this could also be a Catch 22 situation if the young carer does not want school knowing anything about their caring situation or did not have a positive relationship with the Named Person?

Some staff suggested an option that the Young Carer Statement is only shared with Named Person if it is essential, that is, if being a young carer is likely to impact adversely onto the young person in such a way that it affects the principles within GIRFEC, such as safety, education etc.

Our members want to see training for staff within schools around Named Person and confidentiality, as it could be a barrier for some young carers completing a statement knowing that it will go automatically to Named Person.

People also wanted more information about what would be included in the young carer statement, and is it about support for young carer’s needs, or is it about support for cared for person’s needs?
A recent experience of one young carers worker centred around a young carer contributing care and subsequently being brought in as part of the cared for person’s support plan. The Bill needs to provide clarity about the roles of a young carer – about age and gender appropriate input, and about the right to refuse to provide care.

Sometimes giving support to the cared for person can ease pressure on young carer, but a Young Carer Statement should focus on needs of young carer. We would like more clarity within a YCS as to how provision of services to the cared for person and the needs of the cared for person interacts with needs of the young carer. We also need to consider the reverse of this and what is the position when the cared for person refuses to have support into the home.

In line with colleagues from other National Carers Organisations, we would like to see anticipatory and emergency planning as part of the Young Carers Statement.

We discussed the need for eligibility criteria. There was worry that local authorities might set criteria at a high level due to austerity cuts at present. Members felt that national criteria could usefully form a framework within which local criteria could be set.

Questions were raised as to whether local authorities would have a duty to publish any unmet need which may arise as a result of young carer statements. This could be incorporated into local young carer strategies, providing accessible information about this.

Our members thought that the Bill could be strengthened by Local Authorities requiring to set out timescales to carry out young carer statements, or making decisions on implementing young carer statement. We think it is reasonable for young carers and their families to have an indication of how long the process will take to result in support.

In addition to timescales, the question of funding was raised. How will services be funded to meet the needs raised in young carer statements? This may not be a direct function of the Bill, but it is directly related to people’s concerns about how effectively the Bill will work for young carers.

We also think that Local Authorities who are under pressure for resources might commission third sector organisations to produce Young Carer Statements. At present, this is not clear. Where Local Authorities are able to carry out young carer statement that is fine, but we would hope that they would work in partnership with local third sector organisations where that is appropriate.

Finally, going back to the provision of young carers strategies, as stated in our response to question 2, we believe that separate young carers strategies would strengthen this Bill in regard to what is being provided for young carers. There is a danger that if strategies to support young carers are combined with those for adult carers, not enough regard will be given to support measures for young carers. There needs to be at least a set of specific measures which will be documented locally to support young carers to achieve the best outcomes.
Young carers strategies should also set out local plans for how they will involve young carers in the planning shaping and delivery of services for the cared for and for young carers.

Scottish Young Carers Services Alliance
Befriending Networks broadly supports the Carers (Scotland) Bill, and legislation that sets out the rights of unpaid carers and young carers. However, we would like to make some observations about aspects of the Bill which we believe may require further attention.

- Befriending Networks supports the requirement for Local Authorities to give consideration to whether support for carers should include a break from caring, and a requirement to set out the short breaks available. We would ask the Scottish Government to consider the inclusion of befriending services when determining the forms of support which may constitute a break from caring. There are a number of befriending services across Scotland who provide valuable respite for carers by matching a carefully trained volunteer befriender with someone who is cared for in the home, giving the carer the opportunity to take much needed time to themselves for a short period every week. Our evidence suggests that this brief respite constitutes a lifeline for many carers, allowing them to recharge their batteries sufficiently to continue their caring responsibilities. Befriending organisations also support young carers directly, giving them the opportunity for some respite, and also to form a relationship with a trusted adult.

- Befriending services which are part of Befriending Networks’ membership have unique access to training, information, support, resources, shared learning and advice. They can also undertake the Befriending Quality Award, which is a robust process designed to ensure that befriending services operate to the highest possible level. Befriending services have a particular contribution to make to the lives of carers by providing support to people with extremely disparate and at times challenging conditions, such as motor neurone disease, learning disabilities, dementia, heart disease or COPD, as well as providing respite to young carers. Such services are responsive, accessible, person-centred and cost effective, and we believe that befriending activity should be included in any definition of short breaks.

- Befriending services are usually run by third sector organisations, many providing very locally based and responsive services within their communities. We believe that the increased duty on Local Authorities to provide support to carers will inevitably impact on the wider third sector in terms of increasing demand for their services, and this should be recognised in the wider policy context, particularly in the current financial climate which sees smaller third sector services in particular unable to plan properly from year to year due to uncertainty about funding.

We would be happy to provide more information, if required, about befriending services in Scotland and their role in supporting carers and young carers.
Carers (Scotland) Bill

Scottish Ambulance Service

1. Do you support the Bill?
   Yes, generally support the Bill, which appears to bring some further structure to recognition and support for carers in the community. However, recognise that this will place additional resourcing pressures on Local Authorities and Health Boards and it is unclear how the current low level of engagement with carers will change as the onus still remains on carers to access that support. We do recognise that the Bill requires Local Authorities to develop a Carers Strategy and include plans around increasing awareness and identification of carers and there will be a clear role for NHS Boards and particularly GPs to support this.

   That said, the Bill clearly enhances the level of support available once the carer has accessed it. It is unclear how the eligibility criteria would be developed and specifically, what additional resource implications there would be for services beyond the general services already provided.

2. What do you feel would be the benefits of the provisions set out in the Bill?
   - Recognition of the extent and range of carers in Scotland and simplification of definitions.
   - Opportunities to link across health and social care in the context of eligibility criteria where existing services are not available to meet needs and links to anticipatory care plans in particular.
   - Access to additional support for carers meeting eligibility criteria.
   - Strengthening role of voluntary sector in supporting carers.

3. How do you feel the Bill could be amended or strengthened?
   Further clarification around local eligibility criteria would be helpful ahead of any decision to set national criteria as the Bill does try and offer flexibility to local authorities.

   It is unclear what specific expectations there will be on NHS to identify carers although acknowledge requirement of Local Authority to consult with NHS Boards in development of carers strategies.

4. Is there anything that you would add to the Bill?
   No.
5. Is there anything that you would remove from the Bill?

No.

Scottish Ambulance Service
Carers (Scotland) Bill
North Ayrshire Health and Social Care Partnership

1. Do you support The Bill?
   - The Bill places an emphasis on the need to improve mechanisms for supporting carers and this concept is welcomed
   - However, the extension of the current duty on carrying-out assessments to include cases where the cared-for person is not eligible for community care services is concerning. The anticipated increase in demand will place significant pressure on Social Work services. The Scottish Government may have underestimated this and not allocated sufficient resources to address this demand
   - Moving away from the critical and substantial threshold to assessments not being determined by eligibility criteria does not correlate with the requirements to manage decreasing levels of resources. There is also the danger of creating unrealistic levels of expectation.
   - This change also has to be considered in the context of the regulations about waiving of charges to carers and the resulting loss of income to Councils
   - The use of the term ‘adult carer support plan’ rather than assessment will imply, inappropriately in some cases, that services or supports are required. This may also create unrealistic expectations as there is a distinction between an ‘assessment’ and a ‘plan’ (which assumes support is required)

2. What do you feel would be the benefits of the provisions set out in the Bill?
   - The Bill places a greater recognition on the importance of the role of carers. It will also increase the current relatively low level number of carers’ assessments being undertaken. There will be improved ‘intelligence’ in relation to:
     - The numbers of unpaid carers
     - The types and level of support provided by carers
     - Develops greater potential to identifying gaps in services
   - Carers will be better supported to maintain their caring role and will be more involved in decisions affecting their lives and the people for whom they care

3. How do you feel the Bill could be amended or strengthened?
   - The definition of a carer should not be as expansive and should continue to reflect the provision of substantial and regular care
The issue of the ‘responsible authority’ being that where the carer lives rather than the cared-for person is problematic. There is the potential for one Council to make decisions which impact on another’s expenditure. This is not in keeping with flexible, local decision making and accountability.

The Bill proposes a duty to apply local eligibility criteria for supports for carers but also establishes a ministerial power to regulate for national eligibility criteria. There is a lack of clarity about this particularly in how thresholds are applied. Further consideration of this issue is required.

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

- With the implementation of Health and Social Care Partnerships there should be reference to the role of health professionals identifying and signposting carers

- Consideration should be given to the inclusion of carers in hospital discharge planning

5. Is there anything you would remove from The Bill?

- Ministerial powers in relation to the identification of outcomes for carers and procedures for undertaking reviews and determining the frequency of these will create an excessive level of legislation. The prescription of outcomes by the Scottish Government goes against the principles of the self-directed support agenda because the identification of outcomes should be person-centred, collaborative and empowering. These measures will severely restrict flexibility. In addition, there is the potential to create unrealistic expectations by prescribing outcomes on a general basis

- The proposal for the Young Carer Statement to remain in place after the young person turns 18 years (until an Adult Carer Support Plan is created) will create difficulties. This needs to be seen in the context of children’s legislation and in wider transition planning. A defined timescale for cessation of the Young Carer Statement may be more appropriate

- The duty to involve carers in service planning is not necessary as it is already in place within the self-directed support and Health and Social Care integration agendas

- The above is the case in relation to the proposal for duties to establish and maintain information and advice services for carers.

Iona Colvin
Director
North Ayrshire Health and Social Care Partnership
Carers (Scotland) Bill
Perth and Kinross Council

1. Do you support the Bill?
We support the commitment to carers that the Bill represents and also with the legislative direction set out in the Bill. This is broadly similar to the strategic direction we have developed locally, in partnership with our stakeholders, including carers. We concur that it is vital to provide additional support to carers and in particular, more needs to be done to identify, assess and provide early support to carers. However, our key concern is that the additional duties for local authorities contained in the Bill, may not be fully resourced and that therefore they will place additional financial pressures on local authorities. For example, we are concerned that the ‘average’ unit costs identified for completing a ‘carers support plan’ falls short of the costs identified by Perth and Kinross Council. We anticipate an increase in the number of people requesting carer assessments (carer support plans) following the Bill and in particular, the duty to assess carers, and we are concerned that we will have a resource shortfall as we attempt to meet this demand. We are concerned that this may result in reputational damage for the Council.

2. What do you feel would be the benefits of the provisions set out in the Bill?
As noted above, the Bill demonstrates a commitment to carers from the Scottish Government and we agree that more needs to be done to support carers, particularly as our demographic changes are resulting in more frail and older people, whose main source of care will be from unpaid carers. This is a particular concern in Perth and Kinross which has a higher than average population of older people. We agree with the tenor of the Bill, in relation to the need to identify more carers, to provide more information and awareness to carers, to provide more assessments and support plans, to provide more respite options and to improve carers’ involvement in service design.

We support the removal of the ‘substantial and regular’ definition of a caring role and this is not a definition that is applied in Perth and Kinross.

We support the requirement to complete local carer strategies, although we think that there should be flexibility as to what these plans contain and we wonder if this detail might be more appropriate as guidance. At present, while we have a distinct carer strategy in Perth and Kinross, we also have plans for carers identified in other strategies, for example mental health and learning disability. We will also have plans for carers noted in our Strategic Commissioning Plan in relation to health and social care integration. We would like the flexibility to continue to develop plans, as we continue to engage with our local communities as equal partners.

We support the change to ‘Carer Support Plan’, as opposed to ‘carer assessment’. In Perth and Kinross we made this change of title many years ago, as we found carers felt a ‘carer assessment’ was to assess their ability to care correctly. We understand that this title change may give the impression...
that support and service provision will be forthcoming, although this has not been our experience, in Perth and Kinross.

3. How do you feel the Bill could be amended or strengthened?
We think that there is a lot of detail in the Bill that may be more appropriate as guidance rather than legislation. This is in relation to the detail about what is to be in the local carer strategy and in the carer support plan. We wonder if this is overly prescriptive and may raise expectations for support that will fuel demand that we will not be able to meet. We would prefer broader legislative scope but with attendant guidance, to give us the ability to develop local approaches that link to a range of other strategies and plans.

We are also concerned that it is a ‘duty’ to provide a carer support plan for all carers, regardless of whether they are receiving a service or whether they are eligible. We think there should be the ability to have some local discretion in this regard. We completely support the notion that there are still too many carers that have not received any form of assessment or support, but we would want to be able to have local autonomy to target our resources to those carers that have the most need. We are principally thinking of occurrences where someone defines themselves as a ‘carer’ under the broader definition contained in the Bill, yet is to all extent and purposes far from meeting the eligibility criteria. We understand that a positive aspect of the carer support plan could be the aspect of signposting people to local community support or universal services, and also for information and advice. However, we wonder if there could be more scope for local autonomy to be able to assess first, without having to complete a carer support plan. For example, the ability to assess whether there is a requirement for a carer support plan.

4. Is there anything that you would add to the Bill?
We wonder if the Bill should also take into account of the role of health professionals in providing support to carers. We wonder whether the Bill should specifically mention the role of health in meeting the needs of carers, in light of health and social care integration.

5. Is there anything that you would remove from the Bill?
The Bill includes a prescribed form and content for carer support plans and defines personal outcomes; however, it also establishes a Ministerial power to re-define these personal outcomes in regulations. We are concerned that this seems overly prescriptive, as we would wish to align our carers support plans with our SDS processes, including our current range of outcomes.

We are concerned with the noted Ministerial power to establish national criteria via subsequent legislation. We believe local authorities should have the power to establish their own eligibility criteria, or at least the ability to decide how we allocate resources within a national eligibility framework.

Perth and Kinross Council
Carers (Scotland) Bill

Health and Social Care Alliance Scotland (the ALLIANCE)

The Health and Social Care Alliance Scotland (the ALLIANCE) is the national third sector intermediary for a range of health and social care organisations. It brings together over 1,000 members, including a large network of national and local third sector organisations, associates in the statutory and private sectors and individuals.

The ALLIANCE’s vision is for a Scotland where people of all ages who are disabled or living with long term conditions, and unpaid carers, have a strong voice and enjoy their right to live well, as equal and active citizens, free from discrimination, with support and services that put them at the centre.

The ALLIANCE co-convenes, jointly with NHS Health Scotland, the SNAP (Scottish National Action Plan for Human Rights1) Health and Social Care Action Group. The purpose of the group is to work with partners across health and social care, with public and third sector organisations, to ensure that human rights are more than another box on the checklist of things to consider, but that a human rights based approach is actually used to improve the lives of people who access health and social care.

Do you support the Bill?

The ALLIANCE welcomes the Carers (Scotland) Bill’s aim to enshrine the rights of carers into law. Carers play a critical role in supporting disabled people and people living with long term conditions across Scotland to live independently with support in their own homes and communities, a role often carried out with little support or assistance. As key partners in care, they contribute significantly to society and it is estimated that the cost of replacing the care currently provided by carers would be more than £10 billion each year.2

The contribution of unpaid carers is central to supporting the preventative and anticipatory approach to health and social care outlined within the Scottish Government’s 2020 Vision3. It is therefore vital that effective ongoing support for carers, preventing future need for increased local authority support, is in place to support this shift in the balance of care without a negative impact on carers’ health and wellbeing, or that of the person they care for. The Carers (Scotland) Bill is an important opportunity to ensure the provision of a consistent and effective level of support to carers across Scotland.

1 http://www.scottishhumanrights.com/actionplan
What do you feel would be the benefits of the provisions set out in the Bill?

The ALLIANCE supports changing the name of the carer’s assessment (which can imply that a carer’s competence or skills are being judged) to the “Carers Support Plan”. This term more accurately conveys its purpose, which is to consider what resources the carer needs to support them in their caring role, to maintain and improve their own health and wellbeing and to enable them to have a life including caring. 4

This move, in conjunction with the removal of the ‘substantial and regular’ eligibility requirement for the Carers Support Plan has the potential to increase the number of carers obtaining a Carers Support Plan, through which they can access information and support, and begin planning for future requirements at an earlier stage.

It is important however, that the Bill links clearly with wider programmes of reform and policy developments which impact on the lives of carers in Scotland. In this regard, further clarity is required on the link between the Carers (Scotland) Bill and the Social Care (Self-directed Support) (Scotland) Act 2013, specifically in relation to the potential overlap between the new Carer Support Plan process and the discretionary role of local authorities in providing support to carers through self-directed support.

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

Eligibility criteria

The ALLIANCE welcomes the introduction of a duty to support carers linked to clear eligibility criteria as a means of providing greater transparency to carers regarding the support they are entitled to. We are concerned, however, that the proposed introduction of eligibility criteria defined locally by local authorities will lead to a postcode lottery of support for carers across Scotland. Whilst local best practice and scope for local variation to satisfy varying needs and caring trends are to be fully supported, we do not believe that there is any justification for a variation in the levels of need which trigger an entitlement to carer support.

The introduction of a duty to support carers linked to eligibility criteria is the gateway to new rights for carers. In light of this, these must be clear rights available to all, not at the discretion of local criteria. We therefore support an amendment to the Bill to replace the requirement on local authorities to develop local eligibility criteria with a requirement on local authorities to adhere to national eligibility criteria for carer support, in order to ensure equity of carers rights across Scotland.

The complexity of locally determining eligibility criteria for carer support alongside local eligibility criteria for Self-Directed Support could lead to a

fractured and unworkable system for families. There may be some circumstances in which a carer is eligible for both carer support and Self-Directed Support. In this situation, clarity is required as to which Act takes priority.

**Emergency Planning**

It is important that carers and those to whom they provide care are supported to consider what arrangements should be put in place should an emergency situation arise that could suddenly leave them unable to care. The ALLIANCE’s engagement with carers as part of the Dementia Carer Voices project has highlighted that this remains an issue, with carers voicing concerns “Our relationship has changed I do more for him.. I worry for the future what if I get ill?”

Effective emergency planning has the potential to provide reassurance and peace of mind for the carer, and to make sure that the people to whom they provide care have full choice and control over alternative arrangements, thereby reducing the risk of inappropriate admissions to hospital or care home settings.

ENABLE Scotland’s evidence submission to the committee, based on the intelligence gathered from their ‘Picking up the Pieces’ project highlights that although there are many examples of good practice across Scotland, there are significant levels of variation in the consideration given to emergency care planning within the carer’s assessment process across different local authority areas.

Within this context, the omission of emergency planning from the face of the Bill represents a missed opportunity to embed emergency and future planning as a key component of the new Adult Carer Support Plan and Young Carers statement processes.

It is our view that the Bill could therefore be strengthened by the inclusion of a specific provision on emergency planning within Section 8 (Content of adult carer support plan) and Section 13 (Content of young carer statement). We also propose a duty on local authorities to provide information and advice on emergency and future planning within information and advice services for carers (Section 31).

**Impact on the third sector**

There are a number of provisions within the Bill which will have an impact on the third sector and which will result in additional pressure being placed on third sector resources, particularly on local carer support organisations and

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5 Taken from a letter from a carer who has written to Tommy Whitelaw, Project Engagement Lead for Dementia Carer Voices. The project has over 400 letters from carers across the country.

condition specific organisations which provide low level and preventative support to carers.

Section 112 of the financial memorandum accompaning the Bill outlines that £500,000 per annum will be allocated in each of 2017-18, 2018-19 and 2019-2020 to support about 50 third sector providers that support carers in each of the three years at £10,000 each. Many third sector organisations, including many ALLIANCE members, provide invaluable, preventative support to carers across Scotland and are already under resourced to do so. Further clarification is required into how this funding will be allocated and how the Scottish Government and Scottish local authorities intend to support third sector organisations to increase or sustain their capacity to provide this type of support.

The Bill introduces a duty for local authorities to establish and maintain an information and advice service for carers in its area. In light of their independence and expertise in harnessing the knowledge and expertise of carers themselves, we believe that the emphasis should be placed on supporting and resourcing local carer organisations which already have an established local presence to carry out this role rather than local authorities establishing their own services. In this regard, we propose an amendment to Section 31 of the Bill to the effect of 'the local authority will have a responsibility to maintain an information and advice service for carers and young carers, or establish a service where required.'

In addition, the Bill includes a provision requiring local authorities to involve and consult carers and carers organisations (as well as the relevant health board) in the preparation of local carers strategies. Given their strategic importance, the ALLIANCE believes that the Bill could be strengthened by the addition of third sector organisations (other than carers organisations) to the list of those requiring consultation under Section 28 (4) of the Bill.

Whilst we welcome the requirement to consult carers and carers organisations, carers require support and resources to enable them to participate meaningfully and carer organisations require dedicated resources to deliver this support. To date, the development process for Health and Social Care Partnerships’ integration schemes has not always recognised the capacity of carers and carers organisations to participate meaningfully in the various meetings and working groups required. Further capacity building will need to be undertaken to support carers and the third sector to engage in more effective ways when preparing local carers’ strategies.

**Personal outcomes for carers and young carers**

The aim of the Bill to introduce a personal outcomes - based approach to the Carers Support Plan is to be welcomed, however the current definition of personal outcomes within the Bill is too narrow. Section 4.1 of the Bill states "personal outcomes . . . includes outcomes which would, if achieved, enable

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7 [http://www.scottish.parliament.uk/S4_Bills/Carers%20(Scotland)%20Bill/b61s4-introd-en.pdf](http://www.scottish.parliament.uk/S4_Bills/Carers%20(Scotland)%20Bill/b61s4-introd-en.pdf)
carers to provide or continue to provide care for cared-for persons.” Whilst this
definition correctly notes that carers have support needs which require to be
met to enable them to continue caring, it focuses on carers solely in relation to
their caring role, rather than as citizens with aspirations or as relations to
those they care for, with emotional associated emotional impacts which need
to be recognised.

In the absence of a more complete definition of personal outcomes, there is a
risk that consequent support to carers is focused only on sustaining their
caring role rather than assisting carers to have a life that includes caring, or
enabling them to consider relinquishing the caring role where that is
appropriate for them. The ALLIANCE supports an amendment to the definition
on the face of the Bill to this effect, and would recommend considering the
range of outcomes identified in Talking Points\(^8\) as being important to carers:

- **Quality of life for the carer**: maintaining health and wellbeing; a life of
  their own; a positive relationship with the person cared for; freedom
  from financial hardship; able to engage in activities which are
  meaningful to them, including employment where relevant.

- **Managing the caring role**: choices in caring, including the limits of
caring; feeling informed/skilled/equipped; satisfaction in caring;
  partnership in services

- **Process**: Valued/respected and expertise recognized; having a say in
  services; flexible and responsive to changing needs; positive
  relationship with practitioners

These priorities have been consistently reinforced by carers who responded to
a survey undertaken by the ALLIANCE’s Dementia Carer Voices project:

“I don't feel I have much of a quality of life whilst looking after my Dad.
Everything I do from shopping to appointments to having a rare night out
revolves round my Dad.”

Carers have a wealth of social and economic rights arising from domestic
laws and international treaties, as outlined in the Scottish National Action Plan
for Human Rights\(^9\) (SNAP). The Action Plan is a practical roadmap for the
progressive realisation of the internationally recognised human rights first set
down in the Universal Declaration of Human Rights, which includes that every
individual is entitled to an adequate standard of living, free from discrimination
and has the right to self-determination.

One of SNAP’s key priorities is to create a better culture where people
understand their rights and participate more in decisions which affect them.

\(^8\)Talking Points; Personal Outcomes Approach, Practical Guide, Ailsa Cook and Emma Miller, Joint
Improvement Team (2012) [http://www.jitscotland.org.uk/wp-

[www.scottishhumanrights.com/actionplan/readfullreport](http://www.scottishhumanrights.com/actionplan/readfullreport)
In order for this aim to be achieved, it is vital that these human rights are embedded to ensure that people are increasingly aware of what their rights are and what this means for them in practice.

It is therefore important to broaden the definition of personal outcomes to ensure that carers are supported not simply to manage their caring role but to have an independent life including their caring role.

**A duty on hospital discharge**

An individual’s admission to hospital often results in their relation/partner becoming a carer for the first time, or it can signify that their caring role is in transition as the condition of the person they care for deteriorates and there is an increase in their care needs. Carers have consistently identified that support is not forthcoming. As expressed by a carer who responded to a survey undertaken by the ALLIANCE’s Dementia Carer Voices project:

“Don't make Carers fight for help they get ... It's hard enough without a battle as well!”

Despite discharge processes stating that ‘patients and their carers are involved and supported in the discharge process’ and that ‘the involvement of individuals, carers and family/representatives is an integral and essential part of admission, transfer and discharge management,’ many carers continue to report that their experience of hospital admission and discharge is poor.

Ineffective discharge planning, which fails to fully and actively involve both the cared for person and the carer (to consider additional support or replacement care where required) can result in inappropriate hospital discharges, increasing the likelihood of readmission and placing increased pressure on the carer. For example, Carers UK’s ‘State of Caring’ survey\(^\text{10}\) noted that four in ten of those caring for someone discharged from hospital in the previous year felt that the person they cared for was not ready to come out or that they did not have the right support to be at home.

It is therefore important that carers are fully involved throughout the process from the point of admission to ensure that carers are able to participate in decisions which affect them (this must be done with the consent of the person to whom they provide care) and that they are recognised by health and social care professionals as equal partners.

A key focus for SNAP is to increase organisations’ ability to put human rights into practice. In pursuance of this aim, it is essential for organisations to be proactively incorporating the principles of participation in their processes and procedures, as well as culture. Discharge planning must therefore be done in partnership with the person and their carer, allowing a meaningful opportunity to plan for discharge and to consider additional support or replacement care where required.

\(^{10}\) [http://www.carersuk.org/for-professionals/policy/policy-library?task=download&file=policy_file&id=212](http://www.carersuk.org/for-professionals/policy/policy-library?task=download&file=policy_file&id=212)
Equalities statement

Scotland is a diverse nation and as such the Carers Bill should reflect this. The number of BME carers has more than doubled in the last decade\textsuperscript{11}, and the ALLIANCE joins the National Carers Organisations in calling for an Equal Opportunities Statement to be included on the face of the Bill.

The Scotland Act (1998) allows for Parliament to legislate within parameters to 'encourage' equality of opportunity, through 'the encouragement (other than by prohibition or regulation) of equal opportunities and in particular the observance of the equal opportunities requirements' and 'the imposition of duties on Scottish public authorities, and cross-border public authorities in relation to their Scottish functions.'

The ALLIANCE suggests that the Carers (Scotland) Bill utilises this mechanism supported by robust monitoring and recording processes, as per SNAP’s priority action 3; namely increasing accountability through human rights based laws, governance and monitoring. Local authorities and health boards should be required to develop a statement setting out how they will encourage equality of opportunity for those with protected characteristics to access and benefit from carer support services. Equalities data should be collected and submitted annually to the Scottish Government for monitoring against the statement and publication. Evidence of the process followed in delivering against the Statement should also be included. The Scotland Act powers have already been utilised within the Regulation of Care (Scotland) Act 2001 and the Mental Health (Care and Treatment) (Scotland) Act 2003 amongst others.

The ALLIANCE supports the third sector statement on the Bill coordinated by the National Carers Organisations, which can be downloaded at www.alliance-scotland.org.uk/download/library/lib_552f9edaa596c.

Health and Social Care Alliance Scotland (the ALLIANCE)

About the ALLIANCE

The ALLIANCE has three core aims; we seek to:

- Ensure people are at the centre, that their voices, expertise and rights drive policy and sit at the heart of design, delivery and improvement of support and services.

- Support transformational change, towards approaches that work with individual and community assets, helping people to stay well, supporting human rights, self management, co-production and independent living.

- Champion and support the third sector as a vital strategic and delivery partner and foster better cross-sector understanding and partnership.

\textsuperscript{11} 2011 Census
About Dementia Carer Voices

Dementia Carer Voices works to:

- Capture the experiences of carers across Scotland with a view to informing future policy and service provision
- Raise awareness of the issues around caring for someone with dementia including among health and social care professionals, students and the wider public
- Highlight the role of carers as natural resources; carers as people with needs; carers as people with independent lives
- Empower carers by providing information based on the Charter of Rights and Carers Strategy about caring for someone with dementia
- Harness the awareness raising activity undertaken by Tommy Whitelaw.
Carers (Scotland) Bill

Carers Trust Scotland

1.1 We welcome the opportunity to provide evidence to the Health and Sport Committee on the Carers (Scotland) Bill. Since the Bill was introduced we have consulted with carers and our network of partner organisations by participating in focus groups and events where carers and carer support organisations can provide information and views on the Bill and how they feel it will affect them. This submission summarises and reflects these views as much as possible.

1.2 Carers and carers’ organisations mostly welcome the Bill. They are pleased that the Scottish Government is committed to introducing new rights and entitlements to unpaid carers. However, some aspects of the Bill require strengthening and there are also several things that we feel could be added to the Bill. Key areas that require strengthening include the lack of clarity around short breaks, the distinct role and responsibility of health boards in delivering change, particularly in relation to carer support at hospital discharge, and the omission of emergency and future care planning on the face of the Bill.

Benefits of the provisions set out in the Bill

2.1 The provisions in the Bill that establish adult carer support plans are welcomed by carers. Carers will be identified earlier in their caring journey, enabling them to access support at an earlier stage which may help prevent crisis. However, an increase in the number of carers identified and seeking early and preventative support will have a further impact on organisations that support carers.

2.2 Provisions that widen access to adult carer support plans are also welcomed, particularly the removal of references to a carer’s ‘ability’ to provide care. Referencing a carer being ‘able and willing’ to provide care provides more options to manage a caring role alongside a life outside of caring – this is also supported through a personal outcomes approach, and there are some changes that could be made to Section 4 of the Bill to ensure that carers’ personal outcomes outside of a caring role are properly defined. This is further explored in paragraph 3.1.

2.3 We welcome the commitment that guidance will be issued on adult carer support plans, which will include information on different stages of caring and the need to review the carer support plan at periods of transition such as discharge from hospital or changes in the carer’s personal circumstances. It is also positive to see clarification that when the carer and cared for person live in a different local authority, the area in which the carer resides should prepare the carer support plan and provide or meet the costs of any support to be provided, as carers will be able to use this clarification in cases of dispute.

2.4 A duty to support carers based on eligibility criteria and a power to support carers in a preventative manner when they do not meet eligibility criteria is
welcomed by carers and carers’ centres. However, there are also concerns about local eligibility criteria which are discussed in detail in paragraph 3.13.

2.5 It is positive to place a duty on local authorities to develop and publish local carer strategies and to involve carers and carers’ organisations in the development of these. It should hopefully lead to greater transparency for carers to see how their local area plans to identify and support carers. Further duties to involve adult carers and young carers, carers’ organisations and other relevant organisations in the planning, shaping, delivery and review of services, and for involving carers in determining the needs of the person they support and deciding what services to provide are also welcomed. However there are some concerns about capacity of carers and carers’ organisations to participate meaningfully, and about confidentiality and consent issues when carers are involved in decisions about the care and support of the person they look after. These are discussed in paragraph 3.4 and 4.6.

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

3.1 The Bill defines personal outcomes for carers related to their caring role. We believe there should be recognition that carers are entitled to a life outside of caring, rather than just a life alongside caring. The definition of personal outcomes within Part 1 Section 4 of the Bill is very narrow and relates to inputs rather than outcomes. We agree that identifying the needs (i.e. resources) a carer has for support and services to continue to care safely is vital and is an integral element of the Bill (recognised in 5 (2)). However, we believe the Bill should be amended to better define personal outcomes that recognise carers not solely for their caring role but as citizens with aspirations.¹ Caring is a normal part of life but should not mean significant negative impacts on a person’s finances, ability to work and take part in learning, health and wellbeing, social and leisure opportunities. Without defining personal outcomes more fully we risk support to carers being focused solely on sustaining the caring role.

3.2 An amendment to address this oversight in personal outcome definitions should be included on the face of the Bill and further defined in regulation. Talking Points² is highlighted in the policy memorandum supporting the Bill but not translated into the definitions of personal outcomes within the Bill itself. Talking Points identifies a range of outcomes that are important to carers, such as

- a life of their own
- being valued/respected and having their expertise recognised
- satisfaction in caring
- freedom from financial hardship

¹ Also referred to in policy memorandum “Wider Initiatives” para 15
² Also referred to in policy memorandum “Key Definitions” para 60 - Talking Points: Personal Outcomes, Practical Guide, Alisa Cook and Emma Miller, Joint Improvement Team (2012)
Outcomes such as these will help to protect carers from any negative impact on their lives from caring.

3.3 The provisions in the Bill that establish adult carer support plans are welcomed by carers. However, organisations that support carers may experience greater demand for their services if there are more carers being identified. It is important that additional resourcing and support is available to services that provide preventative support as they will see an increase in demand. Changes to the assessment process will have a particular impact on carers’ centres who complete carers’ assessments on behalf of the local authority – this currently happens in several areas – and best practice indicates that consistency and clear ‘reporting lines’ from both organisations are key to successful outcomes for the process and also for carers. Whilst Section 8 (1) of the Bill is clear about what information the ACSP must contain, if eligibility criteria is set locally then there is still potential for variation in the contents of the ACSP, which will lead to a ‘postcode lottery’ of carer support and carers’ experiences of the ACSP.

3.4 Whilst we are pleased that local authorities will be required to take into account the views of the carer when determining the needs of the person being assessed for care and support, some carers have raised the issue of confidentiality. Caring relationships can be complex and these complexities must be recognised in guidance and regulations accompanying the Bill.

3.5 The Young Carers Statement is generally welcomed but there are some concerns. Firstly, the added value of the young carer statement as distinct from an adult carer support plan is not clear in the Bill or accompanying documents. Young carers do need specific support in their caring role, and this needs to be distinct from a Child’s Plan as not all young carers will want or need a Child’s Plan. However, the Young Carers Statement appears to be identical to the adult carer support plan. There are also concerns about the wording within the Bill of ‘appropriate’ caring roles undertaken by young carers. Services for young carers operate on the basis that young carers are children first and foremost, and should not take on caring roles that affect their wellbeing, development, or the ability to have a life outside of caring. In the list of content of the young carer statement, there should be greater distinction that young carers ultimately have a choice to not provide care.

3.6 It is noted in the Policy Memorandum that there may be confidentiality concerns about the content of the YCS being available to the young person’s named person. Sometimes young carers do not want information about their caring situation shared with their school (even if this would lead to additional support for them). Consideration should be given to information sharing between services to ensure that the privacy of the young carer is respected, and that information is not shared without the consent of the young carer. Information will have to be shared about the young carer in the development of a statement, and due care should be given to respect the young carer’s
right to confidentiality and to ensure that information sharing is relevant and proportionate, and considers the best interests of the young carer. It could be that the content of the young carer statement would only be shared with the named person if it is essential to their wellbeing based on GIRFEC principles.

3.7 Currently carers can wait for many years or months to receive a carer’s assessment. A defined timescale for an adult carer support plan or young carer statement, set out in a local carers’ strategy, is positive, but the timescales must be reasonable and we believe a defined reasonable timescale must be stated in regulations to ensure parity between local authorities. The timescales should reflect both the time for local authorities to undertake an assessment and also to provide the services that carers are eligible for, to ensure that carers do not reach crisis point before they receive support. The predicted increase in carers seeking early and preventative support means that reasonable timescales are vital to ensuring carers receive support when they need it, and not when they are reaching crisis.

3.8 In addition to this, we support the call by Marie Curie for mechanisms on the face of the Bill that allow automatic qualification for carer support for people caring for someone with a terminal illness, and for a quick completion of an adult carer support plan for carers of those with a terminal illness. Caring for someone at the end of life can be physically and emotionally demanding and is often characterised by uncertain and unpredictable condition trajectories. These carers often need unique and responsive support; however many are not identified by health or social care services, or self-identify formally as carers. They often do not know about or access the support they need, and financial support is often received late in a person’s illness, or even after the person’s death.

Applications for support for people at the end of their lives and their carers should be dealt with as quickly as possible. Marie Curie is calling for automatic eligibility for carer support for those people caring for someone who has a terminal illness as indicated on a person’s Key Information Summary (KIS), an information sharing system for advanced care planning, or upon receipt of a DS1500 form, which enables someone who is terminally ill to claim Disability Living Allowance or Attendance Allowance from the DWP. Marie Curie also call for a commitment of no more than seven days to prepare an adult carer support plan for carers of those with a terminal illness; we fully support this.

3.9 Whilst we welcome a duty on local authorities to provide information and advice to carers, we maintain this is best achieved by resourcing existing services that work with carers, and only establishing a new service if there is an identified gap. Many third sector organisations provide information and advice to carers and their families. These range from carers’ centres and carer support services – organisations that provide services to all carers or specific groups of carers – to condition-specific organisations, general advice
services like Citizens Advice Bureaux, and specific advice services such as debt advice, housing advice or energy advice. Carers’ services have often been established in a local area for many years and are well used, with many services operating at capacity; almost three quarters of services were clear that they would not be able to cope with extra demand at their current level of resourcing.

“We are currently at capacity with the numbers coming through the door increasing every year. Staff are stretched to the maximum at the moment. If the numbers continue to increase then waiting lists will result. At the present... we operate an appointment system and Adult Carer Support is booked up and cannot offer an appointment [until] approx. 2 weeks later.”

These services receive core funding from local authorities; there are concerns that a duty on local authorities to provide information and advice will lead to resources being diverted away from carers’ services in order to provide services in-house instead. Carers really value a dedicated, independent carers’ service and are concerned that the Bill may encourage local authorities to establish a service that provides information and advice but does not go above and beyond this in the way that dedicated services do.

3.10 Despite assurances that local authorities will not seek to establish a service in areas where carers’ services already operate, the text of the Bill is ambiguous and we believe that Part 6, Section 31 should be altered to reflect the contribution of independent carers’ services, to ensure that local authorities do not establish a service where one is not needed. Independent carers’ centres and carers’ services can already provide expert information and advice on all the services outlined in the Bill and in many cases, will also provide the service. This reduces signposting and is more convenient and supportive for the carer. In most situations, it will be better to support an existing service that has a well-known presence in an area, that carers already know and trust and that is skilled at identifying hidden carers and those who are new to caring.

3.11 In addition, these dedicated services offer a much wider range of services than information and advice. They provide vital support for carers who are struggling, an opportunity to receive direct support from professionals and peers, an opportunity to relax and have a break from caring, and other services that complement the information and advice that they receive. This kind of holistic service is unique to carers’ centres, and services providing information and advice only would not replace this.

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3 Carers’ services finance enquiry, Carers Trust Scotland and Coalition of Carers in Scotland, November 2014.
4 There are carers’ centres in 30 local authorities. The Shetland Islands and the Western Isles have some online and telephone-based carer support services but no carers’ centre.
3.12 We are concerned about the lack of emergency planning provision on the face of the Bill. It is our view that the Bill would benefit significantly from the inclusion of a specific provision on emergency planning within Section 8 and Section 13, and would also propose a duty on local authorities to provide information and advice on emergency and future planning within information and advice services for carers (Section 31). Emergency and future planning is a health and wellbeing issue for carers and the individuals they care for, and consider the omission of emergency and future planning from primary statute as a missed opportunity to have a profound and positive impact on outcomes for carers and the people they care for. ENABLE Scotland are funded by The Scottish Government to deliver their ‘Picking up the Pieces’ project which is analysing the impact of emergency planning, focussing on carer health and wellbeing and the reduced pressure on services. This is guiding their evidence submissions throughout the Bill process. We fully support ENABLE Scotland’s position on emergency and future planning within the Carers (Scotland) Bill and direct the Committee to their evidence submission in this respect.

3.13 There are significant concerns about the Bill’s provision for a duty on local authorities to provide support to carers who meet local eligibility criteria. The Bill will only be viewed as successful if it delivers real change in the form of a right to support and resources to assist carers in their caring role. Eligibility criteria is the key to them unlocking their right to support. We therefore cannot stress enough how important it is to get this criteria right, because as well as delivering an entitlement to carers it also has the potential to tighten eligibility, undermine a preventative approach and make it harder for carers to access support. Inevitably some local authorities will develop stricter criteria than others, meaning some carers will be at a disadvantage. It will also mean there will be less transparency, as it will be very challenging to compare service provision across local authorities and carers will be unlikely to have an understanding of what they are entitled to. England and Wales have recently introduced national eligibility criteria for care services and there are many examples of European countries which developed national eligibility criteria for social care, including carer support.

We fully support scope for local variation to meet varying needs. Services which are suitable for carers in cities may not be suitable for carers living in remote and island communities where transport and accessibility are a greater concern. However, there is no justification for a variation in the levels of need which trigger an entitlement to support, and therefore no justification for not defining national standards of eligibility so that carers are able to access the same level of support when they have a similar level of impact and intensity of caring role. It is the trigger and level of service that would be decided by eligibility criteria, not the type of service the carer chooses to access.

3.14 The Bill includes the provision for local authorities to have a power to support carers who do not meet eligibility criteria, as well as a duty to support those who do. We are pleased that this is recognised as essential in ensuring
a preventative approach is taken to supporting carers and protecting their health and wellbeing. The Bill describes the duty to provide support to carers as applying ‘where a carer has identified needs which cannot be met by services or assistance provided generally to persons in the area of the responsible local authority’ (Section 22 (1)). Much of the support that carers access locally is provided by carer support organisations. This support does not require them to have a statutory carer’s assessment, is universally available and is preventative, helping to sustain their caring role.

3.15 The Bill does not define which services are general. However, in the policy memorandum it describes eligible services as ‘bespoke services’ and states ‘Bespoke support would include, for example, short breaks, training, advocacy and emotional support’ (Page 22 (92)). Currently many of the services which are described as ‘bespoke’ in the policy memorandum are available to carers as general or universal support, without the requirement to meet eligibility criteria. For example, many carers benefit from training to assist them in their caring role. This may be training on moving and handling to ensure they avoid injury, or courses explaining the condition of the person they care for and how it can be self-managed. Carers may also access emotional support in the form of peer support or counselling, advocacy or support to have a voice and be recognised as an equal partner in care. In most cases this is provided by the third sector through local carer organisations and condition specific organisations. This enables early identification of carers and prevents carers from reaching crisis. To put this in context, only a small percentage of carers access statutory support following a carer’s assessment, with the majority accessing support through universal services.

3.16 With an increase in the number of Adult Carer Support Plans being undertaken there will be a corresponding increase on the demands on universal services. It is essential that these supports continue, are properly resourced and that they are not defined too narrowly. The Bill should specify that all carers should be eligible to free access to a range of universal services as well as information and advice (which is already specified), emotional and peer support and general carer support\(^5\) and should also specify that local authorities should have a duty to ensure that a baseline level of universal, freely available services are provided for carers in their area.

Is there anything that you would add to the Bill?

4.1 The Bill should make provision for a duty to be placed on health boards to involve carers in hospital discharge planning procedures for the person they are looking after. An admission to hospital often results in a person becoming a carer for the first time, or it can signify that their caring role is in transition as the condition of the person they care for deteriorates and there is an increase in their care needs. Despite stating that ‘patients and their carers are involved

\(^5\) This list is not exhaustive
and supported in the discharge process’ and that ‘the involvement of individuals, carers and family/representatives is an integral and essential part of admission, transfer and discharge management’ many carers continue to report that their experience of hospital admission and discharge is poor.

4.2 To create sustained and consistent improvement, which we believe would benefit both carers and those they care for, hospital discharge planning must begin at the point of admission with the full and active involvement of carers. Discharge planning must take account of the level of care that carers are willing and able to provide (if at all) and should put in place additional support or replacement care where required. The policy memorandum recognises that hospital discharge is a point at which an adult carer support plan might require review, which indicates recognition that discharge is a process which can be stressful for the carer and the person they are looking after. The provisions in Section 27 to take carers’ views into account when determining services to provide for the cared for person, would also be strengthened by introducing provisions around hospital discharge planning.

4.3 In addition to including a duty on health boards to inform and involve carers in hospital admission and discharge procedures, we believe the role of health needs to be further strengthened within the Bill. There have been many positive outcomes arising from Carer Information Strategy funding, including early identification of carers, the signposting of carers to support organisations and an increased awareness of the needs of carers amongst health professionals, with nearly £28m of funding allocated since 2008. In addition, funding has been awarded to carer support organisations to employ specialised staff like hospital discharge liaison workers, dementia support workers and older carer support workers. It is important to continue to build on this best practice and to strengthen the Carers Bill in relation to the ongoing role of health in identifying carers and providing them with appropriate information, signposting and support.

4.4 In line with Shared Care Scotland, we are disappointed the government has decided not to take this opportunity to introduce a specific duty around short breaks. The general duty to support does not tackle directly the need for local authorities to actively plan to improve the availability, choice and flexibility of short break provision. With reference to the duty to ‘consider’ whether support should take the form of a break from caring, it is not clear how this might be interpreted. We would prefer that those eligible for support should be given a quantified, minimum entitlement to short breaks, which would be recorded in their Support Plan or Young Carers Statement, and which would be made available through the different self-directed support options. Eligibility criteria and how these relate to the levels of short break support available should also be clearly explained in the Short Breaks Statement.

4.5 We are concerned that the impact on carers’ centres and the wider third sector has not been fully recognised within the Bill. The additional duties on
local authorities to provide carers with information and advice and to support carers who meet eligibility criteria will inevitably result in an increase in the number of carers identified and a corresponding increase in demand for services. Previously hidden carers will begin to seek early and preventative support and as the majority of these carers will not meet eligibility criteria, it is likely that they will access universal support services provided by the third sector. The assertion in the financial memorandum that the Bill will not lead to direct costs for the third sector seems flawed; third sector services are already facing significant pressures due to changes to funding the impact of welfare reform (amongst other issues) and the wider policy context in which they operate. Although the need for additional resources is recognised in the Bill, it will require more than transformational costs for systems and processes. Resourcing for the third sector to improve their capacity will be required in order for carers to be identified and supported.

4.6 The Bill’s requirement for local authorities to involve and consult carers and carers’ services in the preparation of local carers’ strategies will also impact on the third sector. Whilst we welcome this focus on carer involvement, carers require support and resources to enable them to participate meaningfully and carer organisations require dedicated resources to deliver this support. Further capacity building will need to be undertaken to support carers and the third sector to engage in more effective ways when preparing local carers’ strategies.

Carers Trust Scotland
Carers (Scotland Bill):

Equality and Human Rights Commission

1. Introduction and Background

The Equality and Human Rights Commission is the National Equality Body (NEB)\(^1\) for Scotland, England and Wales, and works to eliminate discrimination and promote equality across the nine protected grounds set out in the Equality Act 2010: age, disability, gender, race, religion and belief, pregnancy and maternity, marriage and civil partnership, sexual orientation and gender reassignment. We are an “A Status”\(^2\) National Human Rights Institution (NHRI)\(^3\), and share our mandate to promote and protect human rights in Scotland with the Scottish Human Rights Commission (SHRC).

The Commission welcomes the Carers (Scotland) Bill and the opportunity to comment on its general principles. There are currently 660,000 carers in Scotland, and demographic changes mean this figure is expected to rise to 1 million by 2035. Currently a quarter of a million people in Scotland juggle caring responsibilities with work responsibilities. 75% of carers report that their caring responsibilities have had a negative impact on their health, and the same figure experience financial hardship. The estimated annual value of unpaid carers’ contribution to the Scottish economy is more than £10 billion\(^4\).

At the same time, evidence points to caring responsibilities falling disproportionately on individuals and groups who share one or more protected characteristic. For example:

- For every age group under 75, women are more likely to be carers than men\(^5\).
- 22% of younger carers (aged under 25) have a long-term condition or disability. This is twice the rate for non-carers (11%)\(^6\).
- Black and Minority Ethnic (BME) carers are less likely to be receiving practical and financial support with caring and more likely to miss out on accessing support for longer – often as a result of a lack of appropriate advice and information and struggling to access culturally appropriate services\(^7\).

\(^1\) www.equineteurope.org/-Equality-bodies-
\(^2\) www.ohchr.org/Documents/Countries/NHRI/Chart_Status_NIs.pdf
\(^3\) www.ohchr.org/en/countries/nhri/pages/nhriremain.aspx
\(^4\) All figures from Carers Scotland: www.carersuk.org/scotland/news/facts-and-figures
\(^6\) ibid.
\(^7\) Carers UK Policy Briefing, May 2014 www.carersuk.org/for-professionals/policy/policy-library/facts-about-carers-2014
The Commission’s comments should be read with reference to the requirements on public authorities under the Public Sector Equality Duty to:

- Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct;
- Advance equality of opportunity between people who share a relevant protected characteristic and those who do not;
- Foster good relations between people who share a protected characteristic and those who do not.

The duty aims to ensure that public authorities and those carrying out a public function consider how they can positively contribute to a more equal society through advancing equality and good relations in their day-to-day business, to:

- Take effective action on equality;
- Make the right decisions, first time around;
- Develop better policies and practices, based on evidence;
- Be more transparent, accessible and accountable;
- Deliver improved outcomes for all.\(^8\)

Key public authorities including Local Authorities and Health Boards, are subject to the specific devolved equality duties which set out the steps they must take to meet the requirements of the general duty\(^9\), which include the requirement to set equality outcomes (using evidence gathered from the involvement of groups who share one or more protected characteristic) and to assess the equality impact of any proposed new or revised policy.

Given the evidence of the disproportionate financial burden on carers, and the negative impact caring responsibilities can have on carers’ health, it is also important to remind the committee of relevant international human rights obligations. Particularly relevant is the International Covenant of Economic, Cultural and Social Rights (ICESCR)\(^10\): as a state party to ICESCR, the UK has undertaken – “to the maximum of its available resources” (Art 2) to progressively achieve the full realisation of the rights contained in the convention. These rights include:

- the right of everyone to an adequate standard of living, and to the continuous improvement of living conditions (Art 11)
- the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (Art 12)

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\(^9\) [www.scotland.gov.uk/Topics/People/Equality/PublicEqualityDuties](http://www.scotland.gov.uk/Topics/People/Equality/PublicEqualityDuties)

\(^10\) [www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx)
Comments on the Bill

Given the equality and human rights considerations outlined above, the Commission would have welcomed the timely publication of a comprehensive equality impact assessment to accompany the Bill upon publication\(^\text{11}\). At the time of writing (mid-April 2015) it is not available. We do however note the brief comments on equality and human rights implications in the accompanying policy memorandum.

**Part 1:** In line with other pieces of devolved legislation with major equality and human rights implications – for example, the Adults with Incapacity (Scotland) Act 2000, the Mental Health (Care & Treatment) (Scotland) Act 2004, and the Adult Support and Protection (Scotland) Act 2007 – the Commission would welcome the inclusion of a set of principles on the face of the Bill. These might include (among other areas):

- respect for the dignity and autonomy of the carer and cared-for person
- respect for the particular needs of carer and cared-for persons who share one or more protected characteristic, of the and the need for appropriate, tailored support and services to meet those needs
- taking account of the views of the carer and cared-for person
- the maximum involvement of the carer and cared-for person at every stage
- maximum benefit for the care and cared-for person

**Part 2:** As currently drafted the Bill does not place an absolute duty on local authorities to prepare support plans or young carers’ statements. The provisions in Part 2 only apply where the local authority has made an offer (and that offer is accepted) or where a plan is requested by the carer. These provisions should be strengthened to place responsibility on the local authority to make carers aware of support plans and how they can be requested. Without this, some carers, for example those with a learning disability, may be less able to take up the provision of a support plan. The same may be the case if the carer’s first language is not English. A responsibility to inform should also take account of carers from communities who have historically faced disadvantage and discrimination in accessing public services, for example Gypsy/Travellers.

As already mentioned, there is a wealth of evidence on the financial and health burdens borne by carers, and of the disproportionate caring burden faced by people who share one or more protected characteristic. Given this, it is important that identified outcomes and needs achieve more than simply enabling “carers to provide or continue to provide care for cared-for persons” (4 (1)). Rather, any regulations produced under the provisions at section 7

11 Best practice would recommend a combined equality and human rights impact assessment.
should aim to ensure an outcome where carers “continue to provide care for cared-for persons” in a manner consistent with the kinds of equality and human rights principles outlined above: that is, where dignity, autonomy and choice are protected, and the emphasis is on thriving, not simply surviving.

**Part 3:** Early evidence suggests inconsistency in local eligibility criteria is one of the principle concerns with the implementation of the Social Care (Self-Directed Support) (Scotland) Act 2013\(^\text{12}\). The Commission would be anxious to avoid any repeat with the development of local eligibility criteria for Carer Support Plans and Young Carer Statements. We would expect local authorities to develop local eligibility criteria in light of their equality outcomes (and the evidence gathered in developing these). More broadly, eligibility criteria must be developed with reference to the requirements of the Public Sector Equality Duty, and the types of equality and human rights principles which we believe should be on the face of the Bill.

Where carers do not meet local eligibility criteria, there should be a requirement to inform or assist the carer to access other forms of support. Again, failure to do so may disadvantage some carers who share one or more protected characteristic, and who may have particular communication needs or to receive information in a culturally appropriate way. Section 22(4) (b) enables a local authority to offer discretionary assistance to meet ineligible needs but, again, they will have a responsibility to ensure that any such assistance is offered in a way which does not disadvantage any carer or cared-for person who shares one or more protected characteristic.

**Part 5:** the Commission welcomes the requirement for each local authority to prepare a carer strategy. However, we would like to see a requirement for strategies to have regard to the kinds of equality and human rights principles outlined above. As well as assessing unmet demand in their areas (28 (20 (d)) the strategy should require consideration into the demand for services and support appropriate to carers and cared-for persons who share one or more protected characteristic. Again, evidence gathered in the development of the local authority equality outcomes should be able to inform this process.

**Part 6:** provisions for information and advice for carers covering areas such as rights, advocacy, training, health and wellbeing are very welcome. It is important to emphasise though that this information and advice must be tailored to meet the particular communication, linguistic and cultural needs of carers and cared-for people who share one or more protected characteristic.

**Conclusion**

The Commission welcomes the opportunity to comment on the Bill, and supports its policy intentions. However, we would like to see a clearer emphasis on the equality and human rights dimension to the legal and policy priorities for carers and cared-for people in Scotland, with clear reference to the domestic law – and international obligations – against which the Bill

should be read. In particular, we would welcome more information on how the bill will meet the needs to carers and cared-for people who share one or more protected characteristic, and the importance of the devolved specific equality duties in framing public authorities’ approach.

Equality and Human Rights Commission
Carers (Scotland) Bill

CHILDREN 1ST

For 130 years, as the RSSPCC and now as CHILDREN 1ST, we have campaigned for every child in Scotland to enjoy a better start in life and for no child to grow up in fear of abuse and violence. We will continue to be a strong public voice for vulnerable children and young people in Scotland, listening to them, to influence public policy and attitudes. Then, now and for another 130 years, as long as Scotland's children need us.

CHILDREN 1ST provide a young carers service in Midlothian, which delivers support to young people who care for someone at home. Our service caters for young people aged seven to 18 and provides support and advice tailored to their individual needs. We know that many young people have different experiences of looking after someone else in the family, some see it as a normal part of family life whilst others don’t want to be identified as a ‘young carer’ for fear of stigma, or being labelled and treated differently.

CHILDREN 1ST also provides the National Kinship Care Service, which provides a helpline, information and advice to kinship care families. In a recent survey with 177 children and young people in kinship care 8% said they would like support to help them care for their family members1.

We believe that all those with caring responsibilities should be supported to live full and happy lives and that their rights should be respected in line with international conventions such as the United Nations Convention on the Rights of the Child (UNCRC). We therefore welcome the introduction of the Carers (Scotland) Bill and its aim to extend and enhance the rights of adult and young carers in Scotland by empowering them to exercise their rights. We hope that this Bill will help to identify young carers to ensure that they are provided with the appropriate care and support that they need.

General comments

We welcome and support the assertion that protecting the rights of carers and young carers should be at the centre of this legislation. In line with this we believe that a Child’s Right’s Impact Assessment should be conducted on this Bill to identify the key areas that will impact on children’s rights and to ensure that there are no negative unintended consequences.

CHILDREN 1ST supports the Scottish Youth Parliament’s call for the definition of “young carer” to be extended to account for young carers who are 18 and over but in a different education setting such as further education, in a modern apprenticeship, or on an activity agreement.

The Bill currently defines “personal outcomes” for carers in relation to their ability to provide care. CHILDREN 1ST calls for the definition of personal

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1 Consultation with children and young people in kinship care 2014
outcomes to be rights- based and attuned to carer’s personal outcomes and needs outwith their caring role.

We would also welcome clarification from the Scottish Government relating to how the local eligibility criteria set by each local authority will be monitored so that carers receive support based on need rather than resource. We are concerned that leaving local authorities to determine their own individual assessments and criteria will lead to inconsistencies in service provision between local authorities.

**Links to other relevant legislation**

Particular attention should be paid to how the Carers (Scotland) Bill will link to the implementation of the Children and Young People (Scotland) Act 2014. The intention of the Act is to place GIRFEC in statute and to streamline existing practice. It is therefore vital that the young carer statements set out in the proposed Bill, which will identify the needs and support to be provided to young carers, is clearly linked to the provisions for a Child’s Plan set out in Part 5 of the Act. We do not think it is appropriate to start developing processes to support young carers that run parallel to the provisions in the Act and would therefore welcome clear links in the statutory guidance for Parts 4 and 5 of the Children and Young People (Scotland) Act and any proposed guidance for the Carers (Scotland) Bill in terms of provision for young carers.

We would also welcome clarification relating to how the support needs of young carers that will be set out in young carer statements will be resourced and what training and information will be given to the Named Person with respect to the new measures set out in the Bill. The Named Person Service has an important role to play in the identification of young carers and in providing information and advice about the support they are entitled to receive. Training is therefore an important part of ensuring that these new provisions operate effectively.

Given that the Bill intends to further the rights of both adults and young carers we would also welcome clarification of how this links to Part 1 of the Children and Young People (Scotland) Act 2014, which sets out duties with respect to the rights of children. This is particularly relevant with respect to section 1(2) of the Act, which places duties on public authorities to report what steps they have taken to secure better or further effect of the UNCRC requirements.

We also urge the Committee to consider how new support provisions for carers and young carers in this Bill will link with the new assessment for support for some kinship care families who have a kinship care order which will be outlined in secondary legislation and guidance for Part 13 of the People Act.

Additionally, scrutiny of the Bill should also consider its integration with wider policy and legislation including the Public Bodies (Joint Working) (Scotland) Act 2014 and Social Care (Self-directed Support) (Scotland) Act 2013.
Kinship care
We are pleased that through regulations the Bill will allow kinship carers who have caring responsibilities for a disabled child or adult to be within the scope of the Bill's provisions of support. It is important to recognise there are a variety of legal kinship care arrangements in which either kinship carers or children in kinship care may have caring responsibilities.

Identification of carers
We are concerned that there are many carers in Scotland that are not recognised and that appear to be ‘under the radar’. Some studies estimate there to be over 100,000 young carers in Scotland—one in 10 of the school age population. We would therefore encourage the Committee to consider how provisions can be made to ensure that carers and young carers are identified appropriately, and that the changes contained within the Bill can be communicated to them.

CHILDREN 1ST

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2 [http://www.carers.org/scotland](http://www.carers.org/scotland)
Introduction

SCVO welcomes the opportunity to submit this briefing on the Carers (Scotland) Bill. At a time when carers and their families face a “double whammy” of service and welfare cuts, there are too many people facing crisis situations.

Key points:

- SCVO welcomes the Bill but seeks detailed consideration to the wider context in which the Bill is being introduced. The provisions in the Bill will need to connect with Self-Directed Support, integration of care, UK welfare reform, tackling inequalities, mental health, childcare, care charging and the employability agenda. The Bill must also be viewed through a devolution lens – how can the Bill and planned new powers for the Parliament work together to create more holistic support for carers?

- SCVO supports the work being done by carers groups and other third sector organisations to help shape and strengthen this Bill. SCVO is a signatory to the joint third sector statement on the Bill, led by the National Carers’ Organisations.

- The Bill needs to take specific account of the ‘preventative’ role of the third sector in supporting carers. As the ring-fenced funding for carers within the Change Fund comes to an end (outlined in Bill Financial memorandum), there are wider risks for third sector organisations that will be at the heart of implementing this Bill.

Recognising the wider context

We expect many third sector organisations will welcome the Carers (Scotland) Bill. It has one clear strength in that it aims to secure a clear, legal recognition for unpaid carers.

However, the Bill could be viewed as a sticking plaster on a broken social care system. The Bill must be viewed in the wider context of current, complex challenges which include:

- The roll out of Self-Directed Support which is masking cuts to care packages – in some cases, families’ choice and control over care and support is limited rather than being expanded. It can also place an additional burden on families who are left to identify provision sometimes without support to identify what will meet agreed outcomes.

- The inequity and unfairness of care charging has been highlighted by Carers’ and disability organisations, particularly for those families who may already be in poverty. Families are paying for care services, equipment and adaptations even where the state is responsible for providing these. Where people are receiving self-directed support, families have to supplement packages as allocated budgets do not fully meet their needs.
• Carers are increasingly facing crisis situations and breaking point battling bureaucratic and unresponsive systems. Research from a range of third sector organisations highlights that carers do not get anywhere near enough support to help them to stay well, to care safely and to maintain a life of their own outside of caring.

• There is an expectation that families can pick up the increasing gap in social care which is misplaced. Indeed Scottish Government analysis highlights an impending care gap. For many communities, these challenges exist alongside existing ill health or isolation. The current raft of devastating welfare reforms is perhaps the biggest risk in this regard.

• Disabled people and their families are affected by a range of cuts and have become more isolated as a result. Policy decisions are leading to increased inequality amongst key groups.

Given these challenges, as Carers Organisations and carers themselves highlight, the Bill will not on its own, and as it stands, fully deliver the government's aims or make a genuine difference to their lives.

However, there are opportunities to make the Bill stronger, if it is considered in conjunction with other policy and legislative developments:

• A wider debate on child care and access to childcare,
• An examination of how self-directed support strategies connect with support for carers
• A commitment to look more deeply at care charging and its longer-term impact
• Holistic support for carers to both remain in and find employment.

Joint third sector statement

Many organisations across the third sector have co-signed a joint statement on the Carers Bill which recognises the challenges above but which also seeks ways in which the Bill could be strengthened. This will have been submitted to the Committee by the National Carers’ Organisations.

The statement seeks changes around eligibility criteria, emergency planning for carers, personal outcomes and supporting carers to have a life outside of - not alongside - caring. In addition, the statement calls for a clear equality statement and action plan – with a specific focus on gender equality issues. There is also a strong call for the Bill to include a duty on hospital discharge.

SCVO also supports Enable Scotland’s proposals for better emergency planning for carers, and Marie Curie’s call for better identification and support for families experiencing terminal illness a well as automatic eligibility for family/care support. We also support calls to ensure the Bill reflects the principles which underpin the Self-Directed Support Act.
Ensuring prevention drives Carers Bill

Effectively tackling the issues outlined above requires us to go beyond the provision of specific services to people in need. Genuine prevention is critical to reducing demand for formal and more costly statutory interventions. The Christie Commission highlighted the importance of prevention and a focus on this and on tackling inequality formed the Commission’s road map for public service reform.\textsuperscript{xiv}

We believe the Bill’s driving principles should focus on tackling the inequality faced by carers and their families.

There is an increasing evidence base which shows the economic and social value of support to unpaid carers, demonstrating that it can prevent or delay statutory interventions and admission to institutional care.\textsuperscript{xv} The third sector often acts as an important channel for preventative community-based support, so SCVO would welcome a clear focus on prevention at the heart of this Bill.

The third sector as an equal partner

The joint third sector statement mentioned above demonstrates concern about the impact of the Bill on voluntary and community organisations. It says:

\textit{“Increased identification of carers and a duty to provide support to carers will mean that the third sector will experience additional demand on their services. We do not feel that third sector services, particularly dedicated carers’ services, have been recognised sufficiently as part of the duty to provide support to carers”}.

As with other financial memoranda, the impact on the third sector is not fully recognised, nor is it effectively funded. Whilst funding will help build the capacity of some in the frontline, it is not directed at supporting carers – the very reason many of these third sector organisations exist.

As outlined by the National Carers’ Organisations, local carers groups, condition specific groups and other relevant third sector organisations already operate in a challenging environment. SCVO’s own research shows that third sector funding from the public sector is down, and third sector organisations are adopting increasingly complex funding models and chasing multiple income streams in order to stay afloat.\textsuperscript{xvi}

The Carers Bill may see previously hidden carers looking for support. Add this to the emphasis on local eligibility criteria and it is possible that many carers will be screened out of statutory support and will turn to the third sector. The changes affecting statutory services as a result of this Bill affect the third sector in equal measure but it is not supported to weather those changes and respond to increased demand in the same way.

We would encourage the Committee to explore this impact further with the third sector.
Conclusion

SCVO welcomes the Carers Bill but the context in which it is being introduced is challenging and complex, especially for the very families the Bill seeks to support.

We ask the Committee to consider these wider, contextual issues as it moves through Stage 1. This needs to take into account the impact of social care cuts, integration of health and care, Self-Directed Support and welfare reform. These represent an increasingly complex array of policy which can add to the bureaucracy faced by carers, their families and the third sector organisations that support them.

Looking at the Bill in isolation from other policy and legislative changes, including competencies that may be devolved to Scotland, would be a missed opportunity to join up public policy – in ways suggested by the Expert Working Group on Welfare in its second report.\textsuperscript{xvii} SCVO would be happy to work with the Committee to explore the broader context and case for supporting carers and the organisations that support them can be reviewed.

Scottish Council for Voluntary Organisations
About us

The Scottish Council for Voluntary Organisations (SCVO) is the national body representing the third sector. There are over 45,000 voluntary organisations in Scotland involving around 138,000 paid staff and approximately 1.3 million volunteers. The sector manages an income of £4.9 billion.

SCVO works in partnership with the third sector in Scotland to advance our shared values and interests. We have over 1,600 members who range from individuals and grassroots groups, to Scotland-wide organisations and intermediary bodies.

As the only inclusive representative umbrella organisation for the sector SCVO:

- has the largest Scotland-wide membership from the sector – our 1,600 members include charities, community groups, social enterprises and voluntary organisations of all shapes and sizes
- our governance and membership structures are democratic and accountable - with an elected board and policy committee from the sector, we are managed by the sector, for the sector
- brings together organisations and networks connecting across the whole of Scotland

SCVO works to support people to take voluntary action to help themselves and others, and to bring about social change.

Further details about SCVO can be found at [www.scvo.org.uk](http://www.scvo.org.uk).

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1 Explanatory notes and other documents, page 30
2 http://www.ldascotland.org/docs/The%20Start%20SDS%20report%20January%202015.pdf
3 http://www.scotlandagainsthetcaretax.org/index.php/the-issues
9 http://www.gla.ac.uk/media/media_296141_en.pdf
12 Joint third sector position statement on Carers Bill.
13 Carers (Scotland) Bill – Call for Views. Marie Curie, April 2015
14 http://www.scotland.gov.uk/Publications/2011/06/27154527/10
15 http://www.carers.org/news/value-carers-services-pub-%C2%A3814m-year
17 http://www.gov.scot/Publications/2014/06/7760
Carers (Scotland) Bill

RCGP Scotland

The Royal College of General Practitioners (RCGP) is the academic organisation in the UK for general practitioners. Its aim is to encourage and maintain the highest standards of general medical practice and act as the ‘voice’ of general practitioners on education, training and issues around standards of care for patients.

The College in Scotland came into existence in 1953 (one year after the UK College), when a Scottish Council was created to take forward the College’s interests within the Scottish Health Service. We currently represent over 5100 GP members and Associates in Training throughout Scotland. In addition to a base in Edinburgh, the College in Scotland is represented through five regional faculty offices in Edinburgh, Aberdeen, Inverness, Dundee and Glasgow.

Answers to Questions

1. Do you support the Bill?

The principles which underpin this legislative process, to comprehensively support both adult and young carers, are supported by RCGP Scotland. The following link is offered as evidence of RCGPs policy to support carers and to provide resources which align to the content of this Bill: RCGP policy.

2. What do you feel would be the benefits of the provisions set out in the Bill?

The clear direction to local authorities on the duty of care to carers as set out within the provisions of the Bill would be a benefit. Carer support plans, which meet clearly identified needs of carers, offered to, and at the request of, carers, would be a second benefit. The opportunity for carers to contribute to decisions on the delivery of services would be a third obvious benefit.

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

RCGP Scotland has no specific recommendations for amending this Bill.

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

RCGP Scotland has no specific recommendations for adding to this Bill.

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

RCGP Scotland makes no specific recommendations to remove anything from this Bill.

Dr Elaine McNaughton
Deputy Chair (Policy)
RCGP Scotland
Inclusion Scotland

Inclusion Scotland is a national network of disabled people’s organisations and individual disabled people. Our main aim is to draw attention to the physical, social, economic, cultural and attitudinal barriers that affect disabled people’s everyday lives and to encourage a wider understanding of those issues throughout Scotland. Inclusion Scotland is part of the disabled people’s Independent Living Movement.

In a response to the Consultation on the Draft Carers Bill last year, National Disabled People’s Organisations made the following joint statement:

We welcome and support legislation for carers. Changes in legislation affecting carers will impact on disabled people and others who are ‘cared for’. Decisions on carers’ legislation cannot be take in isolation. It is in this context we contribute to this consultation.

Disabled people and their directly accountable organisations call upon the Scottish Government to take account of:

- The representation of disabled people by Disabled People’s Organisations when developing and implementing carers’ legislation
- How changes in carers’ legislation may impact on disabled people and their social care and support
- Ways to ensure equity between service users’ and carers’ social care and support
- How statutory and non-statutory eligibility criteria would impact on disabled people and carers
- The impact of charges on service users and carers; and
- Portability of social care packages for service users

This submission examines the extent to which the published Bill meets the aspirations of disabled people as set out in this statement.

1 Do you support the Bill?

1.1 As stated above, DPOs welcome and support the general principles of the Carers (Scotland) Bill. Carers providing unpaid support have a crucial role to play in the way we provide social care and support as a society and any legislation to support them will impact on disabled people.

1 Disabled people have defined Independent Living as: “Disabled people of all ages having the same freedom, choice, dignity and control as other citizens at home, at work and in the community. It does not mean living by yourself or fending for yourself. It means rights to practical assistance and support to participate in society and live an ordinary life”. This definition has been endorsed by the Scottish Government, NHS Scotland and COSLA in “Our Shared Vision of Independent Living In Scotland” http://www.scotland.gov.uk/Publications/2013/04/8699

2 Inclusion Scotland, Independent Living in Scotland project (ILIS) and Self-Directed Support Scotland (SDSS)
people. To face the significant challenges ahead, the progression of social care and support in Scotland needs to be co-produced with disabled people and carers.

2 What do you feel would be the benefits of the provisions set out in the Bill?

2.1 For those people who use it – including disabled people – social care and support is an example of the essential practical assistance and support needed to participate in society and lead an ordinary life. Without such support, disabled people and other social care users cannot enjoy their human rights on an equal basis to non-disabled people. As such, social care is an essential infrastructure for the equality and human rights of disabled people and others who use social care and support.

2.2 Disabled People’s Organisations welcome proposals to provide support to carers. This needs to be in the context of the primary purpose of care and support which is to provide practical support to enable the “cared for person” to participate in society and live an ordinary life. We recognise the carer too should be supported to participate in society and live an ordinary life.

2.3 In many cases the cared for person will prefer to receive care from their partner or relative, and that the partner or relative will prefer to provide the care. However, it can also be the case that the partner or close relative takes on the functions of a carer because there is been no adequate or affordable social care package available. Unpaid care in this context becomes a compulsion out of necessity, not a choice.

2.4 It can be difficult to detect when the balance between choosing to have support from a partner or close relative who willingly provides some support switches to reliance on them as a full-time carer changes. The impact this change has on the personal relationship between the carer and the “cared for” person can be profound. The carer/ cared for relationship has to be freely chosen by both parties, if it is not to be to the detriment of both. Improving support for informal carers must not become seen as an alternative to adequate investment in social care services/ packages provided directly to the “cared for” person.

2.5 Inclusion Scotland has frequently highlighted the crisis in social care which has seen the focus moved to meeting only critical and substantial need. This leaves many people who may need only a little bit of support to stay in their own homes, for example some help to get dressed, without any support.

2.6 In addition to managing demand through higher criteria for people to receive social care, local authorities have increased the amount disabled people are charged to receive those services. Scottish Government figures show that over the last three years, care charges throughout
Scotland have risen on average by 12%. Increases by some local authorities have been far more than that.

2.7 This leads to an increased reliance on unpaid carers, mostly women, who may have no choice but to give up work.

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

3.1 Inclusion Scotland supports a human rights based approach to public policy, and would welcome the inclusion of underlying principles of choice, dignity and control in the Bill, consistent with the principles adopted for health and social care integration (in the Public Bodies (Joint Working)(Scotland) Act 2014) and for Self-directed Support (Social Care (Self-directed Support)(Scotland) Act 2013).

3.2 We agree with the “Carers (Scotland) Bill – Third Sector position statement” prepared by seven national carers organisations (NCOs) that the meaning of “personal outcomes” in Section 4(1) is too narrowly defined referring only to enabling the carer to provide or continue to provide care. Personal outcomes should also refer to the carer’s right to a life outside of caring, or indeed not to provide care at all. Inclusion Scotland also believes that the personal outcomes of the “cared for” person also need to be taken into account, in particular the right to independent living and to freedom, choice, dignity and control.

3.3 It is important, therefore, that the carers support plan, whilst addressing the needs and aspirations of the carer, also takes account of the needs and aspirations of the “cared for person”. The best way to achieve this is to ensure that social care and support packages and carer support plans are developed together in co-production with the carer, the “cared for person” and the statutory authorities, with the aim of supporting independent living for both parties.

3.4 DPOs have long argued for national standards in criteria, eligibility and assessment for social care, for disabled people and for carers, and support the NCO Statement on this issue. National criteria would ensure a fair and equitable application of social care and support across Scotland.

3.5 Although there is national guidance on eligibility criteria – critical, substantial, moderate or low – each local authority can set its own definition of these criteria and what, if any, the level of support it will provide. This has led to significant inconsistency in the support and care packages available to disabled people in different local authority areas.

3.6 Whilst we recognise that there may be good reasons to provide support in different ways to meet local needs and circumstances, we can see no logical reason why the eligibility criteria for support should vary from area to area. We therefore believe the Bill should be amended to require the Scottish Government to set national eligibility criteria for both carers and the “cared for person”.

3
3.7 Article 19 of the United Nations Charter on the Rights of Disabled People (UNCRPD)\(^3\) established that disabled people have a fundamental right to independent living and inclusion in the community, including access to a range of in-home, residential and other community support services. DPOs believe that charging for social care goes against the human rights of disabled people.

3.8 Inclusion Scotland notes that s24 of the Bill extends the power of local authorities to charge for support to carers. We also note that the paragraph 98 of the Financial Memorandum states that “it is fully expected that regulations will be made to waive charges for support to carers”. This seems an illogical approach. Would it not be better to state in the primary legislation that support for carers under the Bill will not be charged?

3.9 We support services to carers should be provided for free, but believe that this principle should also apply to all social care service users. There is an inconsistency in the proposal that services provided to a carer as part of a carer’s support plan will be free, but those supplied to the “cared for person” as part of a social care package may be charged for.

3.10 Indeed, the Bill recognises that the carer’s needs could be met (wholly or partly) by the provision of services for the cared for person. This could lead to the perverse situation where a social care service is provided free to one person as part of a carer’s support plan but charged for when provided to another person as part of a social care package. Waiving charges to carers only, could result in a (perverse) incentive for families to choose unpaid care where they may have otherwise chosen to have support provided direct to the cared for person.

3.11 This will add to the inconsistency and injustice that already exists, for disabled people and that will be further complicated by health and social care integration which will lead to integrated packages that may have some services which are free (health) and some that can be charged for (social care).

3.12 One further concern is that as Carer Support Plans will be statutory, they will take precedence over social care packages, which are discretionary, when allocating budgets. Social care packages have already been squeezed as a result of budget cuts, leading to higher eligibility criteria, cuts in individual care packages and charges increasing well in excess of inflation.

3.13 We are concerned about the term “cared for persons” which can imply that the person receiving care is a passive recipient of that care, rather than an equal partner, with the carer and the statutory authorities. We note that there is an inconsistency of language between Health and

\(^3\) [http://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx#19](http://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx#19)
Social Care Integration (service users) Self-directed Support (supported persons) and this Bill (cared for persons) which could lead to confusion.

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

4.1 In its consultation on the draft Carers legislation last year, the Scottish Government recognised that “there are issues to be addressed about the portability of assessment, primarily for service users”. Despite the consultation confirming that this is a “significant issue”, no proposals have been brought forward to address this issue beyond “the Scottish Government and COSLA working together to improve portability of assessment”.  

4.2 Service users and our member organisations tell us that portability is a substantive issue in the continuity of care and support across Scotland.

4.3 Continuity of care and support for disabled people who relocate to another local authority is essential. However, at present the rules that determine who will pay for care and support when someone moves from one local authority area to another:

- are confusing;
- are unclear on roles and responsibilities
- are largely open to wide interpretation and thus applied variably and with huge amounts of discretion that can leave the individual with uncertainty on what to expect give no direction on how long it might take; and
- offer no protection of levels of support or type of service

4.4 To be consistent with the policy intentions for a joined up, seamless and efficient system of health and social care support, disabled people believe health and social care legislation must be amended to place duties on local authorities to work together to ensure that when both carers and disabled people move, they have equivalent care and support in place on arrival.

4.5 Given experience to date of the extremely slow progress on social care charging, DPOs believe that the Scottish Government and COSLA working in coproduction with DPOs and Carers organisations is likely to be a more effective way to develop the legislative framework to address the issue of portability.

4.6 There does not appear to be any provision in the Bill for a carer to challenge any decisions of local authorities in respect of any aspect of the Adult Care Support Plan or Young Carer’s Statement.

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4 Scottish Government Response to ‘Carers Legislation - Consultation on Proposals - January 2014’
http://www.gov.scot/Publications/2015/03/2211
4.7 DPOs have consistently called for an independent and impartial social work complaints system to allow individuals to challenge local authority decisions regarding their eligibility for social work services, including self-directed support, social care packages, health and social care integration, and care charges.

4.8 Despite assurances given to the Health and Sport Committee in October 2013 by the then Cabinet Secretary during the passage of the Public Bodies (Joint Working) Act, that proposals for a new social work complaints system would be published by the end of that year (2013), there has been no progress on this. DPOs remain ready and willing to work with the Scottish Government and COSLA to coproduce a social work complaints system.

5 Conclusion

5.1 Inclusion Scotland do not object in principle to establishing a statutory duty to support carers, but there is a need to ensure that this is consistent with the support provided to disabled people. Disabled people need to be equal partners in coproducing their own care plans and carer support plans to ensure that the personal outcomes for both the carer and the “cared for person” are supported.

5.2 However, the policy objectives of the Carers Bill will not be met whilst there is a funding crisis for social care that leaves many disabled people unable to access the services they need to support independent living. This leaves families, cared for people and many carers with no real choice in whether or not they are willing or able to accept or provide unpaid care or the amount of that care.

Inclusion Scotland
Carers (Scotland) Bill

Dumfries and Galloway Council

1. Background

On receipt of this call for views on the Carers (Scotland) Bill – Stage 1 consideration by the Scottish Parliament Health and Sport Committee, a mini consultation was held between the 7th – 17th April. The 83 key consultees included our Carers Reference Group, Carers Interest Network (a group of service providers commissioned to deliver Carer support services) and other stakeholders (NHS and Social Work). We acknowledge this was a very tight timescale and over the Easter break. There was a 9.6% return rate. We have used comments from our colleagues within this paper, but many key concerns are from the Council’s viewpoint.

2. Do you support the Bill?

There is overwhelming support for the Bill from across respondents from all sectors, however, within social work there is an awareness that this is a bringing together of legislation – much of which already exists (although as ‘powers’ rather than ‘a duty’ - “Duty is a great improvement from powers when looking at Carer issues”).

The Carers (Scotland) Bill leaves this Council in a real dilemma. We recognise the current and increasing demand on Carers and the need to support them to want to take on, and continue in, the role of caring. Indeed, there is a real desire to support Carers as fully as possible as reflected in the joint Carers Strategy for this region. However, we are not alone in that as a Council and a social work department we are under severe fiscal restraints: managing budgets to support people with increasing complexity of need, impact of a growing older population and increased expectations by Carers themselves and Carer support organisations.

The introduction of a universal entitlement by removing the current eligibility criteria to assessment (support planning) for Carers (substantial and regular) without fully understanding the resource implications is of great concern to us at a time when we are under enormous fiscal pressure and despite the promise of funding to support implementation of the legislation. We do not know how many Carers may come forward for a support plan. In fact, we are not fully aware of how many Carers live in this region – we only know the number of Carers who self-identified themselves in the 2011 Census (14,000). We are not confident the predictions for numbers of Carers in future years will accurately reflect the reality, nor of the Scottish Government’s predictions in uptake of the ACSP over the coming years. This could mean that social work will have to direct scarce resources because of legislation rather than to the cared-for person through assessed need.

This Council expects support planning to be an iterative process that reflects the ‘Carer journey’. We expect this may take longer than the previous Carers Assessment. At the moment we do not have any idea what timescales we will
be working to with Carers to ensure a meaningful support plan is co-developed with them, nor the uptake of developing ACSPs through self-developed planning (ie e-ACSPs).

At a time when co-production of plans under SDS are fully expected, we are disappointed that the ACSP in particular is not held by the Carer themselves (as with many hand held medical records) and also subject by legislation to review.

Comments from respondents include:

- “In times of austerity this bill does raise some major challenges how we plan and support an increasing number of carers and young carers over the next 10-20 years and beyond”

- “With regard to Carers having protected characteristics and consideration being made of their needs because of this - is this not encompassed for everyone under the Equality Act 2010?”

While we welcome the potential to raise the profile of Young Carers within the legislation, and the value of planning through transition from Young Carer to adult Carer, we wonder whether this has not already been addressed within GIRFEC with the potential for two support plans to be developed for a Young Carer and the risk of not seeing the whole picture for that young person. Furthermore, the word ‘Statement’ feels judgemental and not as helpful as ‘support plan’.

We know that many Carers refuse a Carer Assessment because of concerns on the overall impact on the family (often a joint) budget. The proposed Bill does not necessarily remove this fear. The duty on local authorities to provide support to Carers where local eligibility criteria (to be set by local authorities) are met, implies that this is not already in place and available to the public. It may also create confusion to Carers who will understand that an ACSP will be free, but not that support services may require them meeting eligibility criteria.

Concerns have been raised among Councils over section 3 of the SDS Act (Waiving of Charges to Carers) which would include the provision of short breaks. The main concern, shared by this Council, is determining who is the main beneficiary of the short break, although there is complexity around this issue with many Carers being unable to take advantage of the short break due to poverty due to being in the caring situation (ie having to give up work) or because the cost would come from a joint family budget that would barely stretch for the respite bed, let alone the Carer having a short break too. The cost of providing even a minimal fund to a limited number Carers (ie all those caring for more than 50 hours a week) for short breaks would cost over £1m in this Council area.

This Council has sympathy with CoSLA’s views on the Carers (Scotland) Bill and question the need for the high level of detail on what would be considered operational matters within the Bill.
3. What do you feel would be the benefits of the provisions set out in the Bill?

We had a number of responses from the consultation – comments that sum up the general repose:

- “The Bill goes a considerable way to ensuring that Carers are supported by rights, within a comprehensive piece of legislation, as individuals in the same way as other groups”

- “The Bill sets out to ensure an improved and consistent approach to support Adult and Young Carers, should they wish to continue, in their role as a Carer”

While we see the potential benefits of Carers legislation as expressed above, this Council remains concerned about overall impact of the introduction of this legislation on workforce capacity and financial cost.

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

A number of interesting and valid points were raised by respondents:

- The recognition that Carers legislation requires to link with wider policy review and reform was supported, with recognition that the needs of, and support for, carers cannot be addressed solely through health and social care policy - requiring a holistic approach which takes in consideration wider social and economic determinants e.g. employment, education, welfare and social security and poverty. It was noted that “The requirement to appropriately fund and resource the implementation of the Bill will be key in achieving its outcomes”.

- Most of the duties within the Act are focused on Councils. Some disappointment was expressed with regard to the lack of duty to involve Carers in hospital admission and discharge processes. While Integration might address some of this, this duty may have rested with the NHS and may have given more weight to involving Carers - particularly where Carers are expected to provide a level of care at discharge and those Carers who otherwise might not come into contact with social work services.

- Disappointment was expressed on the lack of reference to Advocacy for Carers. This is particularly of concern for those Carers who are caring for someone who is subject to legislation – and has been missed within the Mental Health (Care and Treatment) (Scotland) Act 2003. This is equally true of the few ‘forensic Carers’ who may also have the above and Criminal Justice proceedings to contend with too. Therefore Carers in these circumstances feel that they would benefit from Advocacy to support their own needs. Currently under Mental Health legislation – advocacy is a right as standard to the ‘Named Person’ while the Carer has no rights and this highlights the inequity of the participants within a mental health tribunal setting for instance.
As a local authority that borders with England and Northern Ireland, clarification of those who are caring for someone across a national border and who will provide the support is required. It is very common to have people providing care from this area to family members who are not within Scotland – sometimes they are just in the next village – but if this is across a border different legislation will apply and different criteria for the provision of care.

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

No – although many aspects of what is currently within the Bill, perhaps could become Guidance?

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

This Council reiterates genuine support for Carers and recognises the valuable role they currently have in the delivery of care – currently and into the future. Various pieces of legislation have been pulled together into a full and comprehensive piece of legislation directed solely at Carers and this brings into focus the vital role that they have, with other providers, in the delivery of care.

As a rural Council we have particular challenges in supporting Carers across the region – particularly those in the more remote parts of the region. We, with our partners within the statutory and other sectors, are working toward changing the culture within our workforces. We recognise that we all at some time in our lives will take on the rewarding, but often challenging, mantle of caring for family or friends and we ourselves would expect to be included and respected as equal partners in care – behaviours that Carers should expect.

A specific outcome related to Carers is included within the Public Bodies (Joint Working) (Scotland) Bill and at strategic and Locality levels we are working to achieve this across the region.

Dumfries and Galloway Council
The Carers (Scotland) Bill: addressing the challenges of supporting carers in rural, remote and island communities

On the 9th of March 2015 the Scottish Government introduced The Carers (Scotland) Bill to Parliament which sets forward a range of provisions to extend new rights and entitlements to carers and young carers. The Bill includes legislative measures in areas such as carers assessments, information and advice, support and short breaks.

The Challenge of Supporting Carers

Carers are not a homogeneous group. They are all ages, from all sectors of society and they look after people with differing needs. It is therefore a challenging task to introduce legislation which will take into account such a range of requirements. In addition, some caring communities require specific consideration, because they are particularly isolated or difficult to reach. This includes carers from rural, remote and island communities.

This paper looks specifically at the challenges of supporting carers living in rural, remote and island communities and seeks to offer solutions on how the Carers (Scotland) Bill can address these issues, ensuring these carers have equal access to provision and are not disadvantaged by geography.

This paper has been developed by The Coalition of Carers in Scotland’s Rural Working Group, made up of representatives from Shetland, the Western Isles, Argyll and Bute, the Borders, Perthshire and Stirlingshire. It also includes statistical information from the Carers UK report *The State of Caring 2014*, which brings together information from a survey of 5,000 carers across the UK. The statistics in this briefing paper are based on the responses from carers living in rural communities in Scotland who completed the survey.

Challenges for carers in rural and remote communities

The need to take into account the impact of living in a rural and remote area is recognised in the Carers (Scotland) Bill

135. The matters to be specified in regulations which local authorities must have regard to when setting local eligibility criteria would be subject to consultation. **It could be the case that the matters should include consideration of the impact of remoteness and rurality when setting criteria.** The Scottish Government would not want to pre-empt the consultation and it would also be helpful to take the views, prior to consultation, of carers living in remote and rural areas including island communities. **It would be important, however, to consider the impact of geographical isolation on the cost of caring and the availability of support services.** (Policy Memorandum, Page 29)
The memorandum indicates that there are additional challenges in relation to supporting carers in rural and remote areas and that this impacts on the cost of providing services and their availability.

We are concerned about the ambiguity of the statement that regulations ‘should include consideration of the impact of remoteness and rurality when setting criteria’. The intention of these regulations may be to set eligibility criteria at a lower level for carers in rural and remote communities to compensate for the additional challenges carers’ face. However, it could equally be interpreted that eligibility criteria will be set higher to compensate for the additional costs of providing services.

In introducing new rights and entitlements the Carers Bill, must deliver equity for carers from all caring communities across Scotland. If eligibility criteria is set at a higher level for carers living in remote and rural communities this cannot be achieved.

Our position is that rural and remote communities require additional resources and more innovative approaches to ensure carers receive the same level of support as carers in more central regions.

Caring on the Margins, the Impact of caring in rural and remote communities

Carers from all communities consistently report that caring has an impact on their finances, their health, their employment prospects and their ability to have a life outside caring. In many instances these impacts are greater for carers living in remote and island communities.

Employment
While unemployment rates are lower in rural areas, carers can struggle to balance caring with employment, particularly as accessing services to support them is often more of a challenge

- 41% of respondents had given up work to care. ¹
- 14% had retired early
- 23% had reduced their hours.
- 14% had taken a less qualified job or turned down a promotion

The reasons carers gave for giving up work included:

- 67% said it was the stress of juggling work and care
- 38% said it was the lack of suitable replacement care services

Financial impact
The cost of living is often higher in rural and remote areas, with increased food, fuel and transport costs. This particularly impacts on carers due to the additional household costs of disability related expenditure

- 12% of carers said they cannot afford utilities like electricity and heating

¹ All statistics are from The State of Caring 2014, Carers UK, responses are from carers living in rural areas in Scotland
- 4% cannot afford their rent or mortgage
- 36% are in debt
- 52% are struggling to make ends meet
- 56% say financial worries are affecting their health.

**Increased social isolation**

Many carers face isolation, but in rural and remote areas this is compounded as there are fewer opportunities for social interaction. Often relatives do not live locally and neighbours are either elderly and housebound, or working and commuting.

Also, in many rural areas public transport is extremely restricted. For example, in Argyll and Bute there are no buses available after 5.30pm and none at the weekend making it difficult for carers to socialise and access services.

- 54% of carers reported that they have lost touch with friends and family
- 62% said that not being able to get out of the house so much had made them lonely and socially isolated

**Impact on health and wellbeing**

In addition to the physical strain of caring, all the aforementioned factors; juggling caring responsibilities with employment, financial worries and increased social isolation have an accumulative impact on carers’ health and wellbeing.

- 82% of carers said their health was worse since taking on their caring role
- 3% had had a breakdown
- 15% had to take time off work
- 56% were suffering from depression

**An Inequitable System – Support for carers in rural and remote communities**

We have shown how caring impacts on a personal level for people living in remote and rural areas. It also has an impact on the provision and availability of support.

**Transport**

- 67% of carers faced higher transport costs as a result of caring, and this is highest amongst parent carers of disabled children under 18 (76%) and sandwich carers (73%)

Transport costs are significantly higher in rural and remote areas due to the increased fuel costs and greater distances that must be travelled. For example, carers living in Fetlar or Unst who need to travel to services in Lerwick face a minimum 5 hour round trip, which involves 2 ferries and a lengthy car journey. For people without access to a car, travelling by bus, it takes substantially longer.
Where carers require a service in the home, such as replacement care to allow them to have a short break, workers often have to travel for several hours to reach people in remote areas.

In order to recuperate some of these costs, the transport time is typically built into the allocated service, meaning that in real terms the carer receives a much shorter break. In many cases this makes the support ineffective as there is not enough time for the carer to have a meaningful break. For example, to travel to the nearest amenities or visit friends and family.

**Access to Services including short breaks**

- Only 18% of carers had received a break from caring.
- 37% had experienced increased charges or cuts in services.

Services are less available in rural and remote areas, there is also less choice about the type of support carers can access. This is due to a combination of factors:

- There is more pressure on resources due to the increased costs of delivering services, resulting in a reduction in the level of provision.
- In many rural and remote areas there is very low unemployment. For example, in Shetland the level of unemployment is 3.2%, in Aberdeenshire it is 3.3% and in Orkney it is 3.4%. This is in comparison to Dundee at 11.3%, and North Ayrshire at 13.5%. This makes it difficult for local authorities to recruit people to work in social care and difficult for individuals to recruit personal assistants through SDS. Particularly since these are low paid positions and better salaries and conditions are available in other sectors. This market failure also means that there are recruitment difficulties within the voluntary sector, meaning that assessed service support cannot be fulfilled. For example, we know of a case in Shetland were the carer was allocated twice-weekly 2-hour care attendant visits as replacement care for her mother. However, when the person undertaking this had to retire, no-one was found to replace them.

- Centralised services are not appropriate for many carers and service users due to the time and cost associating with travelling. Therefore building based support, such as day care, may not be an option.

To illustrate the discrepancy between the availability of carer support in rural and remote areas versus urban areas, we looked at the provision of short break services following a carers assessment in Stirling and in rural Stirlingshire.

In both areas carers were assessed by workers from Stirling Carers Centre. Where there was an identified need for a short break they were referred to

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2 Local Area Labour Market in Scotland, Scottish Government publication, May 2014
Stirling council. We compared six cases, three of which were rural and three urban, all had similar levels of need and in all cases the carer was assessed as needing a short break.

All three of the urban cases were allocated support. This took between 3 to 6 months.

None of the rural areas have been allocated support. They have been waiting for between 9 months to 1 year

In addition, when we looked at the figures as a whole from 2014 to 2015, in the urban areas 74 assessments were undertaken. Of these 44% were allocated support and 56% are still pending.

In the rural areas only 29% were allocated support, 71% are still pending. In two cases the cared-for person died before support was put in place and one had an emergency admission to residential care. In one case the carer was waiting for over a year for support for her husband who was terminally ill, but he died before she received any help.

**Equal Partners in Care – Hospital admission and discharge**

When the person they cared for was in hospital:

- 17% of carers said their expertise was recognised and valued.
- 22% said they were ignored and their caring role was not recognised nor their expertise. 34% said it was sometimes recognised.
- Only 6% were given the information and support they needed

An admission to hospital often results in a person becoming a carer for the first time, or it can signify that their caring role is in transition as the condition of the person they care for deteriorates and there is an increase in their care needs.

For people living in rural and remote areas this is a particularly stressful time as they are often many miles from home and away from the support of family and friends. Transport is also an issue and often public transport is not an option. This means that carers who do not drive have to rely on family and friends.

Or in some cases they may not be able to stay with their loved one and the hospital may be a flight or a ferry journey away and this means it is difficult for them to be involved in hospital discharge planning.

Receiving ongoing treatment and support at home is also very challenging, due to travel distances, meaning people are often discharged without adequate support.

**Solutions / Best Practice Example**

**Adult Carer Support Plans**
The duty to provide all carers with the opportunity to have an Adult Carer Support Plan is welcome. However, consideration needs to be given as to how this will work for carers in rural and remote areas. There are several good examples operating across Scotland, where local authorities have devolved their responsibility to carry out carers assessments to local carer organisations. They then provide them with funding to employ outreach workers. Examples of this model are found in the Borders, Stirlingshire and Argyll and Bute. The advantage is that the workers also provide information, advice and access to universal support, such as local peer support groups.

However, it is important that where a carer requires additional services from the local authority there is a quick route into support. The Stirling example we used shows that this system can fall down where local authorities fail to respond in an appropriate and timely manner.

In contrast, in the Borders there are dedicated workers within the local authority who deal with carer referrals. The carers assessment is completed by staff from the carers centre and where the carer requires additional support, such as a short break, they send this to named staff who deal with it promptly. In practice only a small percentage of carer assessments result in a referral to the local authority.

**Non centralisation of support services and the use of community resources**

There needs to be greater flexibility and resourcefulness in the delivery of support to carers in rural and remote areas. For example, multiple home visits within one area taking place at the same time, co-location of services within rural community hubs.

The third sector are often more adept at reaching people in remote areas, they do this through the employment of outreach workers, recruiting local volunteers and making the best use of community resources. Examples from our network include:

- In Argyll and Bute the local carers centre in Mind Argyll worked with G.P surgeries to establish local carer support services on the island of Islay. This raised awareness of carers in the area, helped with identification and also meant that carers were offered the opportunity to have a health check. Volunteers were recruited to help to run the service.
- Many of the small inhabited islands in Argyll and Bute are particularly inaccessible, making contact with the mainland very challenging and central posts unworkable. The carers centres in Lochgilphead and Oban have employed outreach workers and local sessional workers to ensure carers in these areas still have access to support.
- On Shetland the local carer centre runs carer groups on the islands of Fetlar, Unst and Yell. They have recruited two local outreach workers who are based in the community, so are already known and trusted.
This also cuts down on travel time and expense. They are also exploring the possibility of training carers on Fair Isle on the use of interactive technology, so that they can provide support to carers via Skype. They have already established a virtual carers centre which provides support online and via social media.

**Self-Directed Support**
The Social Care (Self-Directed Support) (Scotland) Act introduced the power for local authorities to support carers and established the principle that charges should be waived for carers. However there has been very poor uptake across Scotland, with only 3 carers in Scotland accessing a Direct Payment since the implementation of the Act. By moving from a power to a duty through The Carers Bill, we believe this will open up opportunities for carers in rural and remote areas to find their own solutions to the challenges of accessing suitable support. For example, through the employment family members. This will not be a solution for everyone, but it will provide carers with more flexibility and enable them to draw on more local, community based support.

It is also imperative that the principle of waiving charges for carers is retained with the Carers Bill. We have already outlined how caring financially disadvantages people. As providers of services it would be unacceptable for carers to have to pay for the resources they require to enable them to care.

**Employment**
Unless recruitment issues are addressed in rural and remote areas, carers will not be able to access the support they are entitled to. While self-directed support may be appropriate for some carers, others will still require a service which relies on the availability of care workers. For example, carers who carry out personal care tasks for the person they care for, must be able to access suitable replacement care for them to be able to take a break. Often it makes sense for this to be delivered within the home. This support is critical for carers in order to sustain their caring role.

We would anticipate that carers providing this level of support would meet eligibility criteria, but unless the support is available they will not be able to access their rights.

We do not have any definitive answers to solving the recruitment problems in rural and remote areas. We think this is an issue that the government and local authorities need to investigate further. However, while the pay and conditions of care workers fails to match other local employment opportunities, local authorities will always struggle to recruit and retain staff.

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3 Self-Directed Support – The Start, Learning Disability Alliance and NCO, December 2014
Staff training – Third sector role
Several of our member organisations deliver carer awareness training to health and social care staff in rural and remote areas. Local carer organisations in Shetland, the Borders and Stirlingshire have all adopted the model of delivering short training sessions within community settings or at staff team meetings. This model works particularly well in rural areas as it does not require staff to invest time in travel, particularly as their post would be unlikely to be back-filled.

Workforce training will be an important element in implementing the Carers Bill and the expertise within the third sector should be utilised. National organisations, such as NES will need to play their role, but in rural and remote areas it would have more impact to resource local third sector organisations to undertake this role.

A Clear Equalities Statement
Carers from BME Communities living in rural and remote areas are particularly isolated as services are unlikely to address any specific language or cultural needs they may have.

Despite commitments in Scotland’s Carers Strategy to ensure actions are taken forward to improve equality issues in carer support, there is substantial evidence of differential levels of access to services for carers from minority groups. We believe concerted action is now required to drive forward the limited progress to date and argue strongly that an equalities statement and action plan should be part of the Bill. The fact that most carers are women ensures a gendered dimension is required in assessing the impact of the legislation.

Definition of a short break
We believe a short break should not include travel time and this should be clearly defined within regulations. For example, where the short break includes an element of replacement care this should not begin until alternative care arrangements are in place, freeing the carer to take a break from their caring responsibilities.

Additional Resources
Rural and remote areas will require additional resources in order to implement the Carers Bill and ensure there is equity of provision. Carers must have the same level of entitlement to support as carers in other areas. Rural weighting should be applied to the distribution of resources that go with the Bill and funding must be ringfenced to ensure it is used for its intended purpose.

In addition we recommend that additional resources are found for rural areas to specifically address the issue of transport. For example, short break resources should have an additional transport budget to provide rural carers with equity of opportunity and outreach workers will require an adequate transport budget to enable them to cover the most remote and island communities.
I would like to make the following submission on behalf of Autism Rights, in respect of the Carers' Bill.

Autism Rights would like the Scottish Parliament to legislate to modify existing legislation or the Carers' Bill to make it a legal requirement for the Carers Assessed Statement Of Need to be given a guaranteed budget.

Two further initial points we wish to make:-

1. Previous legislation required that all Carers had a legal right to have their Needs Assessed.

2. The major problem with previous legislation, like almost all the Acts, is that they have no technical standards and choice. But worse, under previous legislation is the fact that, although you have a 'Carers Statement Of Need', COSLA Members have no legal requirement to provide a budget to deliver the Needs statement.

To quote one of our founding members:-

'No-one has actually measured the Parliament's performance in whether their traunch of Legislation has delivered its intent in benefiting the people/disabled. In most cases just a soup of talking shops all mixed in with intermittent 'drum roll' launches then quietly withering on the vine as they fail miserably again."

In Answer to the committee's questions:-

1. What do you think about the proposals to offer adult carers a support plan and to offer young carers a young carer's statement?

It will come to nothing, unless STANDARDS for public services are established that put in place standards of service both for people who are cared for and for those who care for them. Unless there are standards, there is no genuine possibility of achieving rights for carers or for those who are cared for, nor for the accountability of public servants.

2. What do you think about the proposal that councils must consider, in particular, whether the support they provide should take the form of a break from caring for those with caring responsibilities?

It will come to nothing, unless there are STANDARDS that can enforce rights to services that are specific to a person's and families' needs - e.g. generic disability standards are useless, they need to be specific to impairments or disability.

3. What do you think about local councils being given the responsibility to establish information and advice services for carers?
Responsibility without enforcement is useless. You can try, but most misinformation from public servants is done orally, so it is very difficult to prove this. Our own experience is that some of the worst misinformation is committed at the start of contact, when you are trying to establish a relationship of trust. That is precisely when public servants then accuse you of mistrust and threaten to withdraw even statutory services unless you accede to their wishes - basically, unless you capitulate to their bullying.

4. What do you think about councils setting local criteria for those who would be eligible for support?

Government will then become even bigger hypocrites in claiming that there is a `postcode lottery` of provision. As government has not even been willing or able to establish national standards of education or healthcare for specific disabilities, thus leaving families completely vulnerable to the whims of local financial gatekeepers, local government has simply not bothered to equip itself with the skills or overall competence to assess, let alone deliver services.

5. Is there anything you think should be changed or added to the Bill?

Please see above text. I don't have time to go into further detail. Without STANDARDS (as noted above), there can be no ENFORCEMENT, and therefore no RIGHTS, nor any ACCOUNTABILITY of public services or of the servants who are supposedly there to `deliver` them.

Fiona Sinclair
Autism Rights
Carers (Scotland) Bill

Leuchie House Short Break Care (Leuchie)

Leuchie is an independent charity set up in 2011 to provide short break respite care for people with long-term conditions. It is in a non-clinical environment, with a country house ambiance, but provides 24-hour expert nursing care for high dependency degenerative conditions such as MS, Huntingtons, Parkinson's, stroke, MND and other long-term conditions. The service is palliative but not end of life. Leuchie guests come from 28 local authorities within Scotland, plus north of England, London and occasionally abroad.

Carers and family members can also stay at Leuchie for the whole or some of the respite period. We aim to be as flexible as possible and to make respite as challenge-free as possible for guests and their carers. Whilst staying at Leuchie, carers do not provide any care - Leuchie staff do everything, carers have a complete rest whilst enjoying the holiday experience with their loved one. Leuchie also offers a full physical and emotional assessment of guests and their carers, can provide training and support, counselling or refer back into the community teams.

The Leuchie response is structured around the experience gained over the last 12 years dealing with guests and their carers both as in independent charity dealing with various conditions and in past years when dealing with solely MS and their carers. It is also structured around questions posed by the Committee.

DO YOU SUPPORT THE BILL?

Leuchie supports many of its provisions and its ultimate aim to help the difficult journey as a carer especially the following points:

- Introduces a duty to support carers throughout the journey from the very beginning
- Replaces the current carers assessment with a new adult carer support plan and young carer statement for all young carers
- Is making local authorities accountable and responsible, especially in whether to have access to short break care
- Requires LAs to have a local carer strategy and to involve carers in determining that strategy for their local area

WHAT DO YOU FEEL WOULD BE THE BENEFITS OF THE PROVISIONS SET OUT IN THE BILL?

The main benefit we feel is the recognition of the gradual journey into full-time caring, accepting that many do not feel it is caring, "just looking after their loved one" and therefore not accessing support at an early stage. The replacement of the assessment with the ACSP makes the identification and self realisation of their position easier, leading to preventative intervention before crisis. The ACSP will have documentation that will trigger reviews and
points when, especially in rapid degeneration, it becomes more rapid. Not just on time but condition determined.

The ability to have discussions with all parties around future planning and anticipatory care plans is most welcome - tackling the elephant in the room and taking recognition that both parties may have different points of view.

HOW DO YOU FEEL THE BILL COULD BE AMENDED OR STRENGTHENED?

As Leuchie deals with 28 local authorities and is very aware of the postcode lottery effect that brings and the inconsistency within each area, this is a major cause for concern. A carer in Scotland, no matter where they live, should have the assurance and confidence that the system is the same consistently throughout Scotland. We feel the Bill will not be successful if left as this, especially as budgetary constrictions increase with LAs. It will lead to different criteria and interpretation in each area, with varying revisions in each area.

There is already a recognition that Ministers could set out national criteria if local does not work. Why have two stages when we could just have a clear one from the beginning instead of missing momentum, causing confusion and uncertainty for carers which is the exact opposite that the Bill intends to do.

IS THERE ANYTHING YOU WOULD ADD TO THE BILL?

At the initial consultation with Shared Care Scotland we were very clear that the GP and Primary Care Team should be intrinsic in the assessment. They will know both the carers and cared for well, will see the situation arising and increasing for both parties and should be heavily involved.

It does indicate that an identification process has to happen for their strategy but the Community Health Teams will be those most qualified to make assessment and a realistic guess on the trajectory and prognosis for the future. They will know local support networks, family and friend support, family history but importantly they will know the people concerned which can only help in being person centred and outcome focussed.

A major issue is what happens when the caring stops. Carers give up their own life to care for their loved ones, save the country resources and then when their loved one dies they are left with no support and recognition. It is heartbreaking to see how there is nothing to help them adjust back into another life. They lose carer benefits, lose mobility allowance and have to find a job, after perhaps years of being out if the work place and no pension. A very poor thank you from Scotland.

IS THERE ANYTHING YOU WOULD REMOVE FROM THE BILL?

No

Leuchie House Short Break Care (Leuchie)
Carers (Scotland) Bill

Shared Care Scotland

I am pleased to attach Shared Care Scotland’s response to the consultation on the Carers (Scotland) Bill.

Thank you for the opportunity to contribute to this important legislation. Clearly a great deal of effort has been expended to reach this point and the Bill team at Scottish Government is to be commended for this work.

Shared Care Scotland is a national charity that works collaboratively with a wide range of organisations and individuals, including carers and service providers, to improve the quality and availability of short breaks (respite care) across Scotland.

Our comments on the bill are aimed particularly at those parts that relate to the provision of breaks from caring. We have also contributed our views to the National Carer Organisations’ (NCO) response which is being sent separately. The NCO response will cover the wider provisions in the bill, as well as breaks from caring.

Don Williamson
Chief Executive
Shared Care Scotland

The Carers (Scotland) Bill

Shared Care Scotland Response

1. The Carers (Scotland) Bill

1.1 On the 9th of March 2015 The Carers (Scotland) Bill was introduced to Parliament. For the first time, the Scottish Government has introduced legislation specifically for unpaid carers.

1.2 We welcome the development of this vitally important legislation which aims to improve the levels and consistency of support to Scotland’s estimated 745,000 adult and 44,000 young carers. The legislation will make a significant contribution to improving the lives of carers and those they care for. However we believe there is scope to strengthen and improve key aspects of the Bill. The changes we would like to see made are explained in the following sections.

2. The Carers (Scotland) Bill and Short Breaks

2.1 Providing opportunities to have breaks from caring responsibilities is now widely accepted to be vitally important in helping to protect carers health and well-being, and to sustaining caring relationships. For this reason we agree with government that breaks from caring deserve some prominence within the bill.
2.2 Government data and other research shows that the availability and choice of short breaks across Scotland varies considerably. Furthermore, we know from our own studies\(^1\) that carers often struggle to obtain information about the different short break services available in their area, and how these are accessed.

2.3 These are not recent problems, the Care 21 Report into the future of unpaid care in Scotland highlighted these concerns and consequently promoted the vision, ‘\textit{By 2014, carers will feel well supported and have a statutory entitlement to regular breaks from caring, with the cared for person, and have ready access to local practical support.}\(^2\)’

2.4 Given the above, and considering the gulf between the rights of the paid workforce and the unpaid carer workforce (which Scotland increasingly relies on to meet demographic change), we believe there remains a strong case to establish at least some minimum entitlements for breaks, as part of a national framework of eligibility criteria.

2.5 In relation to short breaks the bill includes:

- as part of a general duty to support (referred to above), the Bill requires local authorities to give consideration to whether this support should take the form of a break from caring;

- a requirement on local authorities to prepare and publish a short breaks services statement which sets out the short breaks services available, which are relevant to the persons who live in that area;

- a regulation making power for Scottish Ministers to make further provisions about the preparation, publication and review of short breaks services statements;

- a power on Scottish Ministers to make regulations about the forms of support that would constitute a break from caring. These regulations may make specific provision to deal with cases where the support is delivered through the provision of replacement care, or other services to the cared-for person.

\textit{In detail:}

3. Duty to Support Carers

3.1 During the initial consultation phase Shared Care Scotland argued that the bill should contain a specific duty on local authorities to provide and promote a range of short breaks to benefit carers and the people they care for. Such a duty would require local authorities to plan and commission

\(^1\) Rest Assured? A study of unpaid carers experiences of short breaks, IRISS, Shared Care Scotland, COCIS, MECOPP, 2012

\(^2\) Care 21: The future of unpaid care in Scotland, Scottish Executive, 2006
provision to ensure there is sufficient supply, choice and flexibility of short break opportunities to meet the needs of eligible families. We proposed that those not reaching the eligibility threshold would be helped with advice, guidance and information to access a range of mainstream services such as accessible recreational and holiday provision, as well as other inclusive community-based leisure activities. We also proposed the establishment of local support funds to help those carers that don’t meet eligibility criteria to receive financial help with a break, where they don’t have the means to pay for these themselves.

3.2 The Scottish Government has decided not to include a Short Breaks Duty in the bill. Instead the bill contains a general duty (Part 3, Section 22), to provide support to carers. In meeting this duty local authorities must give ‘consideration’ to whether support should be in the form of a break from caring.

“A local authority, in determining which support to provide to a carer under section 22 (4), must consider in particular whether the support should take the form of or include a break from caring.”

3.3 We welcome the general duty to Support carers in the bill but we are disappointed that government has decided not to take this opportunity to introduce an additional specific duty around Short Breaks. In our view, the general support duty, as it stands, does not tackle directly the need for local authorities to actively plan to improve the availability, choice and flexibility of short break provision. Such a duty exists in England for families caring for disabled children (a requirement on local authorities to provide services to assist individuals who provide care for disabled children to continue to do so, or to do so more effectively, by giving them breaks from caring) and there is evidence this is having a positive impact. At the very least we would propose that a further addition is made to Section 28 on the preparation of local carer strategies to include specifically plans for developing short breaks provision. This should take account of current provision, an assessment of unmet need, and the demand for different types of break. The aim of a short breaks strategy should be to deliver a range of short break opportunities that better meet people’s needs, so that families and people who use services are happier with those services, and consequently that short breaks will be more effective and improve personal outcomes.

3.4 With reference to the duty to ‘consider’ whether support should take the form of a break from caring, we are concerned how this might be interpreted. In what circumstances might a local authority decide not to provide this support after consideration? Does a duty to ‘consider’ provide sufficient legal clarity to enable carers to challenge a local authority decision if they feel their short break needs have not been properly addressed?

3.5 We believe that those eligible for support, who have an identified need for a break(s), should be given a clear commitment about the short breaks

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3 Regulation four of the Breaks for Carers of Disabled Children Regulations 2011
4 http://www.edcm.org.uk/media/31295/commitment_and_transparency.pdf
that will be made available to them. We therefore propose that carers should be offered a quantified, minimum level of short breaks, which would be clearly stated in their Support Plan or Young Carers Statement, and which would be made available through the different self-directed support options.

3.6 Consequently, we also propose that Section 8, 1(h), which specifies that the Adult Carer Support plan should contain, ‘information about whether support should be provided in the form of a break from caring’ (this seems a rather ambiguous statement in our view) should be amended to, or at least include the additional statement, ‘information about the support which the responsible local authority provides or intends to provide to the adult carer to enable a break(s) from caring’, and similarly for the Young Carer Statement (Section 13, 1(i)).

3.7 The government has already stated that adult and young carers should not be charged for the support they receive\(^5\) - including any charges related to enabling breaks from caring - and we would expect this position to continue.

4. Eligibility

4.1 Part 3, Section 19 of the bill requires local authorities to set their own eligibility criteria and this must be done in consultation with carers and carers’ bodies. The bill also states that local authorities must have regard, in setting their eligibility criteria, to any regulations that may be developed by Scottish Ministers. We would expect such regulations to emphasise the importance of policies which promote early intervention and prevention.

4.2 The duty to support will be triggered when a carer’s identified needs meet an eligibility threshold which is determined locally. This means that carers in different areas with similar levels of need, and facing similar circumstances, may receive different levels of support as the threshold may be set at different levels. This will include access to breaks from caring too.

4.3 For this reason we fully endorse the National Carer Organisations’ position that a National Eligibility Framework be developed - from the beginning - with clearly defined processes for determining individuals’ needs, and how these are translated into outcomes and resource allocations. We believe this would achieve greater consistency and equity of support across Scotland than the proposed local approach. We are unconvinced that further regulations to steer the development of local eligibility criteria will produce the desired shift from crisis support to prevention, one of the stated policy aims of the legislation. The National Carer Organisations’ response has further details.

5. Short Breaks Statements

5.1 Part 6, Section 32 of the bill requires each local authority to prepare and publish a Short Break Services Statement. This will contain information

\(^5\) Statutory guidance to accompany section 3 of the Social Care (Self-directed Support) (Scotland) Act 2013 and the Carers (Waiving of Charges for Support) (Scotland) Regulations 2014
about the short break services available for carers and the people they care for. The bill also gives Scottish Ministers regulation-making powers to direct local authorities on the preparation, publication and review of Short Breaks Services Statements.

5.2 This is another welcome development and one that we hope will go some way towards overcoming the difficulties faced by carers trying to access information about short breaks in their local area. However, we would expect a statement to go further than just a list of the ‘different types and the range of short breaks that might be available’.

It must include at least the following information:

- Details of the range of local short break supports available, and how these reflect the needs and preferences of carers in the area
- Any criteria against which the eligibility for services will be assessed and the process which will be used to do this
- Details of universally available, inclusive recreation and leisure opportunities in the local area – including provision not subject to eligibility criteria
- Information about how short breaks will be supported through age and stage transitions
- An up-to-date list of key contacts for information and assistance on short breaks
- A named Lead Manager contact with responsibility for the Short Breaks Statement
- (We expect that separate statements will be needed for Children’s services and Adult and Older People’ services.)

5.3 This will ensure greater transparency around how short breaks are accessed and allow comparisons between the different approaches to provision across the country, which may help drive up standards.

5.4 This information must be made widely available and we would therefore like to see local authorities being more proactive in promoting the choice and availability of Short Breaks in their area. For this reason we would propose therefore that Short Breaks provision is added to the list of information and advisory services specified in Section 31 of the bill.

5.5 We would expect the duty to involve carers in carers services (Section 25) to extend to the preparation, monitoring and review of the short break services statement. We would also expect local authorities to co-ordinate the development and production of their statement with their Children Services Plan and other relevant local strategy documents, e.g. Learning Disability strategy.

(ref. Policy Memorandum)

*Carers (Scotland) Bill Policy Memorandum*
6. **Voluntary Sector Short Breaks Fund**

6.1 Subject to spending review decisions, the government also proposes to extend the duration of the voluntary sector Short Breaks Fund. This Fund was developed by the National Carer Organisations in partnership with the Scottish Government and is administered by Shared Care Scotland. (The Family Fund administers a separate fund called Take a Break Scotland which provides grants directly to families caring for disabled children and young people.) Between 2011 and 2015 the Fund has distributed £10.3 million to 613 projects benefiting 40,000 carers.

6.2 The continuation of the Fund is to be welcomed. The evaluation of the different programmes year-on-year has shown the considerable benefits the Fund is delivering to carers and the people they care for – many of whom may not have access to statutory services. The Fund cannot and should not replace the responsibilities of local authorities and health to support short breaks, but it can help to enhance and extend the provision available. Through the learning exchange programme, for example, the Fund is contributing to the development of new models of service provision, and is equipping services with new tools and information to help them become more sustainable.

7. **Evidencing the Impact**

7.1 Establishing key baseline information and a robust monitoring and evaluation framework prior to legislation being enacted will be essential. Many carers we speak to are understandably pessimistic about the extent to which well-intentioned policy and legislation will make any material impact on them personally. Expectations are often raised only to be quickly dashed as promised improvement fails to materialise. Carers must be confident that this legislation will have real ‘teeth’ and that the responsible organisations will be held to account.

**Shared Care Scotland**

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Introduction to the Scottish Youth Parliament

The Scottish Youth Parliament is the democratically elected voice of Scotland’s young people. Our vision is of a stronger, more inclusive Scotland that empowers young people by truly involving them in the decision-making process.

Among the strongest youth representative structures of its type, the Scottish Youth Parliament provides young people with a democratic platform to affect change, based on a mandate from young people, by facilitating engagement with key decision makers.

Our 2014 national campaign, Care.Fair.Share., highlighted the financial difficulties often faced by young carers and young adult carers and was successful in securing additional support for young carers in education through strengthened guidance for the administration of the Education Maintenance Allowance and through increased flexibility in the eligibility for the Lone Parents Grant and Dependent’s Grant from SAAS, making it easier for young carers to attend college or university.

As part of our national campaign, we undertook significant consultation with young carers. More than 1,000 young carers were involved in our consultation activity, which included 900 responses to our consultation on proposals for Carers Legislation from the Scottish Government, a focus group with 160 elected Members of the Scottish Youth Parliament, and a consultation day with over 50 young carers undertaken in partnership with the Scottish Government.

Therefore, these views are grounded in primary evidence which detail the genuine views of young carers and young adult carers, and are grounded in a children’s rights approach.

Do you support the Bill?

The Scottish Youth Parliament welcomes the opportunity to respond to the Health and Sport Committee’s call for evidence. We note the significant contributions unpaid carers make to society, as well as the significant challenges and barriers they face, and as such, are broadly supportive of the Bill, as it addresses the problem of patchy provision of services for young carers and young adult carers across Scotland and seeks to increase the support available to carers.

We also welcome the inclusion of Young Carers Statements, and provisions in the Bill that specifically seek to support young carers.

Due to their caring responsibilities, the rights of many young carers can be denied. Under the United Nations Convention on the Rights of the Child, all children have the right to rest, leisure, and play (Article 31); the right to a
quality education (Articles 28 and 29); the right to a high standard of health (Article 24); and the right to an adequate standard of living (Article 27). In our view, protecting the rights of young carers through a child right’s framework should be at the heart of this legislation.

What do you feel would be the benefits of the provisions set out in the Bill?

The Scottish Youth Parliament believes the Young Carer Statement will be a beneficial provision in the Bill, as many young carers and young adult carers with whom we engage have expressed a desire to have a Young Carer Statement or similar to properly identify and support the very particular needs and challenges they face.

The Scottish Youth Parliament is widely supportive of the provisions of the Bill, but notes that there are aspects of the Bill that could be further strengthened to ensure the rights of young carers and young adult carers are respected and protected.

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

The Scottish Youth Parliament believes the following provisions in the Bill could be amended or strengthened:

- **Meaning of “carer”** – Throughout the Bill, the term “carer” is used, but it is unclear whether this term includes both adult carers and young carers. Part 1 of the Bill should clearly state that “carer” pertains to both adult carers and young carers, unless specified differently.

- **Meaning of “young carer”** – The Bill states that carers may be considered young carers if they are over the age of 18, but still a pupil at school. This definition should be extended to account for young carers who are 18 but in a different education setting, e.g. in further education, in a modern apprenticeship, or on an activity agreement.

- **Meaning of “personal outcomes”** – The Bill defines personal outcomes for carers in relation to their ability to provide care. Recognition should be given to a carer’s personal outcomes and needs outwith their caring role, as carers and young carers are entitled to a life beyond caring. Young carers in particular should be able to be children and young people first, and should not assume caring roles that significantly impact their wellbeing, development, and ability to have a life outside of caring. In accordance with Article 3 of the UNCRC, the best interests of the young carer must be at the centre of all decisions that affect them in this regard.

- **Young Carer Statement** – The Bill assigns the term “young carer statement” to the support plan available to young carers, while adult carers receive an “adult carer support plan.” While we understand that this difference is intended to remove any confusion between the young carer statement and the child’s plan, we support the assertion from
Abelour that the term is insufficient to convey the level of support a young carer may need from the responsible authority. A “young carer’s support package” as suggested by Abelour, for instance, may better reflect the support young carers can hope to receive, and may encourage them to seek assessment. This may also improve coherency in the transition from a young carer statement to an adult carer support plan.

- **Adult Carer Support Plans and Young Carer Statement** – The Bill notes that support plans and statements must contain information about the impact of caring on the carer’s wellbeing and day-to-day life. The young carers with whom we engage have noted the particular effect of financial strain on their wellbeing and their ability to provide care, and believe that the financial aspect of wellbeing should also be considered. Support plans and statements should signpost carers to benefits and entitlements for which they may be eligible.

- **Duty to prepare a young carer statement** – The Bill notes that young carer statements should be available to young carers who do not require a Child’s Plan, but that some young carers will also have a Child’s Plan. Consideration must be given to the interplay between the Child’s Plan and wider provisions of the Children and Young People’s Act and GIRFEC, and the young carer statement to ensure the best interests of the young carers are protected and that adequate, seamless support is provided where required. While the face of the Bill may not be the appropriate place for this, the guidance should make this interplay clear to the practitioners who will need to understand this framework. Furthermore, a child rights approach must be taken in the assessment process in accordance with Article 2 of the UNCRC, which requires state parties to respect and ensure the rights of children without discrimination.

- **Provision of information** – The Bill also notes that the young carer, the young carer’s named person, and any other person the young carer requests must be provided with the information located within the statement. Consideration should be given to information sharing between services to ensure that the privacy of the young carer is respected, and that information is not shared without the consent of the young carer. Information will have to be shared about the young carer in the development of a statement, and due care should be given to respect the young carer’s right to confidentiality, and to ensure that information sharing is relevant and proportionate, and considers the best interests of the young carer.

- **Continuation of young carer statement** - The Bill states that the young carer statement continues to be in effect until the carer is provided with an adult carer support plan. Efforts should be made to ensure there are not delays in this process, and that carers are being supported through the correct plans. The carer should be kept informed about the progress of the development of the adult carer support plan,
and their views should be taken into account in relation to the transition to adult services. Young carers have highlighted difficulties associated with transitioning from young carer services to adult services, and may feel they have become too old for young carer services and too young for adult services, which may cater to older adults looking after older people. Consideration for this, as well as transitions from school to work and further or higher education, should be given.

- **Eligibility Criteria** – The Bill places a duty on local authorities to provide support for carers who meet local eligibility criteria. While we are supportive of the concept of local variation to meet varying needs, as services carers need in rural areas may differ from services needed in urban areas and the like, the young adult carers and young carers we engage with believe that there should not be variation in the level of need that can trigger the entitlement of support. This will ensure a “postcode lottery” does not determine the quality of and access to support. Defining national standards of eligibility will ensure all carers are able to access the same level of support when they have a similar caring role, regardless of where they live.

- **Duty to prepare local carer strategy** – The Bill requires that a local authority take steps as it considers appropriate to involve carers in the development of the local strategy. The language should reflect a presumption in favour of consultation with all carers, including young carers to fully involve them in the development of the local strategy.

- **Duty to prepare local carer strategy** – The Bill notes that a local carer strategy must contain information relating to the needs and circumstances of young carers. Whether a separate young carer strategy is developed, or whether it is integrated into the local carer strategy, information pertaining to the needs of and support for young carers must be in a young-person-accessible format, and, under Article 12 of the UNCRC, must take the views of young carers into consideration in the development of proposals and strategies.

- **Duty to prepare local carer strategy** – The Bill states that the strategy should set out intended timescales to prepare adult carer support plans and young carer statements. Timescales should be reasonable to ensure carers are not kept waiting; a national minimum standard could be set to ensure there are not significant differences across local authorities.

- **Information and advice service** – The Bill requires local authorities to establish and maintain an information and advice service. As many such organisations exist in local authorities, emphasis could instead be placed on supporting and providing resources for local carer and young carer support organisations, and establishing a service only where one does not exist. Young carers are often more confident contacting services marketed specifically towards young carers and greatly value their young carers’ groups and support workers; this should be taken
into consideration in the support and development of services. During our national consultation day, the young carers emphasised how crucial young carers services are, and stressed that it is vital that they continue to be supported.

- **Short breaks service statements** – The Bill requires local authorities to publish a short break service statement. This statement should be developed in consultation with young carers and adult carers, and should provide flexibility for those who are eligible. A creative and tailored approach to breaks and respite could be more valuable to young carers, depending on their individual needs. The views of young carers must be listened to and taken into account in the planning and delivery of breaks, reflecting Article 12 of the UNCRC.

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

The Scottish Youth Parliament believes the following could be added to strengthen the Bill:

- **Equality statement** – Evidence from young carers and carers suggests that there are differential levels of access to services from carers from minority groups, and that carers are disproportionately women. An equalities statement and action plan within the Bill would ensure those providing services and support to carers encourage equality of opportunity for those with protected characteristics, as suggested by our colleagues in the third sector.

- **Impact on the third sector** – Increased identification of carers and a duty to provide support for carers will cause additional demand on carer organisations and other third sector groups. Acknowledgement of third sector services, and the requirement to support these services and ensure appropriate finance is in place for proper and consistent support, should be recognised as part of the duty to provide support to carers.

- **Equality and human rights & child rights impact assessments** – To ensure the Scottish Government’s proposals for the Bill are fully assessed in regards to their impact on the rights of children and young people, an equality and human rights impact assessment and a child rights impact assessment should be undertaken on the proposals in the Bill. This will guarantee the impact of the Bill is predicted and monitored, and is in line with the Scottish Government’s commitment to children’s rights and human rights.

- **Identification** – Following extensive consultation with young carers and evidence gathered from Freedom of Information requests to local authorities, the Scottish Youth Parliament notes that identification is a significant concern to young carers. Figures from our FoI requests reveal that a majority of local authorities do not maintain identification records of young carers. Young carers are not able to access support until they are identified, and self-identification can be challenging. The
Bill offers an opportunity to seriously consider addressing this. For instance, the duty to prepare local carers strategies could include an action plan to identify young carers and adult carers.

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

- **Carer Information Strategy** – The current requirement to submit Carer’s Information Strategies should be retained, as it will remove the requirement for Health Boards to identify and signpost carers to support. Even if local authorities must provide more information, we believe this safeguard and the good practice associated with it should not be moved. If this is the case, there will also be a need for coordination between local information strategies and a duty on local authorities to prepare local strategies.

Louise Cameron MSYP  
Chair of the Scottish Youth Parliament  
Rebecca Marek  
Parliamentary and Campaigns Officer  
Scottish Youth Parliament
Carers (Scotland) Bill

Headway

Introduction

Headway – the brain injury association is delighted to have been given the opportunity to share its views on the Carers (Scotland) Bill. We are a UK-wide charity providing support to brain injury survivors and their families and carers through a variety of frontline central services complementing the work of a network of local Headway groups and branches, who provide a range of services in their communities. We additionally raise awareness of brain injury, and seek to prevent further injuries through our communications, policy, research and campaigning work.

At present, there are nine Headway groups operating in Scotland, each providing a range of services to brain injury survivors and their families and carers. For survivors, they offer a variety of rehabilitative activities to promote cognitive, behavioural, physical and emotional recovery, which can include hydrotherapy, cooking and other independent living skills, individual therapy, and exercise sessions. These additionally offer social opportunities for survivors which can rebuild their confidence. Scotland also has five Headway volunteer-led branches which provide a range of social inclusion programmes and give information and peer support through volunteers.

Additionally, many Headway groups and branches in Scotland offer support to carers, which can include befriending and dedicated carer events where carers can socialise, find information and access peer support. There is also information on caring for a brain injury survivor on Headway’s website\(^1\) and a specially created booklet for carers, and it takes a large number of calls on its helpline from this group. The charity has also previously campaigned on support for carers, and offers training to them in caring for someone with a brain injury. Courses cover issues including cognitive rehabilitation, communication difficulties, and sex and sexuality.

1. Do you support the Bill?

1.1. Broadly, Headway is very supportive of the Bill. It represents a significant step forward for carers in recognising their contribution to the community and in providing them with a statutory basis through which they can look to access support from Local Authorities.

1.2. Headway is acutely aware of the invaluable support that carers provide. For brain injury survivors, carers can assist them in both their rehabilitation and day to day care, and through doing so they represent great savings to the public purse.

1.3. Brain injury can impact on a person’s cognitive, behavioural, physical and emotional skills and abilities, and so a brain injury survivor may need a

\(^{1}\) This can be found at \url{https://www.headway.org.uk/caring.aspx}.\end{verbatim}
wide variety of care; from eating and bathing, to supporting them to communicate, and assisting their mobility and independence. Whilst many carers will actively choose to provide this assistance because of their love and compassion for the individual, it can be stressful and physically and emotionally draining if they themselves do not have adequate support.

1.4. Consequently, we encourage and support measures, such as this Bill, which will better enable carers to continue in their caring role as long as they wish and are able, and in a way which is both supportive and respectful of their contribution to the community. This said, we have some comments and suggestions on the Bill’s content to share, and which we call on the Committee to explore and progress during its examination of the Bill and its representations on it.

2. What do you feel would be the benefits of the provisions set out in the Bill?

2.1. Headway believes the Bill could provide a number of benefits to carers in Scotland. Placing a statutory duty on Local Authorities to support those who meet their eligibility criteria is a step forwards in recognising the support carers need and the considerable contribution they make to community and the life of the person being cared for.

2.2. We are pleased that the Bill, as it stands, will enable all carers to be assessed for support. We hope that this will result in support for a greater number of carers through Adult Carer Support Plans. We believe this is important, as maintaining the wellbeing of carers supports them to continue providing a care role as long as they are able and wish to. In turn, this is also indirectly supportive of the person being cared for as it increases consistency in their care. For brain injury survivors this is particularly important, as change can have a negative impact on their wellbeing.

2.3. Headway welcomes the duty included in the Bill to ensure that local authorities develop, publish and regularly review a local carers strategy, and ask that they are fully supported to do this with the appropriate guidance and resource. This positive and proactive step would enable Local Authorities to build up a strong base of knowledge as to carers in their area and their levels of need, along with what services exist and where there are any gaps. We additionally welcome the transparency here in the Bill stating that these would be published; this will allow relevant people and organisations to have insight into the Local Authority’s plans, and to provide feedback if necessary.

2.4. We are additionally pleased that the Bill refers to the carer being ‘able and willing’ to provide care, rather than simply able. This acknowledges that whilst a carer may be able to provide a certain level of care, they may not be willing for them to do so. Caring requires an individual to be emotionally, physically and mentally able to assist the person needing care, and some may not have all three of these abilities at all times. Some may also have other important considerations, such as maintaining a particular work pattern or providing care to other dependents when deciding how much of a caring role they can take on.
2.5. A person’s financial situation can also be a significant factor here. Caring can be a full time role and Headway is aware of situations where carers have needed to leave their paid work to take on this responsibility. This can add financial pressure to an already emotionally challenging situation, and in turn can create stress in the relationship between the carer and the person they care for. As such, some carers will take the decision to remain in employment so that the family has a better quality of life.

2.6. Taking these factors into account, we are pleased that the Bill takes a more rounded view of a carer’s ability to take on caring responsibilities. It shares the caring role between the carer and the Local Authority, should the carer decide against, or be unable, to provide their maximum level of care. We feel this is particularly important in the case of those who provide care to brain injury survivors, where the demands on the carer can be great and may require a great deal of their time and energy – both physical and emotional.

2.7. Headway also welcomes how the Bill seeks to provide local authorities with the power, for reasons of prevention, to support carers who do not meet the eligibility criteria. We believe this proactive approach is important as it would enable local authorities to invest in situations ahead of problems arising. This would better support the carer, whilst also potentially saving Local Authority resources that would have been needed in the future should problems have occurred.

2.8. We are pleased the Bill promotes beneficiary involvement. This is very positive; it is important to enable carers to participate in processes which are designed to help them, and to take their feedback as this increases the chances of the resulting plans and services being tailored to effectively meet their needs.

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

3.1. There are several elements of the Bill that Headway believes should be altered or amended to ensure that carers are able to access support which is consistent, appropriate and avoids duplication.

3.2. Local eligibility criteria

3.2.1. Headway is disappointed that the Bill places a duty on local authorities to develop their own local eligibility criteria, as stated in Pt3, s19, rather than establishing a national criteria. We are very concerned that would lead to a lack of consistency in provisions for carers across Scotland, as local authorities may set their eligibility thresholds at very different levels. We feel this would be unfair, and believe that access to support must be equitable across the country. Furthermore, creating national criteria should be more cost effective than each Local Authority working on its own variation.

3.2.2. We call on the Committee to raise this important issue in its review of the Bill. Headway believes this is a critical issue within it, and that it must be considered to ensure that disparity does not undermine the positive intentions. With Headway services across Scotland often serving more than one Local
Authority area, it will be plainly clear if there are disparities in the support offered to carers linked to these. This may prove distressing for any of those who may receive less support whilst in similar circumstances to others, and may in turn put greater pressures on local voluntary services to fill support gaps.

3.3. Including carers in developing local carer strategies

3.3.1. As mentioned above, Headway is delighted that the Bill includes provisions to encourage carer involvement in developing Adult Carer Support Plans, in carer services and local carer strategies. However, we feel that this should be strengthened in the case of the latter.

3.3.2. At present, Pt5 s23 (4), states that ‘Before preparing its local carers strategy, a Local Authority must take such steps as it considers appropriate to involve carers.’ Whilst we applaud the positive intentions here, we are concerned that, in the absence of consulting with carers being made a duty on Local Authorities within this process, it may not routinely and formally take place. If this is the case, local carer strategies may not be adequately informed by the needs of carers, and in turn may not be successful in supporting them effectively.

3.3.3. Headway believes that involving carers in work towards local carer strategies should be a core part of the process, and as such that the Bill should be altered to ensure this. We additionally believe that consultation methods should be adapted to the needs of carers. In the instance of those who provide care for brain injury survivors, they may have little time to attended focus groups, for example, and so we urge Local Authorities to work with carers to establish the best ways to obtain their views.

3.4. Review of carer support plans

3.4.1. The Bill states that information would be contained within Adult Carer Support Plans as to the circumstances in which they may be reviewed in Pt2 s8 (1) (i). However, Headway would like these to be detailed in the Bill to ensure that they are broad enough for carers to be able to seek a review of their plan when reasonably appropriate. Without this, we are concerned that the circumstances in which a review may be sought could be ambiguous or set at a threshold which would not be supportive of carers in need.

3.4.2. We would also like the Bill to place a duty on Local Authorities to review these plans at regular intervals. Headway believes this is very important, as we are aware from our work with carers that many see their role as a duty, and consequently some are reluctant to speak up when their situation has become overwhelming or if they are struggling as they fear ‘failing’ the person they care for. Regular, systematic reviews would help this as they would identify any problems that the carer may struggle to admit to.
3.5. **Information for carers**

3.5.1. Headway believes it is very important that carers are able to access information and advice that will help them to proactively seek advice and support, and as such a duty on local authorities to provide this is welcome.

3.5.2. However, we ask that the Bill be amended so that, instead of establishing and maintaining an information and advice service, local authorities are able to either set this up, or support an existing service where this already exists and meets its standards. This would avoid duplication of effort and resources, and would avoid confusion should there be two sources of information. We also suggest that this service signposts carers to any specialist organisations that provide information for those supporting individuals which particular conditions, such as Headway for those caring for brain injury survivors.

3.5.3. As such, we support the National Carer Organisation’s suggestion that the wording of the Bill should be changed so that it reads ‘the Local Authority will have a responsibility to maintain an information and advice service for carers and young carers, or establish a service where required.’\(^2\) We also ask that information of this resource is proactively disseminated, as a number of carers are socially isolated and may not otherwise be aware that it is available.

3.6. **Paying for services**

3.6.1. The Bill states, in Pt3 s24, that Local Authorities would be able to charge for services and accommodation provided for carers. Whilst the Bill’s explanatory notes state that these charges would not be more than what the carer could practicably pay, Headway asks that information is made available clarifying what this means in practice, and how a person’s ability to pay will be assessed. This would help to ensure that carers’ finances do not become unfairly stretched as a result of them accessing support they need in order to continue their role.

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

4.1. There are two key issues that we would like the Bill to recognise and take account of; how carer services will be checked for quality, and emergency planning.

4.2. **Quality review of services provided to carers**

4.2.1. At present, there is nothing in the Bill to explain how local authorities will be inspected or appraised as to the services and support that they provide to carers. Headway would like to see explicit mention of this in the Bill so that it is clear to both local authorities and carers how performance will be managed here.

\(^2\) As stated in the National Carer Organisations’ paper, ‘The Carers (Scotland) Bill – A briefing paper for carers, 2015, pp. 2-3.
4.2.2. Such provision will help to ensure that there is no ambiguity, and will demonstrate the commitment to delivering support for carers in the manner intended. We believe this process should be independent, and that the views of carers should be taken into consideration.

4.3. **Emergency planning**

4.3.1. Headway believes that the Bill must contain a requirement for every Adult Carer Support Plan to cover what will happen in an emergency. This will ensure that carers are supported in knowing that, should they reach a crisis, they will be able to find support and advice. We feel this is supportive also of the person being cared for, as it will ensure that the carer is supported to be able to return to their role as quickly as possible.

4.3.2. We understand that this can be a particular concern for older carers, whereby many worry what will happen when they are no longer able to care for their loved one through old age, illness or death. By including a section within Adult Carer Support Plans on emergency planning that covers this difficult area, many carers will be given greater peace of mind that there is a pathway in place should they become unable to continue in their carer role.

4.4. **Waiting times for assessments**

4.4.1. Headway also asks that the Bill mentions waiting times for carer assessments and, ideally, a maximum length for these. We understand from our work with carers that, under existing provisions, many have to wait unacceptable lengths of time to be assessed for support. This can be frustrating and distressing for carers who feel that they need help. By adding a duty about waiting times the Bill would provide greater reassurance to carers that timely support is accessible.

4.5. **Relationship support**

4.5.1. The charity would like any resulting carer support plans and provisions include relationship support. We understand that, when a person becomes the carer of a person they are in a couple relationship with, the dynamic can change considerably. This can place a great deal of emotional stress on the carer and their partner, and can lead to relationship breakdowns. Supporting the carer in their relationship – emotionally and sexually – can help them to adjust to their situation and to maintain their relationship where appropriate. This can also improve outcomes for the person they care for.\(^3\)

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

5.1. Headway would like to see the Bill amended along the lines it has detailed above. Aside from this, we are broadly pleased with the ethos of the Bill and what it seeks to achieve for carers. We believe it could provide valuable support for those caring for brain injury survivors, and are pleased to

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\(^3\) This is explored in detail in Relate’s recently published report, *The Best Medicine*. Headway supported the development of the campaign launched alongside this, and backs the campaign.
have had the opportunity to share our views with the Scottish Parliament Health and Sport Committee.

Headway
The Coalition of Carers in Scotland

The Coalition was established in 1998 and represents over 90 local carer organisations. We are the largest network of local carer organisations in Scotland.

The Coalition’s priority is to promote carer engagement and represent the carers’ voice in national policy discussions. We have a proven track record in engaging carers in consultation to inform the development of social and health care policy.

Carers welcome the government’s decision to introduce new rights and entitlement to carers through specific carer legislation. This is something which our members have been campaigning for over many years and the reason why we introduced the strapline ‘From Recognition to Rights in 2012.

Carers have also expressed severe disappointment with some aspects of the Bill and are concerned that in its current form it will not fully deliver its aims and could fail to make a genuine difference to their lives.

Our submission outlines the areas of the Bill that we feel must be strengthened and aims to offer solutions on how this can best be achieved.

How We Have Submitted Our Views

- We have submitted evidence from our Rural and Remote Carers Working Group outlining the additional impact rurality has on caring and setting forward best practice examples in supporting carers in rural and remote areas.

- We helped to develop and disseminate a joint Third Sector Positions Paper supported by the Health and Social Care Alliance, SCVO and condition specific organisations.

- We have developed a joint submission with the National Carer Organisations, providing detailed evidence on the following areas where the Carers Bill requires strengthening:
  - Replacing local eligibility criteria with national eligibility criteria.
  - Placing a duty on local authorities to provide a baseline level of universal, freely available services to carers in their area.
  - Strengthening the duty on local authorities in relation to short breaks beyond ‘having to consider whether an eligible carers support should take the form of a short break’. The duty must relate to providing a short break to eligible carers.
- Including a statement recognising carers as Equal Partners in Care
- Including a duty on health boards to inform and involve carers in hospital admission and discharge procedures
- Including emergency planning and future planning for carers within Carers Support Plans and Young Carers Statements.
- Fully recognising the role of the Third Sector, particularly local carer organisations in implementing the Bill
- Defining personal outcomes for carers beyond their caring role to recognise that they are entitled to a life outside caring.
- Placing a requirement on G.Ps to keep a register of carers and to be pro-active in signposting carers to support and offering them an annual health check
- Including a clear equality statement and action plan within the Bill.
- Making Health Boards jointly responsible for the development of local carer strategies
- Ensuring carers have a method of redress if they are unable to access their rights
- Supported the implementation of the Bill with adequate resources and clearly setting out what resources will be directed to carer support in Joint Strategic Commissioning Plans

In this submission we plan to take a broad overview of the Bill by drawing on the views expressed by our members through:

- An interactive session at our member meeting on the 25th of March, which was attended by over 70 carers and staff from local carer organisations. A full report is available as an Appendix
- Visits to local carer forums
- Opportunities via social media for carers to have their say.

We have also drawn on the responses to the consultation on proposals for carer legislation, which over 500 carers contributed to.

**Putting the Carers Bill in Context**

‘True partnership in operation means that the carer is listened to, the carer’s situation is improved, the cared-for person is happier and the carer is happier’. (COCIS member meeting)
Carers as Service Providers
It is important to put The Carers Bill in the context of the support that carers provide. There are an estimated 759,000 carers in Scotland.\(^1\) The care that they provide is valued at over £10 billion each year\(^2\), meaning that they provide more care than the entire health and social care workforce and private sector agencies combined.

Carers are not service users, rather they are unpaid service providers who are a valuable and finite resource and who require support to assist them in their caring role. This is essential to protect their health and wellbeing, minimise any negative impacts on their lives from caring and ensure that the caring role does not break down requiring more costly interventions from the state.

A comparison between unpaid carers and the paid care workforce
Many of the tasks carried out by carers are identical to those undertaken by the paid care workforce. They carry the same risks and should command the same respect. However, when we compare the rights and protection afforded to carers in comparison to the paid workforce there is a stark contrast.

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<th>Entry</th>
<th>Paid Workforce</th>
<th>Unpaid Carers</th>
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<td></td>
<td>Typically apply for the job, have a contract, choose to do it and can leave after giving notice</td>
<td>Typically unprepared, have limited choice but to carry on caring, face stigma for stopping</td>
</tr>
<tr>
<td>Working hours and Holiday Entitlement</td>
<td>Right to flexible working, to choose one’s hours; Working Time Directive protects worker’s ability to do the job safely, requires daily and weekly rest periods and breaks between shifts. Extra rights for night shifts</td>
<td>Carers have no statutory entitlement to a break from caring</td>
</tr>
<tr>
<td></td>
<td>Entitlement to a minimum of 28 days annual leave per annum (pro-rata for part time workers)</td>
<td>Rest Assured, A study of unpaid carers experience of short breaks found that 57% of carers had not had a break from caring</td>
</tr>
<tr>
<td>Pay and benefits</td>
<td>Minimum wage £6.50, living wage £7.85, HMRC mileage allowance 45p per mile, automatic pension enrolment, Statutory Sick Pay £87.55</td>
<td>Carers Allowance £62.10 per week (equivalent to £1.77ph for a 35 hour week). Less than SSP and JSA £73.10</td>
</tr>
<tr>
<td>Risk</td>
<td>Protected by employer insurance and Health and Safety law, including right to consultation, training, equipment, protective clothing, risk assessment, limits on manual handling etc.</td>
<td>No protection. Aside from H&amp;S risks, carers risk having reduced quality and opportunities in life</td>
</tr>
</tbody>
</table>

\(^1\) Scotland’s Carers an official statistics publication for Scotland, The Scottish Government, March 2015
\(^2\) Valuing Carers 2011 Calculating the value of carers’ support, Carers UK and University of Leeds
<table>
<thead>
<tr>
<th>Training, support and representation</th>
<th>Paid Workforce</th>
<th>Unpaid Carers</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Right to union membership, code of practice for grievances. Most employers offer training, support, appraisal and employee assistance programmes</td>
<td>None, other than that available through carers’ centres and other third sector services.</td>
</tr>
</tbody>
</table>

**Wider Social Care Reform**

It is also necessary to put the Carers Bill in the context of existing health and social care policy and legislation, particularly in relation to the ongoing social care reform agenda.

The integration of health and social care services, the re-shaping of older people’s services and the universal introduction of self-directed support aim to radically change the way services are designed and delivered.

The underlying principles of these reforms include shifting the balance of care to care at home and enabling service users and carers to have greater involvement in service design, both at an individual and strategic level.

These principles are welcomed. However, they have been introduced at a time when local authorities are implementing spending cuts across their services.

We have long stated that unless carer support is a one of the central pillars of service reform, the pressure and burden on unpaid carers will increase further.

Already we are seeing good intentions fail to materialise in practice. For example, while the Change Fund directed 10% of resources towards support for carers, local partnerships have not invested anywhere near the same level of support through mainstreaming projects or funding carer support through the Integrated Care Fund.

Similarly, while the Social Care (Self-directed support) (Scotland) Act provided local authorities with the power to provide carers with self-directed support, including a direct payment in their own right, very few have enacted this power. In fact a recent report based on FOI returns from local authorities revealed that only 3 carers in Scotland had been able to access a direct payment since the Act came into place.

The current challenges in health and social care and their impact on carers make the Carers Bill ever more significant. But it must not be considered in isolation, or as the single solution to addressing the current deficits in health and social care policy in relation to recognising and supporting carers.

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The Carers Bill - A framework for Carers’ Rights and Carer Support

*We need common sense legislation that ensures equality and maintains standards of support (carer, North Lanarkshire)*

Carers have welcomed The Carers Bill as a framework for recognising carers and providing them with an entitlement to support for the first time.

It sets out the process for implementing these new rights, from identifying carers and assessing their needs to setting out their eligibility for support.

All these steps need to be in place for the system to work and to deliver both consistently and equitably for carers. They need to be comprehensive, without being overly bureaucratic and they need to take account of the needs of the diversity of the caring population.

Where one step fails, such as carers not being identified, or informed of their rights, then the Bill fails to deliver on its intentions.

We feel there are areas where the Bill requires strengthening, both in terms of getting the process right, but also in ensuring that a focus remains on preventative support and that resources are not re-directed to carers who have eligible need to the detriment of carers who require early intervention. We therefore recommend the following

**Identification of Carers**

There are no specific provisions on the face of the Bill in relation to carer identification. This is a vital first step in supporting carers.

All agencies need to play a role in identifying carers and signposting them to support. However, G.Ps are in a unique position as they are frequently the first line of support. Carers are supportive of the idea of a G.P carer register provided it serves more of a function in supporting carers and is ‘more than just a flu jab’ (carer, North Lanarkshire)

Suggestions from carers for an enhanced G.P register include; access to longer and more flexible appointments, carer health checks, signposting to carers support services and additional support from an identified practice staff member.

**Provision of Information and Advice**

The duty on local authorities to *establish and maintain an information and advice service for carers* (Section 31 Point 1) is welcomed. This will be best achieved by resourcing existing services that work with carers, and only establishing a new service if there is an identified gap.

Carers value the information and support they receive through their local carer centres and many were clear in their response to the Bill that information *should be provided by a local independent carers centre who can provide independent advocacy and advice, not by social workers* (NCO survey).
Assessing Carers – The Adult Carers Support Plan
Carers welcome the new provisions relating to carers assessments with the focus on a personal outcomes approach, available to all carers. ‘Previous Carers Assessments’ in West Lothian felt more like an examination of the Carers Competence and ability to Care. I never felt it was supportive (NCO Survey)

Again many carers indicated a preference for Adult Carers Support Plans to be undertaken by local carer organisations. ‘Carers centres are best placed to carry out carer support plans as what they do is all based around carers needs’ (COCIS member meeting)

The Bill includes provisions for local authorities to devolve this responsibility to third sector organisations and it is a model which already operates in many areas, including the Borders, Stirling and Argyll and Bute where the local carers centres undertake carers assessments within the local authority.

The advantage to this model is that the timescales for carers to access a Carers Support Plan are generally shorter and they are also able to access universal services provided by the carers centre, such as emotional support and training.

Consideration also needs to be given to the training of staff whose responsibility it will be to undertake ACSPs. There has been much learning over the last few years in relation to adopting an outcomes approach to assessing carers and using best practice models such as ‘Talking Points’. This best practice must be embedded in the new approach so that ACSPs do not become a bureaucratic, paper exercise.

Carers who do not wish to take up an Adult Carer Support Plan
‘A minimum offer of support, so that nobody receives less than the minimum (carer, West Lothian)

Adult Carers Support Plans will need to be promoted and carers will need to be made aware of their right to access one. However, it needs to be recognised that some carers will choose not to access one. In which case It is essential that such carers still have access to universal preventative support through their local third sector carer support organisations.

This may include attendance at their local carer support group, or attending a carer training course. For example, VOCAL Carers Centre in Edinburgh advertises their training courses online and carers are able to book a place without going through a formal process.

For some carers this is a first route into support, they may then choose to access a carers assessment, or additional services at a later date, such as when their caring role intensifies

Carers who access an Adult Carers Support Plan but do not have eligible needs
Extending the right to all carers to access a Carers Support Plan is a positive
thing. It should enable carers to identify their personal outcomes and what support works for them. It should also allow them to plan for emergencies and for the future, particularly where their caring role fluctuates or is likely to increase.

In some cases it may result in carers choosing to no longer continue in their caring role where this is the right choice for them and/or the person they care for.

Where carers have identified a need for support, but they do not meet eligibility criteria, it is essential that these needs are still given priority. But as carers have repeatedly questioned ‘Who supports those who don't meet eligibility’ (COCIS member meeting)

We recommend that the Bill should specify that all carers should be eligible to a range of universal services, such as training, advocacy and emotional support. The Bill should specify that local authorities should have a duty to ensure that a baseline level of universal, freely available services are provided for carers in their area.

Since there is already a duty within the Bill to provide all carers with access to information, advice and a Carers Support Plan, there also needs to be a corresponding duty relating to a minimal offer of support, to carers who will not be eligible for more specialised services. Otherwise there is a danger that there will be nowhere for information services to direct carers to.

Our intention with this duty would be to protect and build on the existing network of local carer support services within Scotland which already exist in all local authority areas with the exception of very remote and island communities.

We will say more about universal services provided by the third sector later in this submission.

**Carers who have eligible needs**

‘National eligibility would provide a service across he board and it would not rely on the LA budgets to determine the level of service’ (COCIS member meeting)

For the first time carers who require support and who meet an eligibility threshold, will have a right to support

Eligibility criteria must be developed nationally, to ensure equitable provision across Scotland. We will provide further details on this later in our submission.

**Where carers are not able to access their rights**

‘Where a duty is put in place, it is important LAs adhere to it. There needs to be sanctions for those who do not provide carers with their rights.’ (Rural and Remote Carers Group)

One of the concerns that carers expressed was that they would be unable to access new entitlements through the Bill as this was their experience when
trying to access rights in relation to the person they care for.

It is vital that if carers encounter problems, that they have access to a method of redress that is easy to navigate and enables them to access their rights

As it currently stands carers must go through the social work complaints system. If this does not prove to be satisfactory they can only complain to the Scottish Public Services Ombudsman. But this route is only available if there is maladministration or service failure on the part of the local authority. Beyond this carers could apply for judicial review but this can place a cost and risk to carers finances.

In our joint NCO response we have outlined recommendations for how carers should have access to a real method of redress, based on the findings of the Crerar Review

**Universal Services and the Role of Local Carer Organisations**

*The Bill needs to recognise the role carers centres play. I did not want to let anyone know I could not cope until I came to the carers group. They have helped so much to get my life back on track* (Carer, South West Glasgow)

The Bill describes the duty to provide support to carers as applying;

‘where a carer has identified needs which cannot be met by services or assistance provided generally to persons in the area of the responsible local authority’ (Section 22 Point 1)

By general support we are interpreting this to mean support which is available universally within the local community, which does not require someone to meet eligibility criteria.

For carers, much of the support they access locally is provided by local carer support organisations. This support does not require them to have a statutory carers assessment, is universally available and is preventative, helping to sustain their caring role.

The Bill does not define which services are general. However, in the policy memorandum it describes eligible services as ‘bespoke services’ and states

‘Bespoke support would include, for example, short breaks, training, advocacy and emotional support’ (Page 22 paragraph 92)

Currently many of the services which are described as ‘bespoke’ in the policy memorandum are available to carers as general or universal support, without the requirement to meet eligibility criteria.

For example, many carers benefit from training to assist them in their caring role. This may be training on moving and handling to ensure they avoid injury, or courses explaining the condition of the person they care for and how it can be self-managed. Carers may also access emotional support in the form of peer support or counseling, advocacy or support to have a voice and be recognised as an equal partner in care.
In most cases this is provided by the third sector through local carer organisations and condition specific organisations. This enables early identification of carers and prevents carers from reaching crisis. The value of these forms of support has been well evidenced and is summarised in the report ‘A Good Outcome’ Evidencing how local carer organisations are supporting carers to reach their personal outcomes’.

To put this in context, only a small percentage of carers access statutory support following a carers assessment, with the majority accessing support through universal services.

Furthermore, with an increase in the number Adult Carer Support Plans being undertaken there will be a corresponding increase on the demands on universal services.

It is therefore essential that these supports continue, are properly resourced and that they are not defined too narrowly.

The Carers Bill must deliver equity! – National v Local eligibility criteria

‘Abolishing the postcode lottery is essential to implementation. The Scottish Government should take a stronger, firmer stance with local councils’ (COCIS member meeting

There is a broad consensus among carers and carer organisations across Scotland that the Bill’s provision for a duty on local authorities to provide support to adult carers based on local eligibility criteria is insufficient, unhelpful and designed to perpetuate the existing postcode lottery.

Carers were explicit in their response to the consultation on carers legislation that they believe eligibility criteria must be national rather than local. They stated that this is the only way to avoid a postcode lottery and to ensure that carers have access to the same rights and entitlements across Scotland.

If local authorities only have a duty to develop local eligibility, carers will be at the whim of 32 different systems operating across Scotland. Inevitably some local authorities will develop stricter criteria than others, meaning some carers will be at a disadvantage.

It will also mean there will be less transparency, as it will be very challenging to compare service provision across local authorities and carers will be unlikely to have an understanding of what they are entitled to.

The reasons that carers have given for wanting national eligibility criteria are outlined in the briefing paper 5 CLEAR reasons for national eligibility criteria.

The arguments that the government and COSLA have given for introducing

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local eligibility criteria are:

- Local criteria supports local variation
- Evidence suggests that local criteria has been more successfully implemented in the past.

We fully support the concept of best local practice and scope for local variation to meet varying needs and caring trends. Services which are suitable for carers in Glasgow may not be suitable for carers living in remote and island communities where transport and accessibility are a greater concern.

However, we do not believe there is any justification for a variation in the levels of need which trigger an entitlement to support. There is no justification for not defining national standards of eligibility so that carers are able to access the same level of support where they have a similar level of impact and intensity of caring role.

‘The postcode has not a lot of bearance on caring. The impact of caring depends on the level of caring, how long you care for, the type of caring situation you are in. Not your postcode’ (COCIS member meeting)

It is the trigger and level of service that would be decided by eligibility criteria not the type of service the carer chooses to access.

In terms of other nations’ experience of implementing eligibility criteria, we have been unable to find any examples of countries developing local eligibility criteria for social care. England and Wales have recently introduced national eligibility criteria for care services and there are many examples of European countries with national eligibility criteria for social care, including carer support.

In research by the Universities of York and Stirling Rethinking, Social Care and Support: What can England learn from other countries, one of the key conclusions from the report was;

‘Eligibility criteria and assessment processes are also determined at national levels (although assessments may be carried out by local officers and organisations.) The clear role of national governments in generating, distributing and allocating resources significantly reduces the risk of local geographic inequity’

Scotland’s National Carer Organisations are currently engaged in a short term project to develop a framework for national eligibility criteria for carers. We are investing our own resources in this so that we can present a viable alternative to local eligibility criteria, which has been co-produced by carers. We will also involve other key partners, including representatives from health boards and local authorities in its development to co-produce a solution for broad

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consensus. We will be sharing this with government over the next few months.

The Need for Adequate Resources

More resources will be required or existing resource will be diluted (a see-saw effect) However, if done in partnership between local authority and health with pooled budgets it will achieve better outcomes for people (carer, West Lothian)

The Financial Memorandum sets out what the cost implications will be in relation to the implementation of the Bill and what resources will accompany it.

It is our intention to submit evidence to the Scottish Parliament’s Finance Committee on this. However, we have several questions in relation to the resourcing of the Carers Bill which we feel need to be considered alongside some of the issues we have already raised in this submission.

- There needs to be a clear indication of what the government will be providing as additional resources for carer support and what resources will replace funding which is coming to an end. This would include respite care funds (£2.28 million) The Carer Information Strategy Funds (£5 million) and the 10% of the Change Fund which was directed to carer support. If the costing in the Bill are calculated without taking this deficit into account the sums won’t add up.

- How will any new resources be directed to carer support, how will the government ensure that they are of direct benefit to carers and specifically used to implement the provisions within the Bill? As one carer put it ‘Who is to say that the money will be ring fenced and used for carers support???' (NCO survey)

- Local authorities will need to invest both new and existing resources in carer support. However, since there have been significant cuts to carer services over the last few years there is the danger that new resources will only address the rollback of services we have already seen and we will simply return to the position we were in previously.

- The financial memorandum includes costings for additional posts in relation to the new duties within the Bill. For example, Table 70 outlines the costs associated with advice workers in relation to the duty to establish and maintain an information and advice service. It needs to be made clear that these workers will be additional to existing carer information and support workers to address the increased demands on services arising from the new duty.

- It is also not clear from the financial memorandum how the costs in relation to the Duty to Support have been calculated. It would be useful to have a breakdown of the separate elements, such as short breaks, carer training etc.
We are also extremely disappointed that the financial memorandum states
‘There are no direct duties on third sector providers such as local carer organisations in the Bill and therefore no direct costs on them arising from it’ (Paragraph 112)

As we have illustrated throughout this submission the third sector, in particular local carer organisations, will be instrumental to the successful implementation of the Carers Bill

The provisions within the Bill will directly result in an increased demand on their services, as more carers will be identified, undertake an Adult Carers Support Plan and require access to universal carer support services. Unless they are adequately resourced they will be unable to cope with the additional demands placed on them.

**Carers As Equal Partners in Care**

*Recognition of carers as equal partners in care at all times, not just when it suits for them to be so. Recognition of carers as experts in their own situation.* (COCIS member meeting)

The Community Care and Health Act 2002 recognised carers as ‘key partners in providing care’. This was further strengthened by Caring Together The Carers Strategy for Scotland in 2010 which recognised carers as ‘equal partners in care’

This has been a key shift in recognising carers as service providers who have an important role to play, both in service planning at a local level, but also as equal to health and social care professionals in their knowledge and understanding of the care needs of the person they look after.

The Carers Bill includes a duty on local authorities to involve carers in the planning, shaping, delivery and review of services, which is an extension of the current provisions within the Public Bodies (Joint Working) Act.

In addition it includes a requirement for local authorities to take into account the views of the carer when determining the needs of the person being assessed and deciding what services to provide and how to provide them.

These new provisions are welcomed. However, they stop short of recognising carers as equal partners in care.

Carers have clearly stated that they believe the Carers Bill needs to include a statement recognising carers as equal partners in care.

This recognition would build on the best practice developed through the Equal Partners in Care Project (EPiC). This is a national framework for professionals developed by the Scottish Government and NES, based on six core principles. The EPiC project supports workforce learning in health, social services and other sectors with a role in identifying and supporting carers. The recognition of carers as equal partners is a core value of this training.
Having their role and expertise fully recognised is an important factor in carer satisfaction and wellbeing. It is not something that requires extensive resources, rather it requires a cultural shift by professionals. By embedding the core principle of carers as equal partners in care within the Carers Bill this would provide a foundation for both the duty on local authorities to involve carers in service development and the requirement to take the views of carers into account in the care planning of the person they look after.

Resourcing Carer Engagement

It must also be recognised that carers require resources to enable them to participate meaningfully in local strategic planning and service developments. Our best practice standards, Equal and Expert, provide a template for how partnerships should be facilitating and resourcing carer engagement.

We recommend that these standards are reflected in the guidance accompanying the Bill.

Short Breaks – The Cinderella Service

‘I had to kick, scream, shout to get what I have got, and even then I was told that these places were so hard to come by, and they are quite often kept for emergency cases. But my point was who is to say that I am not going to become an emergency case if I don’t get it? (carer, Rest Assured Study)

We endorse the detailed submission from Shared Care Scotland setting out how the duties in the Bill relating to Short Breaks must be strengthened.

With reference to the duty to ‘consider’ whether support should take the form of a break from caring, we are concerned about how this might be interpreted. Does a duty to ‘consider’ provide sufficient legal clarity to enable carers to challenge a local authority decision if they feel their short break needs have not been properly addressed?

The duty, as it stands, does not address the need for local authorities to actively plan to improve the availability, choice and flexibility of short break provision. Such a duty exists in England for families caring for disabled children and there is evidence this is having a positive impact.

We therefore support a duty on local authorities to provide carers who meet eligibility criteria with a quantified, minimum level of short breaks, which would be clearly stated in their support plan and which would be made available through the different self-directed support options.

The government has already stated that carers should not be charged for the support they receive - including any charges related to enabling breaks from caring - and we would expect this position to continue.

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Additional Duties to be included in the Bill

Hospital Discharge

Carers need to plan for taking the person they care for home, yet some hospitals give little warning. The carer is central to the success of keeping the person they care for being readmitted (NCO survey)

Despite the existing Scottish Government protocol on hospital discharge, practice across Scotland differs widely and this is very often to the detriment of carers.

Part of this problem stems from the pressure on health boards to reach even shorter targets in relation to delayed discharge. As a result health professionals are sometimes transferring this pressure on to family members through their insistence that patients are discharged before a discharge plan is in place and adequate services are available within the home.

This attitude was recently highlighted by research which found that 72% of nurses in Scotland feel families need to take more responsibility for their older relatives. 78% said they do not believe families should be blamed if there is not enough support in place. This means that more than 1 in 5 nurses believe that family members should be blamed if there is not enough support in place.

Where necessary, support must be provided to the carer to ensure that their views are taken into consideration. For example, Stirling Carers Centre has a dedicated support worker, based within the local hospital whose role is to support carers to be fully involved in hospital discharge procedures and in making the transition home. Appendix Two in our submission includes a case study showing the positive outcomes this can deliver, both for the carer and the person they care for.

To create sustained and consistent improvement, which we believe would benefit both carers and those they care for, the national carer organisations advocates that hospital discharge must begin at the point of admission with the full and active involvement of carers.

Discharge planning must take account of the level of care that carers are willing and able to provide (if at all) and should put in place additional support or replacement care where required.

We therefore support the addition of a duty on health to inform and involve carers in hospital admission and discharge procedures.

Emergency Planning

'We had a recent experience which showed us that, while we all hold a good deal of information about my sister’s routines and needs, there is a great deal

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7 Let’s Stop Going Home Alone Campaign, RVS, March 2015
only in my Mum’s head. It probably would be a good idea to work with her to get it all written down. (ENABLE Scotland, Picking up the Pieces)

We support the submission from ENABLE Scotland calling for a specific provision on the face of the Bill on emergency planning within Section 8 and Section 13.

Even when it is not enacted emergency and future planning provides peace of mind for both carers and the people they care for, allowing them to make decisions about future care arrangements before they reach crisis point.

Avoiding Unintended Consequences - specific changes to the wording of the Bill

There are several areas of the Bill which we feel need to be re-worded to avoid unintended consequences

- In the section Key Definitions Part 1 the Bill should include reference to supporting carers in two additional ways: - to enable carers to disengage from caring (should they identify that as the main desired outcome) and to support carers post-caring

- The Bill sets out a duty on local authorities to ‘establish and maintain an information and advice service for carers in its area’. (Section 31 (1)) We are concerned that local authorities will interpret this as needing to establish a new service, put services out to tender, or bring them in-house. We feel it would be better worded as ‘the local authority will have a duty to maintain an information, advice and support service for carers and young carers, or establish a service where required’

- In relation to the requirement for local authorities to set out a timescale for preparing ACSP in their local carer strategies. (Section 28 (f)) We think this requirement would be strengthened by the phrase ‘reasonable timescale’ to convey the need for ACSPs to be undertaken within a prompt and reasonable timescale

- The definition of ‘personal outcomes’ for carers within the Act needs to be strengthened. More details of this are included in the NCO Joint response.

- The duty to take account of the care and views of carers in assessing the needs of a person (the cared-for person) is welcomed. However it needs to be made clear that the intention is to take account of the care that the carer is ‘willing and able’ to provide. Local authorities must not use this as a deflator in reducing the allocated budget for the cared-for person. This must be made clear in guidance

- Section 24 of the Bill relates to charging for support provided to carers. It should be made clear that there is no intention to reverse the regulations in the Social Care Act in relation to waiving charges for carers.
Conclusion

Carers want a strong bill which will have a positive impact on their lives. To do this it must deliver clear rights and do so in an equitable fashion.

The role carers play in the delivery of health and social care will only increase in the next few years, as will demands on health and social care services. Carers must not be expected to shoulder an increasing burden. We are already seeing evidence of this with the 2011 census figures showing a marked increase in the number of hours carers are caring for.

This Bill should not be viewed primarily as a means to set out the process of providing carers with support and services. It must go beyond that and set out the principles by which we recognise carers as equal partners.

There needs to be a more balanced equation, where we value carers’ contribution and expertise, not with empty thanks, but by providing them with the resources they require to assist them in their caring role and to ensure they have a life outside caring.

The Coalition of Carers in Scotland
Appendix One

Report from the Coalition of Carers in Scotland member meeting
25th March 2015

Members of the Coalition of Carers in Scotland discussed the Carers (Scotland) Bill at their meeting on the 25th of March. This included an interactive session using message boards, providing participants with the opportunity to share their views on the Carers Bill, with a particular focus on whether eligibility criteria should be national, or applied on a local basis.

This is a report of the views expressed by our members. Just over 70 people attended the meeting and this was a mixture of carers and staff from local carer support organisations. The report sets out the questions posed via message boards and the responses received.

I support the introduction of National Eligibility Criteria

Strongly Agree 43
Agree
Don’t know 1

Tell us your reasons why:

- To make all health board / local authority areas equal
- Local eligibility criteria could be used as a cost cutting exercise by Local Authorities
- Should lead to more equality away from party politics
- There has to be national eligibility criteria or things will remain the same with care being a postcode lottery and Local Authorities interpreting the Act to suit their criteria
- Employment rights are not left to individual companies, childcare provision is not entirely left to local authorities. Other national criteria includes free personal care, national care standards, housing support rights, education of children, if left to local authorities, why carers rights!
- To ensure fairness for all carers
- This should provide some equality and constancy rather than the variable interpretations of the law
- Implementation of the carers rights charter is essential to the working of the act
- Minimum national eligibility standards will ensure that local authorities have to provide at least a minimum level of support
• Do away with postcode lottery. Minimum criteria is necessary
• It will mean equality – not necessarily the loudest voice!
• The professionals frequently cause us more stress than the ones we care for with the stupid rules they make

**I support the introduction of Local Eligibility Criteria**

Strongly Agree 3

Agree

Don’t know

**What principles should be embedded in eligibility criteria?**

• Fairness, respect, equality
• Recognition, honesty and listening to carers
• Respect, listen to, honesty
• Basic criteria – if it set too high then no one access resources
• Recognised and valued for the crucial role they play and the sacrifice they give. We are all heroes
• Carers willingness, respecting carers as equal partners, listening to individuals
• Recognition at the start of caring and support and understanding no matter how long my caring journey took
• Capacity building in communities (carer today is tomorrows cared for) Valuing carers and ex-carers and benefitting from their knowledge and experience
• Recognition of carers as equal partners in care at all times not just when it suits for them to be so. Recognition of carers as experts in their own situation
• Should include some aspect of prevention – early intervention to avoid need for crisis intervention and the effect that has on the individual/family
• Respected and supported by all agencies as a carer
• To be treated as an equal partner in care (2 responses)
• Recognition, fairness, support for carers young or old no matter what their caring role is
• Focus on prevention – by providing universal access to some carer supports it will inform and enable carers to continue caring and keep well themselves

• There needs to be a minimum national criteria – to ensure equity and enable hard to reach groups to access support

• The criteria should make short breaks available to as many carers as possible

What would fair eligibility criteria look like to you – what would it include?

• All to be valued and recognised
• Support all carers as some may cope better than others
• Provide more support to a loved one than would normally be expected
• Knowing the different support available
• Criteria to prevent crisis – universal right to needs being assessed with Adult Carer Support Plan in place
• Bereavement – carers who lose the person they care for continue to be supported and assisted to adapt to life outwith the caring role
• Services should be delivered at the right time and address need
• Recognition we also may have other family members to support
• Minimum standard agreed by all stakeholders as acceptable baseline, recognition that good practice would be to raise provision above national standard level
• Universal and open to all unpaid carers with variations in levels according to needs assessment

What areas of The Carers Bill do you feel most need to be strengthened?

• Respite – Carers to be given the same holidays as an employee – 28 days
• Respite – Duty as a statute to all local authorities
• I feel more understanding of mental health and the very difficult job M.H carers have. It is so different from other caring
• Inclusion / involvement of health board and 3rd sector
A key driver in carer support needs is hospital admission and discharge. The process of reviewing care support plans needs to include reference to this important change.

Support for hospital discharge duty. Example of good practice from NHS Tayside. Bad examples from NHS Lothian.

Inclusion of health to involve carers in hospital discharge.

We need basic eligibility to avoid crisis with funding resources out in place.

Carers having a length of their own. Stipulating why, when and how they will provide support. This needs to be recognised.

I am concerned that the parliamentary process is turning simple objectives into an overly detailed structure which risks swamping the original intentions of taking forward carers rights.

LAs should not be allowed to establish services if carer centres are already there and are doing good work.

Respite open door policy.

Who settles on the desired personal outcomes? Is the final say so with the carer? The key word is personal.

Can the Bill go through a poverty impact assessment? The policy memos assessment on carers and deprivation levels is stark. What can the provision in the bill do to ensure carers in most deprived quintiles are as well supported as those least deprived?

Can there be a requirement for monitoring and reviewing needs at the request of the carers. Could the adult carer support plan be named 'my carer support plan' with it being signed off and owned (primarily) by the carer.

There needs to be aggregation of identified needs in plans.

Carer involvement – the provision should be a duty to support the involvement of carers.

Local carer strategies should be required to abide by EPiC principles and provide 5-10 year forecasts on carers needs / trends.

Timescales for assessments to be carried out.

Support for hospital discharge.

New act says consideration must be taken regarding if a carer needs a break – but should there not be a duty to provide some sort of break.
• The Bill talks a lot about ‘services’ we need to be careful this does not make carers ‘service-users’ – they are care providers. This needs reinforced throughout the guidance

• Carers should be supported if they no longer wish to care for the person they look after. For example, if they want to go back into employment

• Review of Carers Support Plan must be fixed time after completion by law

• Carers are not listened to when at meetings. We find the minutes don’t represent much of what we said. We turn up to find the meeting has been cancelled but they didn’t think we were important enough to tell us

• Emergency care planning should be made available to parent carers. But thought needs to be given on who will provide this and how it will be regulated

• Emergency care plans need to be part of the Bill

• Emergency care plans should be compulsory as it protects the cared-for and takes pressure of the carer

• Regular health checks should be available to carers

• Multiple caring roles need to be recognised in legislation

• The Bill needs to recognise the role carers centres play. I did not want to let anyone know I could not cope until I came to the carers group. They have helped so much to get my life back on track

**What areas of The Carers Bill are you most pleased about?**

• The removal of regular and substantial (3 responses)

• Duty to provide Adult Carer Support Plan (3 responses)

• Focus on young carers

• Getting the Bill/Act for carers to this stage is great news in itself

• Carers rights being recognised

• Carers recognised and their voices taken into full consideration

• Importance of legislation which will mean a **duty** to provide support to carers who fit eligibility criteria

• Recognition that carers should have rights
• The fact that the Scottish Government has recognised the need for supporting carers and also recognising the very important resource carers are to government and local councils

• That there will be a Carers Act eventually

• Recognition for carers at long last

• Carers recognition – duty rather than a power

• Carers having a say at last

• Lots! – That it exists enables a full societal discussion with potential for real benefits for carers as the eventual product

• Just to get to this stage is fantastic

• 3 areas – 1. Support plan 2. Recognition of emotional impact and support for emotional aspects of care 3. Recognition that it needs to be financed-good investment – big returns

• Carers rights, embedded in legislation for the first time

**CLEAR Reasons for National Eligibility Criteria**

Carers want National Eligibility Criteria. Do you agree? Share your views

• Yes, it is important everyone is treated in the same way – one process

• Does away with the postcode lottery

• National eligibility would provide a service across the board and it would not rely on the LA budgets to determine the level of service

• Yes, but it needs to be funded and resourced properly. A national framework should eradicate the postcode lottery

• Will COSLA hold the key to unlock the door to the development of a national eligibility criteria?

• I agree with national eligibility criteria. It sets a baseline for everyone

• National eligibility would ensure all regions are equal and the onus of responsibility is on the local authority

• Yes, but there needs to be adequate resources (financial) to support local authorities needs to be addressed

• Carers have to support each other and stand together to get the Bill through, along with any amendments as required

• There will be a postcode lottery if there is local eligibility
• Don’t give LAs loopholes to be able to ignore carers

• There needs to be flexibility within a national framework

• EPiC principles should form the basis of national eligibility criteria. The principles are based on core outcomes, can accommodate local variation and form the basis of national standards

• We carers must be regarded as equal across the country

• Concerns about the dilution of good services, bringing services down, not bringing them up

• I agree because it wouldn’t matter / depend on your postcode to get equality

• There should be national rights for carers

• Carer need to be recognised and national eligibility criteria will cover many carer who require support

We need to learn from other countries? Share your views

• This is a good gauge to see how other countries work with carers and how we work with carers. We should always be open for change and improvement

• Scottish Government must take this opportunity to implement best practice of other counties within Europe

• We cannot be narrow minded – must take heed of good practice

• Yes, it is important to learn new ways and work together

• Learning comes from many sources

• This should be an opportunity to look at the best practice in other countries and combine this with our own best practice

• Yes, it’s good to learn what’s positively working well elsewhere

• Yes, learning is good, but also learning what not to do?

• We should take this as good advice

• Learn what is most likely to work and be fair. Stop re-inventing wheels

• I think it is important to look at what other countries are doing and learn from them
Equity – A fair system. Do you agree? Share your views

- National eligibility standards would give clarity against which both carers and councils could judge how much was needed and what the shortfall was.
- National criteria will address issues for all groups and will remove it from party politics.
- Yes, equity should be for all care groups across Scotland. Fairness for all groups is required.
- Don't leave it to LAs, all carers should be treated equally.
- Would not rely on party politics and LA budgets. Services would be a right and not a privilege.
- Hard to reach groups find it difficult to have their voice heard. National criteria could help with this.
- Should not be party political, depending on the ‘colour’ of the council. National criteria would avoid this.
- National criteria will make it a fair system. Everyone will be treated equally.
- Would help to standardize resource allocation.
- Needs to apply to all care groups.
- For as long as there have been services/support there has been issues. An equal and transparent system would allow areas to plan appropriate support.

Abolishes the postcode lottery. Do you agree? Share your views

- The postcode lottery needs to be abolished so that it is fair all over and equal.
- Yes, definitely agree. Clarity for all right across the country = better use/less waste of resources.
- To be listened to it requires many voices and many different types of carers as there are many caring roles.
- The national standards should be applied across all LAs But discretion must be applied only to increase the level of support above the national standard, never to decrease it.
- Universal and open to all unpaid carers with variations in levels according to the needs assessment.
• Universal for all carers with greater support available for those most in need

• This is crucial in a fair society

• The postcode has not a lot of bearance on caring. The impact of caring depends on the level of caring, how long you care for, the type of caring situation you are in. Not your postcode

• It needs to be a duty for all councils to provide resources and support to carers and monitor the situation

• Yes, it is important the system is the same for every carer

• True partnership in operation means that the carer is listened to, the carer’s situation is improved, the cared-for person is happier and the carer is happier.

• Agree strongly. Carers’ issues are of national concern

• There is a need to abolish the postcode lottery, fairness for all carers is a must. Some carers are not in the position to move home to receive quality support

• All authorities should have the same system. No carer should feel that they have to move or do without services

• Equal Partners in Care needs to be reflected in the development of any framework

• All carers should be entitled to the same services no matter what area they live in

• I Support the need to abolish the postcode lottery

• Abolishing the postcode lottery is essential to implementation. The Scottish Government should take a stronger, firmer stance with local councils

Rights –available to all. Do you agree? Share your views

• I think all carers should have the same rights

• Should be monitored to ensure it is happening

• All carers should have their rights and should know their rights and entitlements

• Yes, carers will be able to be confident in asking for support

• All carers should have the same rights and entitlements
• Some can cope with a little support, others need a lot. All should have the right to state what they can and can't cope with. Rights for all!

• It should be a duty of care for all councils to provide care and support and monitor the carers situation

• We are all part of the same system. Our needs may vary but we still need support!

• Yes to rights available to all carers no matter who they care for, be it mental health, learning disability, young or old. They should all be treated the same.
Appendix Two

Stirling Carers Centre – Case Study – Hospital Discharge Support Service

Background
James was referred to the Enhanced Discharge Carer Support Officer by the Specialist Occupational Therapist working with his wife. Shiona had had a stroke and was elderly and frail. Shiona had been in the community hospital for some time, and had been discharged home previously but had to be readmitted. James’s caring role included personal care, a lot of emotional support and physical support and supervision. All administrative tasks and appointments were dealt with by him. He is also elderly and frail, and has not had a caring role in the past so was unsure of the details of the process and had felt lost in the past.

Action
The Carer Support Officer met with James, and had a person-centred conversation about his caring role and how the carer felt his caring situation could be improved. Using this information, a Carers Assessment was completed to depict the nature of his caring role and to request services that he felt would help his situation. He expressed that he would like to be able to talk to other people in a similar situation and also that he would like to be able to get a break from his role to rest and recuperate. He then explained that he found the discharge process to be complicated and would like to know more about it, so that he felt prepared.

The financial implications of caring were also taking a toll on him, as Shiona was weak and very thin as well as being incontinent. James had to have the electric fire on all day, purchase incontinence pads and special foods for her due to her poor swallow.

Partnership working is key for smooth delivery of support for carers, and so the Carer Support Officer met with an Anticipatory Care Nurse, who completed a Single Shared Assessment for a programme of regular respite in residential care.

A conversation about benefits was had between the Carer Support Officer and James, and following this, an application for Attendance Allowance was made together.

Result

- Information – the Carer Support Officer discussed the discharge process and provided contact numbers for the Carers Centre, NHS staff and Social Work
- Informal respite - information given by the Carer Support Officer on local stroke support group, Chest Heart and Stroke support and peer support groups offered by Stirling Carers Centre
• Benefits – Attendance Allowance was awarded at the higher rate

• Formal respite – residential care place granted by Social Work on a regular basis for James to have a break, and day care

Outcomes
James is now supported in his caring role. James was given the details of the discharge process and had the opportunity to ask questions, and had contact numbers for the Carers Centre, NHS and Social Work, so that he felt able to contact for support before his situation potentially reached crisis point. The regular breaks, and having other people to talk to who understand his situation means that he is happier and less isolated. He feels more able to cope as he has these mechanisms in place and is less likely to have to readmit Shiona because he is overwhelmed or exhausted. Shiona was discharged from hospital already having the Attendance Allowance application completed and ready to send, and following the award, they are able to go out socially together to maintain their relationship, as well as being able to have the heating on to keep her warm.
Carers (Scotland) Bill

Scottish Human Rights Commission

The Scottish Human Rights Commission is a statutory body created by the Scottish Commission for Human Rights Act 2006. The Commission is a national human rights institution (NHRI) and is accredited with ‘A’ status by the International Co-ordinating Committee of NHRIs at the United Nations. The Commission is the Chair of the European Network of NHRIs. The Commission has general functions, including promoting human rights in Scotland, in particular to encourage best practice; monitoring of law, policies and practice; conducting inquiries into the policies and practices of Scottish public authorities; intervening in civil proceedings and providing guidance, information and education.

The Commission welcomes the opportunity to comment on the Carers (Scotland) Bill. The need for action to improve carers’ rights is an issue which has come out clearly through our work on Scotland’s National Action Plan for Human Rights (SNAP), in particular during our three year research project, Getting it Right?. This led to a commitment within the Plan to a new Carers Rights Charter, which will consolidate existing rights, establish a clear set of principles for the support of carers and emphasise the importance and understanding both of the needs of carers and the ways in which central and local government, Health Boards and others can work to ensure that carers are appropriately supported. The current Bill is a positive step in enhancing carers’ rights to access support, as well as ensuring that carers are aware of their rights to do so.

Do you support the Bill?

Yes. The Bill provides for a range of measures which should enhance realisation of the human rights of carers as well as supporting the realisation of the human rights of those they support.

The legal framework

- **Human Rights Act 1998 and European Convention on Human Rights (ECHR):** Applicable rights include the right to respect for private and family life (Article 8, ECHR) as unpaid caring responsibilities have an impact on the autonomy, physical and mental integrity, quality of life, and well-being of carers.

- **The Scotland Act 1998** which requires that all legislation of the Scottish Parliament must be compatible with ECHR rights.¹ It also requires that Scottish Ministers must observe and implement the UK’s other international obligations, which includes obligations under international human rights treaties the UK has ratified.²

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¹ ss29(2)(d) and s.57 Scotland Act 1988 and s.6 Human Rights Act 1998.
² ss.29(2), s.35(1) and s.58 Scotland Act 1998.
o **Rights of carers:** Applicable rights include their rights to an adequate standard of living (Article 11, International Covenant on Economic, Social and Cultural Rights, ICESCR), right to health (Article 12 ICESCR) and the right to work (Article 6, ICESCR).

o **Rights of cared-for person:** Perhaps of most relevance is the UN Convention on the Rights of Persons with Disabilities (CRPD) which contains a broad range of rights aimed at removing barriers to the participation of disabled people in society on an equal basis with others. Carers support the realisation of many of these rights but of particular importance is the right to live independently and be included in the community (Article 19) which is fundamentally facilitated for many by the support provided by carers.

**What do you feel would be the benefits of the provisions set out in the Bill?**

The process of researching and developing SNAP identified a range of issues facing carers. Broadly, these related to:

- **Awareness of rights:** There is a lack of understanding of the rights of carers and those receiving care. There are a significant number of unpaid carers who provide invaluable public benefits, often at great impact to their own rights to adequate standard of living, health and to work.

- **Accessing rights (to support):** There is evidence that certain groups of carers (Gypsy/Travellers, minority ethnic carers and carers in rural areas) face particular difficulties in accessing support. There are a number of areas in which further steps are needed to realise the right to independent living for all. There is, for example, a lack of portability of care packages between local authorities which impacts on freedom of movement and rights to education and work. There are concerns related to the limitation of social care support to what is needed to survive (so-called “life and limb” support) rather than what is needed to realise rights (to work, to an education, to take part in life in the community).

The Bill presents an opportunity to address these issues by taking a human rights based approach to supporting carers, aiming to enhance the empowerment of carers to know and claim their human rights, alongside the ability and accountability of individuals, organisations and the relevant professionals who are responsible for respecting, protecting and fulfilling human rights. We therefore welcome the establishment of information and advice services, to address carers’ awareness of rights. We also welcome the

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3 Such as freedom from exploitation, violence and abuse (Article 16), respect for home and the family (Article 23), habilitation and rehabilitation (Article 26), participation in cultural life, recreation, leisure and sport (Article 30)
widening of access to assessments (now Adult Carer Support Plans or Young Carer Statements) by amending the definition of a carer.

The Commission also welcomes placing on a statutory footing the need to involve carers in the planning, shaping, delivery and review of services, as well as in the development of local carer strategies. This accords strongly with a human rights based approach to supporting carers, which means giving people greater opportunities to participate in shaping the decisions that impact on their human rights.

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

**Definition of personal outcomes (Section 4)**

The Commission welcomes the personal outcomes approach to be taken in Adult Carer Support Plans and Young Carer Statements, however, the definition of personal outcomes only reflects one narrow aspect of the situation of carers, namely their caring role. It does not reflect the broader life of the carer as an individual in their own right. Article 8 ECHR protects a number of aspects of private and family life for all individuals, including the right to maintain family and social relationships, in addition to health and well-being. Amending the definition of personal outcomes to reflect the entirety of the carer’s life would support the policy objective of helping carers to have a life alongside caring.

**Eligibility criteria (Part 3, Chapter 1)**

The Commission is concerned that the introduction of local eligibility criteria could lead to increased geographical variations in access to support. To fulfil its human rights obligations Scotland should be identifying and addressing disparities on any ground – not only those grounds of discrimination included in national equality laws, but also differentials between those living in rural and urban areas. The grounds on which discrimination is prohibited are not limited in human rights law, with Article 14 ECHR and in non-discrimination provisions in other international human rights instruments extending to any other status. Human rights bodies have increasingly considered this to include place of residence.

Variations in eligibility criteria have also been highlighted as a factor which inhibits portability of care. Barriers to portability of care impact upon the right to independent living of the cared-for person. If carers are not able to receive

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4 As the UN Committee on Economic, Social and Cultural Rights has stated in an authoritative interpretation: The exercise of Covenant rights should not be conditional on, or determined by, a person’s current or former place of residence; e.g. whether an individual lives or is registered in an urban or a rural area, in a formal or an informal settlement, is internally displaced or leads a nomadic lifestyle. Disparities between localities and regions should be eliminated in practice by ensuring, for example, that there is even distribution in the availability and quality of primary, secondary and palliative health-care facilities. (UN CESC, General Comment no. 20, non-discrimination in economic, social and cultural rights, UN Doc. E/C.12/GC/20, 2 July 2009, para 28).

5 'Getting it Right? Human Rights in Scotland' SHRC 2012, p.67

6 Article 19 UNCRPD
support in one locality, where they would be able to receive it in another, there is knock-on effect on the right to independent living of the cared-for person.

While it is important to tailor carer strategies to local needs, the threshold at which a carer’s right to support is met should not be subject to local variation. The possibility that Regulations will set out key drivers for support on a national basis will not be sufficient to address geographical disparities in the thresholds applied to the right to access support. The Commission would therefore recommend that a model based around national eligibility criteria is adopted. Such an approach would still allow for best practice to be supported in local areas.

Is there anything that you would add to the Bill?

Kinship carers

In terms of the definition of a carer within the Bill, we note that kinship carers are not, for the time being, included within its scope, although they may be included by way of Regulations. Most children in kinship care arrangements are not considered “looked after children”, and therefore do not have access to the same forms of State support. Unpaid caring responsibilities have an impact on the autonomy, physical and mental integrity, quality of life, and well-being of carers, whatever the nature of the caring relationship and accordingly all types of carers should be offered equivalent support. In addition, the impact of kinship care arrangements impacts disproportionately on women, in light of which all appropriate measures should be taken to eliminate discrimination against women in this area of economic and social life. The Commission believes that the Bill should take the opportunity to place kinship carers on an equal footing with other carers at this time.

Is there anything that you would remove from the Bill?

No

End.

Scottish Human Rights Commission

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7 Section 1
8 63% of relative carers are grandmothers, sisters or other female family members according to Nandy, S. Selwyn, J. Farmer, E. Vasiey, P. (2011) Spotlight on kinship care. An analysis of the 2001 census data. Bristol University: Bristol. Available at: http://www.bristol.ac.uk/sps/research/centres/hadley/research/
9 Article 13, Convention on the Elimination of All Forms of Discrimination against Women requires “States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular: (a) The right to family benefits; (b) The right to bank loans, mortgages and other forms of financial credit; (c) The right to participate in recreational activities, sports and all aspects of cultural life.”
Carers (Scotland) Bill
Aberlour

Working in over 40 locations across Scotland, we offer a diverse portfolio of services to vulnerable children and families facing adversity or a range vulnerabilities. As such there are three specific groups of carers that we work with in this regard:

1: Parent carers of children with profound and complex physical and learning disabilities: We have both short break respite and long term residential care services for families affected by disability.

2: Siblings of children with profound disabilities who provide caring support in the home: Many of the siblings of children with disabilities with whom we work have to grow up far earlier, and take on more responsibilities in the home than their peers. We have designed special packages of support for these siblings that recognise the very special role they play.

3: Children affected by parental substance use who provide a caring role for siblings or parents themselves: We have decades of experience working with families affected by parental substance use. We work in a holistic way to build both parental capacity and resilience and attachment in the children we work with.

In the lead up to the instruction of this bill and as part of our response to the pre-legislation consultation, we undertook a range of focus groups with parent carers of children with whom we work. This, along with input from young carers and sibling carers has helped to inform our response.

We have kept our remarks brief and to reflect the interest of our organisation in this regard. It can be inferred that we are broadly content with the sections not referenced in our response.

Top lines:

- We want to see a child rights impact assessment conducted on the Bill
- We think that responsible authority should have a duty to communicate the existence of support plans for carers to both adult and child carers proactively
- Qualification for support should be triggered by impact on the carer of the care they provide and not by the existence of a medical diagnosis
- We need to define what is meant by wellbeing in the context of adult carers
- Adult carers plans and young carers statements should signpost to all other avenues of statutory support including benefits etc. and raise awareness of SDS.

- There must be an appeal mechanism for carers should the authority not identify any support needs

- Young carers statements should be renamed ‘young carers support packages’

- Young carers should have a statutory right to access the services of a trained advocate when being assessed for a support package or appealing the decision of the authority.

- Eligibility criteria for support should be set on a national basis not a local basis to prevent inconsistency and the possibility that authorities may seek to reduce to reduce the number of people who qualify for financial reasons

- The proposed duty on authorities to “consider” respite as a possible support to a carer with identified support need is not strong enough. Respite should be the norm except in exceptional circumstances.

**Children’s rights impact assessment:**

We would like to indicate our support for calls from Together- The Scottish alliance for Children’s Rights for the Government to commission a child rights impact assessment on the Bill before it enters stage 2 of the Parliamentary process.

**Part 2: Chapter 1 Adult Carer’s support plans:**

**Duty to prepare an adult carer support plan:** When we asked our focus groups, most didn’t even know what a carer’s assessment was in the first place. Indicating that they had never been offered one or if one had been undertaken it had not been done so in a sufficiently formal way to have registered. This underscores the inconsistent nature under which carers assessments are currently undertaken and those who were aware of it said there had never been a great deal done to promote one to them.

Nevertheless, following discussion, those parents present felt that the shift in name was positive as it suggested a presumption that support would follow once an assessment was undertaken. As such we welcome the introduction of a statutory adult carers support plan.

**Giving adult carers the right to ask for a support plan to be prepared:**

The pre-legislation consultation asked whether respondents would support the idea of a statutory right for carers to ask for a support plan. This was widely welcomed by the families we consulted. To this end we warmly welcome the provision within Part 2, Section 6 (4) which stipulates that an adult support
plan must be prepared if a person presents to the responsible authority and asks for one.

**Communicating information about support plans to adult carers:**

Our experience tells us that many carers in Scotland go unidentified, largely unaware of support that might be available to them and as such unlikely to ask for help. One parent carer whose daughter has severe and complex disabilities revealed that it had been 2.5 years before they realised that as a family they were entitled to any kind of financial assistance, such as the DLA or the carers allowance and then only after a chance conversation with another parent.

To remedy this we feel there should be a duty on ministers and responsible authorities to communicate the existence of carers support plans and the types of circumstances in which it might apply. It would be beneficial we believe, for this to appear on the face of the Bill.

**Adult carers: Identification of outcomes and needs for support**

This section lays out the means by which Scottish Ministers will determine how personal outcomes and needs are to be identified. The Ministerial orders which underpin this section will be critical to how assessments of need are undertaken. This presents a significant opportunity to bring greater consistency in assessing the needs of Scotland’s carers.

At present, support for carers is inconsistent across the country. The carers we support expressed general dissatisfaction at the level of support that had been offered to them and this was also their view of a general lack of information.

**Expanding qualification for support:**

It is critical that the specifics of the Ministerial orders underpinning this section recognise the why carers need support in the first place. Our parents felt that whether they qualified for support was currently tied to certain triggers, such as a medical diagnosis. This means that many are excluded from support particularly when there was an absence of a confirmed diagnosis for their child, as is often the case in the early years of a condition, then there was potential for carers not to qualify when there was, nevertheless a real need for support.

The language in the Bill around qualification seems to suggest a welcome shift. We feel that the Bill could be more explicit in stating that the trigger for an adult carers support plan should be an assessment of key lifestyle implications of their caring responsibilities and impact on wellbeing and not on the diagnosis of a child’s condition.

**Content of an adult carers support plan:**

Section 6 (1) (a) part ii) states that the support plan must contain information about the impact of caring on the adult carer’s wellbeing and day to day life.
Quantifying wellbeing:

We welcome this but are keen to ascertain the indicators to be attached to the definition of Wellbeing. Children have wellbeing defined in primary legislation under the SHANARRI wellbeing indicators. These are particularly helpful in building consistency around things like assessment and reporting. We would suggest that adult indicators of wellbeing be included as a schedule to this Bill.

Signposting to other avenues of statutory assistance and raising awareness of SDS:

The Bill prescribes a range of pieces of information to be included in a support plan; these cover a range of things including the support services available to the carer in the area covered by the responsible authority. We are supportive of the inclusion of those items listed but feel the plan should also signpost adult carers to other avenues of statutory support. As described above, entitlement to state benefits is not universally understood by adult carers. It would be helpful for the support plan to direct adult carers to any state provided benefits to which they are entitled. Similarly, the contents of the plan should reference the choices available to the adult carer and their family through self-directed support, under the terms of the Social Care (Scotland) Act.

Need for an appeal mechanism when no needs for support are identified by responsible authority:

Whilst the Bill stipulates that there must be steps to review each plan as part of the contents of the Plan, the Bill does not currently offer statutory grounds for appeal should a person present to a responsible authority, ask for a support plan and find that the authority identifies no needs for support in that person’s situation. It is essential for an appeals mechanism to be established on the face of the Bill.

Chapter 2: Young carers Statements:

Nomenclature: We understand the difference in nomenclature of the young carer’s statement from the adult carers support plan is designed to remove any confusion or false interrelationship with the single child’s plan. We are unconvinced however, that the term ‘young carer’s statement’ is sufficient to convey the level of support a young carer can hope to receive from the responsible authority. We would suggest something more indicative of the improved regime the government hopes to foster in this: ‘young carer’s support package’ would better reflect what young carers could hope to receive and make them more likely to come forward for assessment.
Young carers: Identification of outcomes and needs for support

Need for an appeal mechanism:

As with adult carers, there must be an appeal mechanism by which a young carer who presents to a responsible authority, asks for their support needs to be identified and the authority determines there are no identifiable support needs. This needs to be on the face of the Bill.

Independent advocacy for young carers while support needs are identified:

Given the particular stress and vulnerability experienced by young carers, which in turn may have an impact on their ability to adequately represent their situation to a responsible authority, some access to advocacy is necessary in the process of identifying needs for support. To this end we would like to see a statutory right to the services of a trained independent advocate, during assessment of their needs for support on the face of the Bill. Similarly such services should be available to them during an appeal should the responsible authority fail to identify any needs for support.

13: Content of a young carer’s statement:

Signposting to other avenues of statutory support:

As with the adult carer support plan, the young carer’s statement should contain direction to any relevant state assistance to which that young person may be entitled.

Appeals information

The young carer’s statement should also contain details on how a young person can appeal the conclusion of the responsible authority and how they can access the services of an independent advocate to help them in this regard.

Part 3: Provision of support to carers

Chapter 1: Duty to set local eligibility criteria:

Whilst the Bill does set out the need for national eligibility criteria to be proscribed by Scottish Ministers, to steer the production of local eligibility criteria produced by Local authorities, we feel that eligibility criteria should be set by Scottish ministers alone and not each local authority.

One of the biggest problems identified by the carers we consulted as part of our response to the pre-legislation consultation was inconsistency of provision. Local authorities, facing funding shortfalls, may be tempted to set eligibility criteria at a higher level in order to reduce carer demands on services.
Furthermore, having a localised approach to eligibility criteria could also see families actively moving to areas with more permissive eligibility criteria.

Naturally Scottish Ministers, when producing eligibility criteria, should consider aspects of geography, deprivation, urbanity and rurality to ensure that eligibility criteria reflects the various challenges experienced by all carers across the country.

Chapter 2: Duty to provide support for carers.

23: provision of support to carers: breaks from Caring

The question in the pre-legislation consultation which attracted unanimity amongst the carers we spoke to was about whether there should be a duty on local authorities to provide respite to carers.

Need for a duty on local authorities to provide respite to carers as the norm

Section 23 (1) states that a local authority must “consider” whether the support to be provided should take the form of or include a break from caring. We would argue that this makes determination over respite subjective on the part of the local authority and makes no real difference to arrangements as they are now, where it is in the gift of the authority to determine whether a carer merits respite.

This section needs to be significantly strengthened. We would suggest that the Bill impose a duty on the Local Authority to provide respite to carers with identified support needs and that this duty should no longer apply only in exceptional circumstances defined by Scottish Ministers.

Conclusion

We warmly welcome the introduction of this Bill and will work to support the Scottish Government in its development in any way that we can.

Alex Cole
Hamilton, Head of Policy
Aberlour
Renfrewshire Carers Centre held a Carers Forum meeting where discussed The Carer (Scotland) Bill and paper reflects the views of the forum and Renfrewshire Carers Centre.

The Carers Forum were pleased that the Scottish Government is introducing new rights and entitlements for Carers and do not think anything should be removed from the Bill however did feel that some aspects of the Bill could be strengthened.

**Welcomed:**

- The provision of adult carer support plans and the need to identify Carers and support at an earlier stage
- The term regular & substantial will no longer be included so carers can provide any amount for care widening people eligible to get a Carers Support Plan
- The cared for does not need to be receiving social work services
- The removal of term ‘ability’ to provide care and to more outcome focussed
- The opportunity to review plans as Carers may be willing & able to care at beginning of caring role but if caring long term this may change particularly at times of transition, hospital discharge etc therefore must have the capacity for support plans to be reviewed as caring needs change and on a regular basis. Pleased their will be guidance on this.
- Clarification on who prepares plans if reside in different local authorities
- Duty on Local authority to develop and publish a local Carers Strategy and support this duty- We already work closely with our Local Authority to achieve this.
- Duty to support Carers based on eligibility criteria and a power to support carers in a preventative manner when do not meet eligibility criteria

**Areas for Improvement:**

- Defined time scales to determine how long Carers should wait for an assessment to carry out a support plan and how long it will take to put the services they require in place
• Feedback to date from our Young Carers is they don’t like there being 2 plans for them and the sharing of the YCS with young person’s named person.

• There needs to be clear guidance on confidentiality in the regulations

• Carers were concerned about each local authority has to draw up it own Eligibility criteria as they feel it will be a “Post code lottery”. While recognising that different areas such as rural will have different service needs, however the Local Authority has a duty to support carers who meet the criteria, think the criteria should be set nationally. Being eligible for support is key to unlocking carers right to support and has the potential if set too high will make it harder for carers to get support

• Outcomes strengthened to enable Carers to have a life outside of caring rather than outcomes related to their caring role

• Ensure review of support plans on a regular basis and when needs change and always asked if ‘willing & able’ to continue to care.

• The Info & advice provided needs to be appropriate to age etc and provided by an independent organisation and feel best achieved by resourcing existing services in the carers centre to provide this

• Some carers whilst pleased that local authorities will be required to take into account the views of the Carer when determining the needs of the person being cared for asked for clarification on what does ‘Take into account’ mean. Will this be seen as an option to say a support plan has been discussed?

• Support the call by Marie Curie that allows for automatic qualification of carer support for people caring for someone with a terminal illness and quick completion of carer support plan.

• Impact on Renfrewshire Carers Centre and other carers organisations in regards to more carers being identified and supported- a resource implication. Issues for capacity for Centres who carry our Carer Assessments/Support Plans. The Bill needs to be properly resourced to support Carers and Carers Centres.

Would include in the Bill

• We currently have an Emergency and future planning project which has been running for 5years in Renfrewshire and would propose that this is included in provision of information and advice services as our Carers highly value this service. Should be incorporated into Support Plans.

• We feel that the Bill would be strengthened by a duty being places on the Health Board to identify Carers and involve them in hospital admission and discharge procedures. Essential to ensure carers are identified and have support plans put in place or reviewed.
• Disappointed there will be no specific duty around short breaks.

• We also discussed the issue around charging for services and that every LA has own chargeable system – would be better if this was universal. Not always clear if service is for the carer or cared for e.g. respite if for the Carer why is cared for charged

Renfrewshire Carers Centre
Introduction

Alzheimer Scotland is Scotland’s leading dementia voluntary organisation. We work to improve the lives of everyone affected by dementia through our campaigning work nationally and locally and through facilitating the involvement of people living with dementia in getting their views and experiences heard. We provide specialist and personalised services to people living with dementia, their families and carers in over 60 locations and offer information and support through our 24 hour freephone Dementia Helpline, our website (www.alzscot.org) and our wide range of publications.

Alzheimer Scotland welcomes the opportunity to contribute to the Health and Sport Committee’s call for evidence as part of its scrutiny of the Carers Bill. Alzheimer Scotland supports the National Dementia Carers Action Network (NDCAN) and our response has been informed by that group, as well as by the experience and knowledge people who use our services, their families and our membership.

We believe the committee should consider longer timescales for future calls for evidence. This legislation is extremely complex and will have a profound impact on the lives of carers across Scotland. Presently, it is challenging to capture the knowledge and experiences of carers for people with dementia and our professional colleagues, in the timescales given and it would be helpful if the committee extended its submission period. In doing so, we would be able to engage with our membership in way which is both meaningful and accessible to them.

Do you support the Bill?

Alzheimer Scotland strongly welcomes the principles of the Bill and its intention to ensure that the rights and needs of carers are fully recognised and met. Given the importance of carers in supporting people with health and social care needs to stay within their communities, we believe this Bill is a welcome development. However, there are elements within the Bill with which we have some concerns, including a number of areas we addressed in our response to the pre-legislative consultation.

Specifically, we welcome that the Carers Bill:

- Replaces the Carer’s Assessments with Adult Carer Support Plans.
- Will place a duty on local authorities to meet the needs and respect the rights of people in a caregiving role.
- Establishes provisions for the establishment of information and advice services for carers in each local authority, including a short breaks services statement.
• Requires local authorities, in determining the needs of carers, to give consideration to whether support should take the form of, or include, a break from caring.

• Requires local authorities to prepare local carer strategies for their areas.

• Establishes the principle of involvement, requiring the inclusion of carers in all services delivered by local authorities and health boards for carers and cared-for persons.

In particular, Alzheimer Scotland is pleased that local authorities will be required to take into account the care provided by carers when conducting an assessment of the cared-for person and must give consideration to an Adult Carer Support Plan (ACSP) where one is in place and that in all cases, the local eligibility criteria, we welcome that the local authority must take account of the care provided and ascertain what level of support the carer is ‘able and willing’ to provide.

What do you feel would be the benefits of the provisions set out in the Bill?

Alzheimer Scotland believes that the introduction of the Adult Carer Support Plan (ACSP) in place of the Carer’s Assessment will help to ensure that carers will more easily have their needs identified and met, ensuring that they are supported in their caregiving role, particularly by extending the ability of carers to request an assessment and by removing the ‘regular and substantial’ condition for support.

Furthermore, we believe that the inclusion of a requirement for ACSPs to include timescales or specified circumstances under which the plans should be reviewed is welcome, particularly for people providing a caregiving role for a person with a progressive condition such as dementia whose needs for support will change considerably over time.

However, whilst the provisions contained within the Bill have the potential to strengthen the rights of carers, recognising their crucial role in providing support for people with health and social care needs, the benefits for carers and cared-for persons will be determined by the implementation of the legislation at the local level.

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

Alzheimer Scotland believes that the Bill would benefit from amendments in certain areas (detailed below). However, we note that many sections of the Bill are written in such a way as to allow Scottish Ministers to make regulations or issue statutory guidance on the way in which local authorities should provide support to carers. Therefore, much of our submission may not refer to amendments which should be made to face of the Bill itself, rather what must be set out in accompanying regulations or statutory guidance.
Whilst the Bill itself is an important step in recognising and supporting carers, one of the key factors which will determine its success will be how resources are allocated and used within localities. We know from the experiences carers have shared that there are frequent cases where needs are identified (either for the carer or for the cared-for person) which go unmet due to a lack of resources being available within the locality. Carers have expressed concern that without further resources being made available, they do not believe that their needs will actually be met and that the legislation will not have the desired effect.

**Adult Carer Support Plans**

Alzheimer Scotland is concerned about the provisions which will allow Local Authorities to specify timescales for completing an ASCP for an identified carer within their own Local Carer Strategy. We believe that this may lead to considerable variation in waiting times across the country. In addition to the potential variation as a result of local eligibility criteria (addressed below), we are extremely concerned that there will be no consistency of provision or support for carers across Scotland, and no improvement in their outcomes, undermining the purpose of this legislation. It is therefore crucial that, in partnership with local authorities, carer organisations and other relevant stakeholders establish a national timescale in which carers will be assessed for a support plan.

We further believe that there must be a third path available for accessing an assessment for a support plan, with third and independent sector organisations with whom the carer (or cared-for person) may be involved, being able (with the consent of the carer) to make a referral for a Carer’s Support Plan.

Alzheimer Scotland notes that emergency, anticipatory and future planning will be considered on an individual basis and will be covered in regulations about other information that an Adult Carer Support Plan must contain.

Related to this point is the absence within the legislation of carer involvement in hospital admission and discharge procedures, which would place a responsibility on health boards to inform and involve carers in hospital admission and discharge procedures.

We are aware that the Scottish Government intends to issue guidance around Adult Carer Support Plans, which will include information on the different stages of caring and the need for a review to address periods of transition.

Carers have told us that these transition points can be the most stressful and difficult periods of their caregiving role. It will therefore be essential that as part of the legislative process around this Bill, the full range of expertise and experience of carers, professionals and stakeholders are taken into consideration to make sure that the final legislation and accompanying guidance ensure that the right support is provided for carers both as part of their ACSPs and during the transition periods.
Eligibility Criteria

Carers are concerned about what locally set eligibility will mean in practice for them and how it may affect their ability to access services. Whilst we appreciate that there is a need for flexibility within the legislation so that local authorities provide services which are responsive and meet the needs of carers within their locality, there is likely to be considerable variation in criteria between local authorities. This will likely lead to inequities in provision across Scotland and create a lack of clarity for carers, directly contrary to the Policy Memorandum’s description of ‘a Scotland-wide approach’.

Whilst we appreciate that within the Bill there is provision for Scottish Ministers to set out national eligibility criteria if they ‘come to the view that the local eligibility criteria are not working in the intended way’, we do not believe that it is desirable that this decision should be taken reactively. Doing so risks leaving many carers and cared-for persons in extremely difficult circumstances unnecessarily. Carers are often the primary source of support for the cared-for person, frequently putting in long hours, while balancing other responsibilities such as work and other family commitments over long periods of time with little or no support. Over time this can have an impact on the physical and mental wellbeing of carers. As a result many carers are in crisis before they or those they care for receive formal support. Therefore eligibility criteria must place an emphasis on prevention. Smaller less costly carers’ support at the right time may be a better use of resources which may prevent many of the expensive crisis interventions. However, this will only be effective if this approach is taken in all localities across Scotland.

The Bill should therefore be amended to ensure that core eligibility criteria are set nationally either in the face of the Bill or through regulations in consultation with local authorities, carer groups and other relevant stakeholders.

Responsible Local Authority

Whilst we welcome the removal of the requirement that the cared-for person must be someone to whom a community care service is provided, Alzheimer Scotland is concerned about the definition of ‘responsible local authority’ (i.e. the body obligated to ensure that the needs of carers are being met) set out in chapter 1, Item 6 (5) as: ‘The local authority for the area in which the adult carer resides’.

Alzheimer Scotland does not believe that the local authority in which the caregiver resides should de-facto be the ‘responsible local authority’. As indicated in the pre-legislative consultation, we takes the view, informed by members of our National Dementia Carers Action Network (NDCAN) and other carers, that the lead local authority in these circumstances should be the one where the cared-for person lives; the support the carer receives will have a direct impact on the amount and type of support that is required by the cared-for person.

In addition to this, carers tell us that they believe that as the Bill stands, they may be overlooked for assessment in instances where they reside in a
different local authority from that of the cared-for person. In this situation, the relevant services in the local authority of the adult carer are unaware of the adult carer (as the individual may otherwise have no reason to be involved with or in contact with services), their needs or the care-giving role they provide. At present, it is the responsibility of the local authority of the cared-for person to carry out an assessment and accordingly provide self-directed support or other services as appropriate.

We therefore believe that the legislation must be amended to define the ‘responsible local authority’ as ‘the area/local authority in which the cared-for person resides’.

We further believe that the Bill as introduced does not make adequate provision for carers who may care for more than one person, across multiple local authority areas. As a result, it is likely that support for a carer may not be suitably delivered solely on the basis of the locality in which they reside. It is therefore imperative that statutory guidance, applying to all local authorities, should make provision for this and should include:

1. Cost recovery where a local authority other than the lead authority is providing an element or elements of the support identified as necessary in the Adult Carer’s Support Plan.

2. A process for agreeing who should provide each element of the support identified in the Adult Carer’s Support Plan, particularly where it may not be the ‘responsible local authority’.

Alzheimer Scotland would also welcome inclusion over the need for Adult Carer Support Plans (ACSPs) to contain common elements across each local authority in order to ensure that they are portable and cause minimum disruption to a carer moving between local authority areas. This was a key element of the pre-legislative consultation but is not included within the Bill as introduced. Ideally, in light of the integration of health and social care services and the establishment of health and social care partnerships, the ACSPs should be recognised in all health and social care settings.

Involvement

Alzheimer Scotland warmly welcomes the duty on local authorities to develop and publish local carer strategies and to involve carers in the development and review of these strategies (as well as in the development, delivery and review of services. We believe that the regulations and/or statutory guidance must ensure local authorities provide accessible formats to carers which must take into consideration the different circumstances and additional needs that carers may have. This includes the format of engagement (for example, written consultations may require large text versions or easy read versions) and consideration of additional daycare if carers are asked to attend in person (through focus groups or interviews). The accompanying statutory guidance or regulations should require local authorities to give due consideration to these additional barriers to involvement and should further require them to work with
stakeholders and partners to find ways to support meaningful involvement of carers.

Involvement is crucial to supporting the implementation of Human Rights legislation, in particular, the PANEL approach requiring active participation in decisions that affect people’s human rights. This human rights based approach should be explicit in the primary legislation, aligning with and strengthening other Scottish legislation around health and care including the Self Directed Support Act and the Public Bodies (Joint Working) Act. Involvement must be meaningful, so health and social care professionals require appropriate training to make sure that they are able to work in this way.

**Short Breaks**

Alzheimer Scotland supports the principle behind a specific duty on local authorities to provide short breaks and the creation of such a provision is support by carers. We remain concerned that the use of the term ‘short break’ is not adequately clear and may be open to different interpretations between professionals, carers and organisations as to what a ‘short break’ constitutes. Our submission to the pre-legislative consultation suggested that the duty could be altered slightly to provide flexibility for the support to be personalised to reflect the needs and the wishes of carers. For example, the carer and cared-for person taking a holiday together, and being supported to do so, instead of being restricted to traditional respite care. In particular, we believe that the statutory guidance should link this to Self-Directed Support options (expanded on below).

We do not believe that the requirement on local authorities to give consideration to a short break from caring affords the carer or cared-for person adequate choice or control over their support and believe the provisions within the legislation should be amended.

**Self-Directed Support**

Alzheimer Scotland notes that the content of this Bill runs in parallel to the Self-Directed Support (SDS) legislation and will supersede a number of provisions in relation to support for carers. We believe that within the accompanying statutory guidance, it would be useful to encourage cross referencing to the SDS legislation, in particular to the duties directly relevant to carers. Consideration should be given to this in the context of the Bills provision for information and advice centres within localities and along with considering how the involvement of carers more broadly in the co-production and delivery of services.

Alzheimer Scotland believes that the regulations or guidance should be clear that where a carer has been assessed as meeting the eligibility criteria for support, they should be made aware of the four options under SDS, with explicit reference to the principles of choice and control. Describing the assessment processes in a similar way as in the SDS legislation and guidance would provide consistency of message.
As noted previously, the reference within the Bill to short breaks language could be limiting in nature, creating assumptions being about what a break from caring really means for a person. We believe that it would be useful to include a more explicit reference to the rights of carers, including making them aware of all the relevant information they require to exercise choice and control in their lives. As part of this, more information about the 4 options and mechanisms for increased SDS could help to broaden the thinking in these areas (whilst at the same time reinforcing the values and principles of SDS).

Conclusion

Alzheimer Scotland believes that the Bill in its present form is well intentioned but will benefit from further scrutiny and strengthening as the Bill progresses through the legislative process. Another key factor will be the accompanying secondary legislation in the form of regulations and statutory guidance which will determine its implementation.

Alzheimer Scotland would be willing to support the work of the committee in its scrutiny of the Bill and provide any further information as may be helpful.

Owen Miller
Policy Officer
Alzheimer Scotland
Carers (Scotland) Bill
Fife Centre for Equalities

Fife Centre for Equalities (FCE) is a new project of Fife Voluntary Action, funded by Fife Council and supported by NHS Fife. Our goals are to:

- Reduce inequality for people and communities of Fife;
- Promote the rights of the individual in all situations;
- Give communities a voice so they can have their say in the planning and delivery of local services;
- Develop partnerships with public, private and third sectors to boost equality, diversity and social justice here in Fife.

We would like to make the following responses to the call for views on the Carers (Scotland) Bill - Stage 1 consideration by the Scottish Parliament Health and Sport Committee.

Question 1: Do you support the Bill?
Response: We support the Bill wholeheartedly as it places the involvement of carers at the core of this new legislation. The Bill also recognises that needs of carers have to be met in order to ensure the best care will be provided to those who are cared-for.

Question 2: What do you feel would be the benefits of the provisions set out in the Bill?
Response: The benefits of the provisions are -

- ‘Personal outcomes’, a carer-centred approach
- Support plan/carer statement, an agreement with the carer and other interested parties with clear action points, responsibilities and a mechanism for review
- Local eligibility criteria, transparent information to help carers understand the support they are entitled to
- Duty to provide support, places a statutory duty on all local authorities to provide support to carers
- Duty to involve carers in carer services, as well as having a say about their own support plan, carers’ views will be taken into account when planning services for carers in general
- Local carer strategy, this will enable services to jointly plan services and avoid duplication or possible gaps of services
- Information and advice service for carers, this will enable carers to seek support from a wide range of services
Question 3: How do you feel the Bill could be amended or strengthened?
Response: We believe that the Bill could be strengthened by adding clarification for the following –

- The distinction between ‘adult carer support plan’ and ‘young carer statement’ - without explanation this may cause a misconception that a statement has a lesser position in law or policy and subsequently young carers may be or feel less entitled, valued or supported.

- We hope ‘factors to be taken into account’ will include the complex needs of carers who fall within one or more of the nine protected characteristics.

- Currently the Bill states that support plans/carer statements need to include ‘information about the support available’, however this does not address a lack of appropriate support especially for those carers who have complex needs due to their protected characteristics.

- In determining local eligibility criteria, a local authority must have regard ‘among other things’ to such matters as specified by the Scottish Ministers seems unspecific and less important. We hope all local authorities will consider the possible positive and negative impacts the eligibility criteria will have on carers due to their characteristics.

- The term ‘eligible needs’ will require a national framework to avoid differentiation of how local authorities may choose their own interpretation. Without a national framework, there is likely to be different levels of support depending on which local authority a carer resides in (in effect, a ‘postcode lottery’).

Question 4: Is there anything that you would add to the Bill?
Response: We would like to suggest a separate section on complaint/resolution is added to the Bill to help carers who are genuinely unsupported to raise their grievance against their local authority because of the local authority’s failure to implement their duty under the act.

Question 5: Is there anything that you would remove from the Bill?
Response: There is nothing we would suggest for removal from the Bill.

Fife Centre for Equalities

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1 Protected characteristics are age, disability, gender reassignment, marriage & civil partnership, pregnancy & maternity, race, religion & belief, sex and sexual orientation.
Carers (Scotland) Bill
Donald Macleod (Individual)

1. Do you support the Bill?

I support the Bill in many ways. It’s a significant and very welcome recognition of the need to provide more support for carers. I am delighted that we have it before us as it should stimulate a Scotland-wide discussion on this subject. I very much like the provision in Part 6 for “an information and advice service” to be established and maintained. It is the word “advice” which is particularly pleasing to see especially as the Bill explicitly references advice being offered on matters such as “income maximisation”, “advocacy” and “health and wellbeing (including counselling)”.

2. What do you feel would be the benefits of the provisions set out in the Bill?

If fully implemented, the provisions – in general – will result in much more effective support being provided to carers on a variety of fronts throughout Scotland. It should also result in carers being much more involved in planning (for themselves and for people for whom they care) at an individual and at strategic levels. This in turn should make a raft of services more carer-supportive. Ideally we would see carers being seen as Equal Partners in Care.

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

3.1 Part 1 section 4 (1) Meaning of Personal Outcomes

While I like the emphasis on “personal outcomes” being defined as including “outcomes which would if achieved, enable carers to provide or continue to provide care for cared –for persons” I feel that more needs to be added to this definition to encompass other stages of the journey carers can take. Here are my suggestions:

(i) Preparing to take up a caring role – anticipatory planning

There are a number of situations where people could benefit from support that commences prior to taking up caring roles that they know are coming their way. Carer Support Plans can be conceived of as forming a crucial part of anticipatory planning in many situations (e.g. in the case of people with long-term conditions).
Additionally, if people knew that support would be available prior to taking up (as well as during) caring then more people in Scotland might choose to care.

(ii) Disengaging from caring (to allow for smooth transitions)

Some of the most harrowing incidents involving carers and people for whom they care come when caring ceases abruptly. There needs to be acknowledgement of the transitions carers might choose to make for whole variety of reasons. It is in the interests of all that this be managed as smoothly as possible and not becomes a damaging or even catastrophic event.

(iii) Post-caring including bereavement

While I recognise there are obvious difficulties with this aspect (e.g. the length of time and the level of resources), it is clearly not beneficial to carers for them to experience an abrupt cessation of support simply because a person is no longer a carer. For example a number of carers can with to continue for a period to attend support groups after the person for whom they cared has died. Ideally the outcomes should recognise the reality of death and the end of caring and the need for support for this period. It is difficult I know to think of a precise form of words that encapsulates this but it is worth trying to find a phrase that will address this need adequately.

3.2 Part 3 Chapter 1: Strong, Core National Eligibility Criteria able to be Augmented Locally

I favour what I would regard as effectively an inversion of the order presented in the Bill regarding powers to set criteria. I think we need strong, core National Eligibility Criteria that could be augmented by additional local criteria to address specific circumstances or to reflect an added determination to proceed swiftly in a given direction.

3.3 Part 4 Carer Involvement

Deepening the nature duty to involve carers in carer services

It is excellent to see that this duty is being provided for. However, unless carers are fully supported in and through that process, their involvement risks being tokenistic. It maybe that this is more appropriate for the guidance to accompany the act but carers will need resources to enable their involvement. For example they need:

- resources to ensure substitutionary care if required;
- meeting of costs of engagement such as transport/subsistence;
• assistance with understanding matters such as the topic under discussion and how to influence policies and practices;
• channels of communication opened to them so they can seek the views of other carers and report back to them.

All of the above could theoretically be provided through organisations dedicated to carers but they in turn require the resources to provide this form of support. For carers to become Equal Partners in Care at a strategic level there are significant resource implications if full involvement on proper, principled footings is to be secured.

3.4 Part 5: Duty prepare local carer strategy

I think there are three additional matters that perhaps should be considered for inclusion within the legislation:

(i) Caring, Poverty and Health Inequalities

The Policy Memorandum accompanying the Bill is excellent. The final bullet point of paragraph 17 within that Memorandum contains a chart that shows intensity of caring in each of the five Scottish Index of Multiple Deprivation (SIMD) categories. It is stark. There is always a danger that one of the inadvertent consequences of policy interventions is that they widen health inequalities. I would like to see local carer strategies being required to address issues of health inequalities and poverty. I know this legislation cannot do all things but I do think local strategies need to examine the pattern of caring with reference to poverty, multiple deprivation and produce policies that mitigate the often adverse financial/ life-chance effects of caring.

(ii) Forecasting and Planning Accordingly

I am wondering whether it would be beneficial to require strategies to pay attention to longer-term strategic planning? Paragraph 18 of the Policy Memorandum rightly draws our attention of the uncertainty about the future supply of unpaid carers. Ideally local strategies should be required to do some forecasting with 10-20 year perspectives in mind as well as a 3 year one.

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

Many carers first come to the attention of services of any kind via their GP practice – or the GP practice of the person(s) for whom they are caring. If carers are to receive the support they require much hinges on the way carers are treated within this setting.
Ideally the Bill needs to be extended so that GP practices have duties laid upon them regarding the identification and support of carers.

ENDS

Donald Macleod (Individual)
The Carers (Scotland) Bill
Richard (Individual)

1 Section 8 Content of adult carer support plan

(1) An adult carer support plan must contain—

(a) information about the adult carer’s personal circumstances at the
time of preparation of the plan, including

(i) the nature and extent of the care provided or to be provided day-to-
day

(ii) the impact of caring on the adult carer’s wellbeing and day-to-day life

Add to (i) day-to-day

Only with this addition will it help to focus on specifics rather than
generalisation, and accurately identify 8 (ii), and be congruent with it, as (ii)
uses similar wording “day-to-day life”, and thus helps to identify 8 (c) (d) and
(f)

8 (ii) “day-to-day life” This is the correct process focus. In our society we live
in structures, by the day, and generally over 7 of these single days, by the
week.

2 Section 8 (e) information about the support available to adult carers
and cared-for persons in the responsible local authority’s area,

This should not be in every individual adult carer support plan –
bureaucratic++.as it is not person centred information.

This would be better included in section 31 information and advice service for
carers.

3 Section 8 (f) if the adult carer’s identified needs meet the local
eligibility criteria, information about the support which the responsible
local authority provides or intends to provide to the adult carer to meet
those needs, including the nature and extent of the support to be
provided to address the identified needs that will help meet the carers
identified outcomes.

This section should be congruent with the beginning of the process identified
earlier in 8 (1) (a) (i) and (ii) and thus include “nature and extent”. So these
words should be added to the clause.

It is one thing meeting the criteria to receive a service, however the proof is in
the pudding and the “nature and extent” of the support response should be
itemised and quantified otherwise the ASSP will read more as only a
generalised statement of intent rather than as individualised and specific person centred content, and that will then only hide rather than reveal the detail of the “nature and extent” of the support being offered.

Suggest the words “the adult carer to” should be deleted otherwise, for example, replacement care would have to be omitted as a support option and 8 (h) would become superfluous as any break from caring for the carer will almost inevitably require some replacement care for the cared for person, and the funding to provide this replacement care.

Thus I suggest add to 8 (f) “including the nature and extent of the support to be provided to address the identified needs that will help meet the carers identified outcomes.”

4 Section 8 (g) similarly delete “to the adult carer”

5 Similar changes as above for Young Carers in Sections 11-13

6 Section 19 A national criteria, or at worst clear guidance on the content and structure of the criteria, would be more helpful in avoiding a post code lottery of service provision.

As the Bill currently reads it will create inequalities and a post code lottery of services that support carers across Scotland rather than reduce inequalities.

7 Section 23 Provision of support to carers: breaks from caring

23 (2) and (3) would be better to read if their numbering were reversed as 23 (3) relates to 23 (1)

8 In 23 (3) “varying periods of time” might read better substituted as “daily, weekly, or other frequency of support, and for varying periods of time”

This would again encourage a focus on the debilitating and relentless daily impact of caring, and focus on how our society is generally constructed to allow citizen participation, which is generally on a daily/ weekly basis.

9 Section 28 (2) (e) A strategy should always have aims and objectives, and include the funding used to provide existing support, and the future funding to deliver “the authorities plans for supporting carers in its area”

These seem to be cornerstone omissions, i) aims and objectives and ii) funding to deliver on the strategy.

10 Section 30 A publically published annual appraisal of progress towards implementation of the local carer strategy should be included. An annual appraisal of progress would usually be the minimum performance monitoring timescale for any such strategy. It would not be onerous and would aid delivery on the strategy, and carer involvement.
11 Suggest include that the maximum length of the strategy should be 5 years.

12 Section 31 Add (f) short break services (g) how to access an ACSP or an YCS (h) the local carer strategy (i) the detail of any charges for services (j) support to carers wishing to return to employment (k) list of service providers offering support directly or indirectly to carers and links to their latest inspection reports

13 Section 32 The emphasis should be on local services, not at macro level across Scotland. If Scotland is the focus in the Bill carers it could be argued could more appropriately access services across the border in England, or even Spain. Local focus is the key here, unless there are specific specialist national or UK services that are relevant to a particular carer’s identified needs.

14 Section 7e “the factors to be taken into account in identifying adult carer’s personal outcomes and needs for support”

This is fundamental to the success or failure of the impact of this Bill. As such these factors should be listed in the Bill and not wait to be included as regulations at a later stage.

Identification at this stage will also help to focus more accurately on calculating the financial impact and budgetary response to implement this Bill.

This would give a better national overarching framework of “factors” i.e. time with family and friends, adult education and training, paid employment, pursue leisure interests, regular breaks from caring, volunteering, any other factor that would support a carer in their caring role etc etc

15 There seems to be an omission in that paid employment while mentioned in the Explanatory Notes to the Bill does not have specific support factored in and costed, or a formula being deployed to arrive at a support cost

We know that some carers want to return to employment or increase their working hours. “Scotland’s Carers” Scot Gov March 2015 has 6% carers unable to take up work, 7% working fewer hours, 4% left their job and 2% took early retirement.

Digging behind the “average” data one sees tragically that female carers are unable to take up work at an early age 16-34 (4%-10% of carers) while for men at this age there is virtually zero impact.

And the impact is greatest on those on lowest incomes (below £13234)

The SG is rightly committing to extending free childcare from 600 hours per annum to 1140 hours. If we are to be consistent in tackling inequality and gender inequality, then this carer inequality should be formally addressed. If this is not considered arguably more working class female carers would be being treated as a pariah group.
Caring and subsequent unemployment, and underemployment, affects female carers disproportionately to male carers in some KEY aspects, as above. But both genders are adversely affected by caring, and the structural consequences further down the line can be reduced pension provision for carers in retirement due to employment opportunities being unrealisable.

16 Section 6. I am not clear how the Bill is supporting or negating the ability for carers to be empowered to undertake a “self assessment” of their personal outcomes and identified needs.

17 In order for carers to be supported there needs to be a range of different high quality services they can pick from locally, and Local Authorities need to have a duty, or similar responsibility, to commission such a range of services. I am not clear how the Bill intends to achieve this.

This would be reflected locally in the range of services available by different client groups, older people, older people with dementia, adult mental health, adults with a physical disability, adults with a learning disability, etc.

Richard (Individual)
Carers (Scotland) Bill

Tom Guthrie

Do you support the Bill?

Yes

What do you feel would be the benefits of the provisions set out in the Bill?

The main benefit is an improvement in the position of carers and in their rights in relation to support. The Bill removes limitations on which carers are entitled to assessment at present by removing the links to a community care (or child’s) assessment of the cared for person and the requirement that the care provided is substantial and provided on a regular basis. A further benefit is the conferring of a right to support, though the benefits of this will depend a great deal on the setting of eligibility criteria. Finally, the requirement to create specific eligibility criteria for carers is welcome.

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

There are three amendments which would strengthen the Bill:

(a) In section 4(1) ‘personal outcomes’ are defined as including ‘outcomes which would … enable carers to provide or continue to provide care for cared for persons.’ Although this is only ‘included’ in the definition of personal outcomes, it does suggest that the focus is on people who are carers being largely defined by their caring role rather than being seen as individuals in their own right. Although the focus of the Bill is carers, it is clear that the caring role has an impact on all aspects of the carer’s life. It might be beneficial to recognise this more specifically in the primary legislation definition of personal outcomes, by recognition a broader range of objectives for outcomes.

(b) Including a specific duty to offer an adult carer support plan or young carer statement. Current law (section 12AB of the Social Work (Scotland) Act 1968 and section 24A of the Children (Scotland) Act 1995) imposes such a duty in respect of adult carers. Research undertaken in connection with the preparation of a Carer’s Charter for Scotland suggested that a minority of those surveyed had been notified of their right to assessment, suggesting both that there should be a clear duty to provide this information and that information strategies need to be much more effective.

(c) Setting a time scale for the completion of the plan or statement. This issue was also discussed during discussions on the Carer’s Charter, with the proposal for setting a time scale for assessment (as it currently is) meeting some resistance. In the context of the Bill, the imposition of a specific duty owed to individual carers effectively confers on them the right to a plan or statement. Without some realistic timescale for preparation of this, the right becomes less worthwhile. At the very
minimum the primary legislation, rather than any delegated legislation, should provide that the local authority must give the carer a time scale within which the plan would be completed. More desirable would be a fixed period set out in the legislation.

It may be that the matters discussed in the following section might also be relevant in this section.

*Is there anything you would add to the Bill?*

One difficulty in the general area of social welfare provision by local authorities is the number of different pieces of legislation which overlap with each other and the development of inconsistencies between different pieces of legislation and lack of clarity about whether and how different legislation interacts. The most obvious solution to this would, of course, be to bring together all of the legislation in one place, so that there would be a coherent, consistent source of law for community care (complemented by mental health and adults with incapacity legislation and legislation applying to children). This clearly goes beyond simply adding to the Bill, but the issues underlying this suggestion also prompt two other possible additions, one more limited and one more extensive.

The first is that the Bill should address section 8 of the Disabled Persons (Services, Representation and Consultation) Act 1986. In brief this requires local authorities who are considering the provision of welfare services to a disabled person to have regard to the ability of a carer to continue to provide care. A carer, for these purposes, is someone who provides a substantial amount of care on a regular basis. At present, as a result of section 12AA (4) of the Social Work (Scotland) Act 1968, this requirement does not apply when a carer’s assessment has been completed for the carer (because that must then be taken into account by the local authority in providing services). Where there is no carer’s assessment section 8 might still apply (though knitting together the various pieces of legislation is complicated).

Section 12AA is repealed by the Schedule to the Bill (paragraph 2) which means that section 8 of the 1986 Act will then apply in cases involving disabled people, whether or not an adult carer support plan or young carer statement has been prepared under the Bill. It is not clear if this is the intention, but the consequence of it is that where a decision is being made in relation to provision of services to a disabled person, the local authority must:

(a) take account of the views of the carer (section 12A of the Social Work (Scotland) Act 1968 as amended by section 27 of the Bill); and

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1 For example, in an individual case, the National Assistance Act 1948, the Social Work (Scotland) Act 1968, the Chronically Sick and Disabled Persons Act 1970, the Disabled Persons (Services, Representation and Consultation) Act 1986, the Community Care and Health (Scotland) Act 2002, the Self-Directed Support (Scotland) Act 2013, and, potentially, the Carers (Scotland) Act may all apply. All of these Acts will have been amended (sometimes on multiple occasions) and are supplemented by an array of delegated legislation and guidance.
(b) have regard to the ability of a carer who provides a substantial amount of care on a regular basis to continue to provide that care (section 8 of the Disabled Persons (Services, Representation and Consultation) Act 1986.

This is arguably rather complex and, in any case retains the idea that only carers who provide a substantial amount of care on a regular basis are entitled to consideration, which is swept away by the rest of the Bill. One solution would be to repeal section 8, on the basis that the willingness and ability to care is taken into account in the young carer statement or adult carer support plan, but it might be argued that this is then not clearly identified as a factor to be considered by the local authority in deciding on provision of community care services to the cared for person. This might then suggest that section 8 provides a potentially useful additional right for carers which should not lightly be dispensed with. Whatever view is taken the future of this provision should be clarified.

A more expansive addition would be to consider whether an attempt should be made by amendment of other legislation to avoid the development of further inconsistency and difference in different statutes. For example, under the Bill, support is to be provided to a carer when her/his needs meet the local eligibility criteria, and further information is given in the Bill about the construction of these criteria. Community care services are to be provided where ‘the needs of the person being assessed call for the provision of’ these services, and services under the Chronically sick and Disabled Persons Act 1970 are to be provided where ‘necessary in order to meet the needs’ of the assessed individual.

In both of these last two cases, of course, the reality is that decisions are based on eligibility criteria, and amending the legislation to incorporate something along the lines of what is in the Bill would make this explicit as well as providing some potential oversight of these. It would, in addition, stop these different pieces of legislation from drifting apart.

Is there anything you would remove from the Bill?

No.

Tom Guthrie, Professor of Private Law, University of Glasgow

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2 Social Work (Scotland) Act 1968, s 12A(1).
3 Section 2.
Carers (Scotland) Bill

Third Sector position statement

The third sector generally welcomes the Carers (Scotland) Bill and is pleased the Government has brought forward legislation that improves the rights and entitlements of unpaid carers. However, some aspects of the Bill require strengthening and many carers have expressed strong views that in its current form it will not make a genuine difference to their lives or fully deliver the Government’s aims. The wider, challenging context in which the Bill is being progressed must also be acknowledged and will be reflected in submissions from a range of third sector organisations.

In addition, it must also be recognised that measures to improve the identification and provision of support to carers, including the introduction of a new duty on local authorities to support carers who meet eligibility criteria, will have a significant impact across the third sector.

The areas where we believe the Bill requires to be strengthened or amended are:

- **National eligibility criteria for carer support.** The introduction of local eligibility criteria will lead to a postcode lottery of support for carers. We fully support the concept of best local practice and scope for local variation to meet varying needs and caring trends. However, we do not believe there is any justification for a variation in the levels of need which trigger an entitlement to support.

- **Emergency planning and future planning for carers.** It has been stated that this will be included in secondary legislation, but we think this is a missed opportunity and provision for emergency planning and future planning should be included as a key part of the Adult Carer Support Plan and Young Carers Statement.

- **The impact of the Bill on the wider third sector.** Increased identification of carers and a duty to provide support to carers will mean that the third sector will experience additional demand on their services. We do not feel that third sector services, particularly dedicated carers’ services, have been recognised sufficiently as part of the duty to provide support to carers.

- **Personal outcomes for carers.** The Bill defines personal outcomes for carers related to their caring role. We believe there should be recognition that carers are entitled to a life outside of caring, rather than just a life alongside caring.

- **A clear equality statement and action plan.** Despite commitments in Scotland’s Carers Strategy to ensure actions are taken forward to improve equality issues in carer support, there is substantial evidence of differential levels of access to services for carers from minority groups. We believe concerted action is now required to drive forward...
the limited progress to date and argue strongly that an equalities statement and action plan should be part of the Bill. The fact that most carers are women ensures a gendered dimension is required in assessing the impact of the legislation. Commitments made by the First Minister in relation to gender equality apply in the context of this Bill

- **A duty on hospital discharge.** The Bill does not include a duty on health boards to inform and involve carers in hospital admission and discharge procedures for those they care for, and we believe this to be a significant oversight.

**National eligibility criteria for carer support**

The Bill makes provision for a duty on local authorities to provide support to adult carers who meet local eligibility criteria. Carers were clear in their response to the 2014 consultation on the legislation that they believe eligibility criteria must be **national** rather than **local**. They stated that this is the only way to avoid a postcode lottery and to ensure that carers have access to the same rights and entitlements across Scotland.

We support an amendment to the Carers (Scotland) Bill to replace the requirement on local authorities to develop **local** eligibility criteria with a requirement on local authorities to adhere to **national** eligibility criteria for carer support.

There is an additional briefing paper which outlines the CLEAR reasons why we feel this amendment needs to be made: [5 CLEAR Reasons for National Eligibility Criteria](#)

**Emergency planning**

We are concerned about the lack of emergency planning provision on the face of the Bill and believe the Bill would benefit significantly from the inclusion of a specific provision on emergency planning within **Section 8** and **Section 13**. We would also propose a duty on local authorities to provide information and advice on emergency and future planning within information and advice services for carers (**Section 31**).

We are clear that emergency and future planning is a health and wellbeing issue for carers and the individuals they care for. The omission of emergency and future planning from primary statute is a missed opportunity to have a profound and positive impact on outcomes for carers and the people they care for.

ENABLE Scotland are funded by the Scottish Government to deliver their ‘Picking up the Pieces’ project which is analysing the impact of emergency planning, focusing on carer health and wellbeing and the reduced pressure on services. This is guiding their evidence submissions throughout the Bill process. We support ENABLE Scotland’s position on emergency and future planning within the Carers (Scotland) Bill and direct the Committee to their evidence submission in this respect.
Impact on the third sector

There are many provisions within the Carers Bill which will have a direct impact on the third sector and will result in additional pressure being placed on third sector resources, particularly on local carer support organisations and condition specific organisations who support carers.

The additional duties on local authorities to provide carers with information and advice and to support carers who meet eligibility criteria will inevitably result in an increase in the number of carers identified and a corresponding increase in demand for services. Previously hidden carers will begin to seek early and preventative support and since the majority of these carers will not meet eligibility criteria it is likely that they will need to access universal support services, provided by the third sector. These services are already operating in a challenging environment, and the implications of the Bill on service provision, funding and capacity must be viewed in a wider policy context that takes this into consideration.

In addition, the Bill includes a provision requiring local authorities to involve and consult carers and carers’ services in the preparation of local carers’ strategies. Whilst we welcome this, carers require support and resources to enable them to participate meaningfully and carer organisations require dedicated resources to deliver this support. To date, the development process for Health and Social Care Partnerships’ integration schemes has not always recognised the capacity of carers and carers’ services to fully participate in shaping integration. Further capacity building will need to be undertaken to support carers and the third sector to engage in more effective ways when preparing local carers’ strategies.

Personal outcomes for carers and young carers

The definition of personal outcomes within Part 4 subsection 1 of the Bill is narrow and, in effect, relates to inputs rather than outcomes. These are defined in Measuring personal outcomes: Challenges and strategies as ‘all the resources a group needs to carry out its activities.’ We agree that identifying the needs (i.e. resources) a carer has for support and services to continue to care safely is vital and is an integral element of the Bill (recognised in 5 (2)).

However, we believe 4(1) should be amended to better define personal outcomes that recognise carers not solely for their caring role but as citizens with aspirations. Caring is a normal part of life but should not mean significant negative impacts on a person’s finances, ability to work and take part in learning, health and wellbeing, social and leisure opportunities. Without defining personal outcomes more fully we risk support to carers being focused solely on sustaining their caring role.

An amendment to address this should be included on the face of the Bill and further defined in regulation. It may be helpful to, for example, refer to Talking

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1 Measuring personal outcomes: Challenges and strategies, IRISS Insights, no.12 (January 2012)
2 Also referred to in policy memorandum “Wider Initiatives” para 15
Points\textsuperscript{3} which is highlighted in the policy memorandum supporting the Bill but not translated into the definitions of personal outcomes within the Bill itself. Talking Points identifies a range of outcomes that are important to carers:

- **Quality of life for the carer**: maintaining health and wellbeing; a life of their own; a positive relationship with the person cared for; freedom from financial hardship
- **Managing the caring role**: choices in caring, including the limits of caring; feeling informed/skilled/equipped; satisfaction in caring; partnership with services
- **Process**: Valued/respected and expertise recognised; having a say in services; flexible and responsive to changing needs; positive relationship with practitioners

**Equalities statement**

Despite a legal obligation to ‘promote equality of opportunity’ for individuals with one or more of the protected characteristics\textsuperscript{4}, there is substantial evidence regarding different levels of access to services for carers from minority groups including carers from Black and Minority Ethnic communities, LGBT carers and disabled carers. Despite commitments within *Caring Together* to ensure actions are taken forward with due regard to ‘fully address the equalities perspective’, this has not been evident across local authorities and health boards in Scotland.

With the number of BME carers more than doubling in the last decade\textsuperscript{5}, the National Carer Organisations believe that more concerted action needs to be taken and are calling for an Equal Opportunities Statement to be included on the face of the Bill. The Scotland Act (1998) allows for Parliament to legislate within parameters (as equality is a reserved matter) to ‘encourage’ equality of opportunity, through ‘the encouragement (other than by prohibition or regulation) of equal opportunities and in particular the observance of the equal opportunities requirements’ and ‘the imposition of duties on Scottish public authorities, and cross- border public authorities in relation to their Scottish functions.’

We suggest that the Bill utilises this mechanism supported by robust monitoring and reporting processes. Local authorities and health boards should be required to develop a statement setting out how they will encourage equality of opportunity for those with protected characteristics to access and benefit from carer support services. Equalities data should be collected and submitted annually to the Scottish Government for monitoring against the statement and publication. Evidence of the process followed in delivering against the Statement should also be included. The Scotland Act powers have

\textsuperscript{3} Also referred to in policy memorandum “Key Definitions” para 60 - Talking Points: Personal Outcomes, Practical Guide, Ailsa Cook and Emma Miller, Joint Improvement Team (2012)

\textsuperscript{4} Equality Act (2010)

\textsuperscript{5} 2011 Census
already been utilised within the Regulation of Care (Scotland) Act 2001 and the Mental Health (Care and Treatment) (Scotland) Act 2003 amongst others.

Lastly, we welcome the strong government focus on gender equality outlined by the First Minister – how the Bill will support women who are already experiencing a ‘carer penalty’ must be addressed, especially considering the barriers in relation to the women’s progress and status within the labour market.

A duty on hospital discharge

An admission to hospital often results in a person becoming a carer for the first time, or it can signify that their caring role is in transition as the condition of the person they care for deteriorates and there is an increase in their care needs. Despite these processes stating that ‘patients and their carers are involved and supported in the discharge process’ and that ‘the involvement of individuals, carers and family/representatives is an integral and essential part of admission, transfer and discharge management’ many carers continue to report that their experience of hospital admission and discharge is poor.

To create sustained and consistent improvement, which we believe would benefit both carers and those they care for, the National Carer Organisations believe hospital discharge planning must begin at the point of admission with the full and active involvement of carers. Discharge planning must take account of the level of care that carers are willing and able to provide (if at all) and should put in place additional support or replacement care where required.

This statement has been informed by carers and organisations who work with carers and the people they care for. It is supported by:

- Age Scotland
- BEMIS
- Enable Scotland
- Engender
- Health and Social Care ALLIANCE Scotland
- Marie Curie
- MEAD (Minority Ethnic Access Development) Project
- SCVO
- Stroke Association
- Talking Mats
Carers (Scotland) Bill

National Carer Organisations

Introduction

This submission is made on behalf of the National Carer Organisations. We are grateful for the opportunity to provide evidence to the Health and Sport Committee on the Carers (Scotland) Bill. This submission is considerably longer than usual evidence submissions. However this is simply as a consequence of seeking to include as much commentary and background as possible on the individual provisions of the Bill and to highlight areas for improvement and strengthening.

In preparing our submission we sought to reflect the views of carers from the many and diverse caring communities and caring situations across Scotland. During the consultation on carer legislation we consulted with over 500 carers, via a survey, member meetings, visits to local carer organisations and through social media.

Since the Bill was introduced to parliament we have again consulted with our members, producing briefing papers and facilitating focus groups and events. Through this we have gathered extensive information on how carers have received the Bill, what they like about it, where they feel it needs strengthening and most importantly, do they feel it will make a tangible difference to their lives? Our submission summarises and reflects these views.

A positive response to much of the Carers (Scotland) Bill

Overall the people we have spoken to welcome the Carers Bill. They are pleased that the Scottish Government has decided to introduce legislation to deliver new rights and entitlements to unpaid carers.

Carers and their representative organisations, locally and nationally, have been campaigning for carers’ rights over many years. They particularly welcome that local authorities will have a duty to support carers who meet eligibility criteria, as the current power means that there is a great deal of variation across Scotland in the level of support which carers can access. There is also no clarity about what support carers are entitled to. We hope the Carers Bill will bring greater equity and transparency for carers and replace the postcode lottery of support.

We welcome the introduction of Adult Carer Support Plans. At the moment only carers providing care on a 'regular and substantial' basis are legally entitled to a carers assessment. The removal of this test so that all carers can access an Adult Carer Support Plan is welcome as is the removal of:

- the requirement that the person being cared for must be someone to whom the local authority provides a community care service.
the reference to a carer’s ability to provide care will be removed. Instead it will refer to a carer being 'able and willing' to provide care.

We believe it is positive that there will be two routes to assessment with a carer being able to request one and the Local Authority offer one. Identification of carers through a range of routes will be critical, including reaching people who have not identified themselves as being carers. We welcome the commitment that guidance will be issued on Adult Carer Support Plans, which will include information on the different stages of caring and the need for a review to address periods of transition and to ensure that emergency and future planning are integral considerations within any plan.

We welcome clarification that where the carer and the cared-for person live in a different local authority area, the local authority in which the carer resides should prepare the Adult Carer Support Plan and they will be responsible for the cost of providing any agreed support.

We welcome the commitment to transparency of provision. It is positive that local authorities will have a duty to prepare and publish a Short Breaks Statement and that Local Authorities must develop and publish local carer strategies, to involve carers in the development of review of strategies and to review these every 3 years. We believe that this will bring greater transparency to carers in each area and may assist local authorities in learning from experiences and developments in other areas.

We welcome the duty placed on Local Authorities and Health Boards to involve adult carers, young carers, carer organisations and other relevant organisations in the planning, shaping, delivery and review of services. It is positive that this duty will extend beyond the provisions within the Public Bodies (Joint Working) Act where this is already required.

Involvement of carers and taking account of their views in determining the needs of the person being assessed and deciding what services to provide and how to provide them is important. Carers have unique experience and knowledge of the person they care for and local authorities should draw on this knowledge. We therefore welcome the duty being place on local authorities to involve (with consent) and take account of views.

However, it is vital that in such assessments that there is a clear link between this and what support the carer is willing and able to provide. We therefore welcome that Local Authorities will be required to take into account the care provided by an unpaid carer when conducting an assessment of the cared-for person. Where there is an Adult Carer Support Plan in place they must take account of this and where there is not they must still take account of the care provided and ascertain that this is what the carer is ‘able and willing’ to provide. However, we believe that there must be clear guidance to practitioners and those who make decisions on funding of care packages to ensure that carers are not, however inadvertently, expected to provide care at a level they are not able or willing to do.
Further strengthening of the Carers (Scotland) Bill is needed

Carers have however expressed severe disappointment with some aspects of the Bill, with carers expressing the view that in its current form some parts of the Bill will not fully deliver its aims or make a genuine difference to their lives.

Key areas requiring strengthening include the lack of clarity around short breaks, the distinct role and responsibility of Health Boards in delivering change, particularly in relation to carer support in hospital discharge, the omission of emergency and anticipatory care planning on the face of the Bill and the need for a stronger equalities focus.

In addition, establishing key baseline information and having in place a robust monitoring and evaluation framework prior to the Carers Act coming into force will be essential. Many carers we speak to are understandably cynical about the extent to which well-intentioned policy and legislation will make any material difference to them personally. Expectations are often raised only to be quickly dashed as promised improvements fail to materialise. Carers must be confident that this legislation will have ‘teeth’ and that responsible organisations will be held to account.

The following pages give an outline of our views on each of the chapters within the Bill, areas within these we believe require further action or amendment (noted in blue) and finally details of areas we believe require to be added to the Bill or for additional consideration.

(Part 1, Section 4: Personal Outcomes)

(Part 1, Section 5: Identified Personal Outcomes)

Outcomes

Part 4, subsection 1 of the Bill defines personal outcomes as “…outcomes, which if achieved, enable carers to provide or continue to provide care for cared-for persons.” Subsection 2 enables Scottish Ministers to make regulations about personal outcomes including to define what outcomes may be personal outcomes and matters which a relevant authority is to have regard to in considering personal outcomes.

In the first instance, the definition of personal outcomes within 4(1) is narrow and, in effect, relates to inputs rather than outcomes. These are defined in Measuring personal outcomes: Challenges and strategies as “all the resources a group needs to carry out its activities.” We agree that identifying the needs (i.e. resources) a carer has for support and services to continue to care safely is vital and is an integral element of the Bill (recognised in 5 2)).

However, whilst we welcome the inclusion of personal outcomes and the recognition that carers have needs for support to enable them to continue caring, we believe 4(1) should be amended to better define personal

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1 Measuring personal outcomes: Challenges and strategies, IRISS Insights, no.12 (January 2012)
outcomes that to recognise carers not solely for their caring role but as citizens with aspirations.²

Caring is a normal part of life but should not mean individuals face significant negative impacts on their finances, ability to work and take part in learning, health and wellbeing, social and leisure opportunities. Without defining personal outcomes more fully we risk support to carers being focused solely on sustaining their caring role.

Such an amendment should be included on the face of the Bill and further defined in regulation. It may be helpful to, for example, refer to Talking Points³, which is highlighted in the policy memorandum supporting the Bill but not translated into the definitions of personal outcomes within the Bill itself. Talking Points identifies a range of outcomes that are important to carers which we believe would be useful in defining personal outcomes for carers within the Bill.

<table>
<thead>
<tr>
<th>Quality of life cared for person</th>
<th>Quality of life for the carer</th>
<th>Managing the caring role</th>
<th>Process</th>
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<tr>
<td>Quality of life for the cared for person</td>
<td>Maintaining health and well-being</td>
<td>Choices in caring, including the limits of caring</td>
<td>Valued/respected and expertise recognised</td>
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<td>A life of their own Positive relationship with the person cared for</td>
<td>Feeling informed/skilled/equipped</td>
<td>Having a say in services</td>
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<td></td>
<td>Freedom from financial hardship</td>
<td>Satisfaction in caring Partnership with services</td>
<td>Flexible and responsive to changing needs</td>
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<td>Positive relationship with practitioners</td>
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<td></td>
<td>Accessible, available and free at the point of need</td>
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(Part 2, Chapter 1: Adult Carer Support Plans) (Part 2, Chapter 2: Young Carers Statements)

Adult Carer Support Plans

The provisions in the Bill that establish adult carer support plans (ACSP) are welcomed by carers. Carers will be identified earlier in their caring journey, enabling them to access support at an early stage which may prevent crisis. However, organisations that support carers may experience greater demand for their services if there are more carers being identified. It is important that additional resourcing and support is available to services. There will be a particular impact on carers’ centres who complete carers’ assessments on behalf of the local authority – this currently happens in several areas – and best practice indicates that consistency and clear ‘reporting lines’ from both organisations are key to successful outcomes for the process and also for carers.

Whilst Section 8 (1) of the Bill is clear about what information the ACSP must contain, if eligibility criteria is set locally then there is the potential for variation in the contents of the ACSP, which will lead to a ‘postcode lottery’ of carer

² Also referred to in policy memorandum “Wider Initiatives” para 15
³ Also referred to in policy memorandum “Key Definitions” para 60 - Talking Points: Personal Outcomes, Practical Guide, Ailsa Cook and Emma Miller, Joint Improvement Team (2012)
support and carers’ experiences of the ACSP. An adult carer support plan should be broadly similar across local authorities – research from the Learning Disability Alliance Scotland found that there is considerable variance in the way carers’ assessments are completed and recorded across Scotland, which leads to inequity for carers at the moment\(^4\). The postcode lottery can be avoided if national eligibility criteria is put in place, as this will guarantee that adult carer support plans begin from the same starting point and that carers have access to the same rights and entitlements across Scotland. *(See later section for further discussion on this issue)*

Whilst we are pleased that local authorities will be required to take into account the views of the carer when determining the needs of the person being assessed for care and support, some carers have raised the issue of confidentiality. Caring relationships can be complex and these complexities must be recognised in guidance and regulations accompanying the Bill.

**Young Carers Statement**

The Young Carers Statement (YCS) is generally welcomed but there are some concerns. Firstly, the added value of the young carer statement as distinct from an adult carer support plan is not clear in the Bill or accompanying documents. Young carers do need specific support in their caring role, and this must be distinct from a Child’s Plan as not all young carers will want or need a Child’s Plan. However, the YCS appears to be identical to the adult carer support plan and it is not clear how tangible the young carers statement will be. There are also concerns about the wording within the Bill of ‘appropriate’ caring roles undertaken by young carers. Services for young carers operate on the basis that young carers are children first and foremost, and should not take on any kind of caring role that can affect their wellbeing, development, or the ability to have a life outside of caring. In the list of content of the young carer statement, there should be greater distinction that young carers ultimately have a choice to not provide care.

It is noted in the Policy Memorandum that there may be confidentiality concerns about the content of the YCS being available to the named person. Sometimes young carers do not want information about their caring situation shared with their school (even if this would lead to additional support for them). If a named person was aware of the existence of a YCS but not about the specific content, this may be enough to ensure the young carer is supported in their caring role without having the specific detail within the statement shared with the named person. It has also been suggested that the content of the young carer statement could only be shared with the named person if it is essential to their wellbeing based on GIRFEC principles.

Waiting times for Adult Carer Support Plan and Young Carers Statement

Currently carers can wait for many months or years to receive a carer’s assessment. A defined timescale for an adult carer support plan or young carer statement, set out in a local carers’ strategy, is positive, but the timescales must be reasonable and we believe a defined reasonable timescale must be stated in regulations to ensure parity between local authorities and to make sure that carers have at least some idea of how long it will take to receive a plan. The timescales should reflect both the time for local authorities to undertake an assessment and also to provide the services that carers are eligible for if applicable, to ensure that carers do not reach crisis point before they receive support. The predicted increase in carers seeking early and preventative support means that reasonable timescales are vital to ensuring carers receive support when they need it, and not when they are reaching crisis.

In addition to this we support the call by Marie Curie for mechanisms on the face of the Bill that allow automatic qualification for support for those people caring for someone with a terminal illness and for a quick completion of an adult carer support plan for carers of those with a terminal illness. Caring for someone at the end of life can be physically and emotionally demanding and is often characterised by uncertain and unpredictable condition trajectories. These carers often need unique and responsive support; however many are not identified by health or social care services, or self-identify formally as carers. They often do not know about or access the support they need, and financial support is often received late in a person’s illness, or even after the person’s death.

Applications for support for people at the end of their lives and their carers should be dealt with as quickly as possible. Marie Curie is calling for automatic eligibility for carer support for those people caring for someone who has a terminal illness as indicated on a person’s Key Information Summary (KIS), an information sharing system for advanced care planning, or upon receipt of a DS1500 form, which enables someone who is terminally ill to claim Disability Living Allowance or Attendance Allowance from the DWP.

We fully support the call from Marie Curie for a commitment of no more than seven days to prepare an ACSP for carers of those with a terminal illness.

(Part 3, Chapter 1: Local eligibility criteria, national eligibility criteria)

Local v national eligibility criteria

There is a broad consensus among carers and carer organisations across Scotland that the Bill’s provision for a duty on local authorities to provide support to adult carers who meet local eligibility criteria is insufficient, unhelpful and designed to perpetuate the existing postcode lottery. There is overwhelming support for a framework of national eligibility criteria for support on which further local enhancements can build and develop best practice.
Carers were explicit in their response to the consultation on carers legislation that they believe eligibility criteria must be **national** rather than **local**. They stated that this is the only way to avoid a postcode lottery and to ensure that carers have access to the same rights and entitlements across Scotland.

We believe it is also important to put The Carers Bill in the context of the support that carers provide. There are an estimated 759,000 carers in Scotland.\(^5\) The care that they provide is valued at over £10 billion each year\(^6\), meaning that they provide more care than the entire health and social care workforce and private sector agencies combined.

Carers are not service users, rather they are unpaid service providers who are a valuable and finite resource and who require support to assist them in their caring role. This is essential to protect their health and wellbeing, minimise any negative impacts on their lives from caring and ensure that the caring role does not break down requiring more costly interventions from the state.

This support needs to be a rights-based, an entitlement based on national eligibility in the same way as the paid workforce has the right to time off work, good working conditions and measures to protect their health and safety. Unpaid carers want to move to a position where they can also say ‘this is what I contribute and this is what I am entitled to’ and where they are no longer at the whim of individual local practice.

Of all the amendments which carers have indicated they wish to see made to the Carers Bill, the one they feel most strongly about is changing the eligibility criteria from **local** eligibility criteria to **national** eligibility criteria.

The Carers Bill will only be viewed as successful if it delivers real change in the form of a right to support and resources to assist carers in their caring role.

In order to access this entitlement, carers must first meet eligibility criteria. In other words the eligibility criteria is the key to them unlocking their right to support. We therefore cannot stress enough how important it is to get this criteria right, because as well as delivering an entitlement to carers it also has the potential to tighten eligibility, undermine the preventative approach and make it harder for carers to access support.

If local authorities only have a duty to develop **local** eligibility, carers will be at the whim of 32 different systems operating across Scotland. Inevitably some local authorities will develop stricter criteria than others, meaning some carers will be at a disadvantage. It will also mean there will be less transparency, as it will be very challenging to compare service provision across local authorities and carers will be unlikely to have an understanding of what they are entitled to.

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6 Valuing Carers 2011 Calculating the value of carers’ support, Carers UK and University of Leeds
The reasons that carers have given for wanting national eligibility criteria are outlined in the briefing paper \(^7\) “5 CLEAR reasons for national eligibility criteria” including equity, rights and ending the postcode lottery.

The arguments that the government and COSLA have given for introducing local eligibility criteria are:

- firstly, that this supports local variation and
- secondly, that the evidence suggests that local criteria has been more successfully implemented in the past.

We fully support the concept of best local practice and scope for local variation to meet varying needs and caring trends. Services which are suitable for carers in Glasgow may not be suitable for carers living in remote and island communities where transport and accessibility are a greater concern.

However, we do not believe there is any justification for a variation in the levels of need which trigger an entitlement to support. There is no justification for not defining national standards of eligibility so that carers are able to access the same level of support where they have a similar level of impact and intensity of caring role. It is the trigger and level of service that would be decided by eligibility criteria not the type of service the carer chooses to access.

In terms of other nations’ experience of implementing eligibility criteria, we have been unable to find any examples of countries developing local eligibility criteria for social care. England and Wales have recently introduced national eligibility criteria for care services and there are many examples of European countries which developed national eligibility criteria for social care, including carer support.

In research by the Universities of York and Stirling Rethinking, Social Care and Support: What can England learn from other countries, one of the key points from the report was:

‘Equity – between people with similar levels of disability and regardless of where they live – is a key feature of arrangements for funding and providing social care in other countries’ \(^8\)

It also featured examples from several countries where they have sought to reduce inequity through national eligibility criteria:

‘Eligibility criteria and assessment processes are also determined at national levels (although assessments may be carried out by local officers and organisations.) The clear role of national governments in generating, distributing and allocating resources significantly reduces


\(^8\) Rethinking Social Care and Support: What can England learn from other countries, University of York and Stirling, 2008
the risk of local geographic inequity\textsuperscript{9}

Scotland’s National Carer Organisations are currently engaged in a short term project to develop a framework for national eligibility criteria for carers. We are investing our own resources in this so that we can present a viable alternative to local eligibility criteria, which has been co-produced by carers. We will also involve other key partners, including representatives from health boards and local authorities in its development to co-produce a solution for broad consensus. We will be sharing this with government over the next few months.

(Part 3, Chapter 2: Duty to Provide Support to Carers)

Universal, preventative support for carers

The Bill includes the provision for local authorities to have a \textit{power} to support carers who do not meet eligibility criteria, as well as a \textit{duty} to support those who do. This is essential in ensuring a preventative approach is taken to supporting carers and protecting their health and wellbeing. In addition, the Bill makes provisions for all carers to access an Adult Carer Support Plan and information and advice.

The Bill describes the duty to provide support to carers as applying;

\begin{quote}
\textit{where a carer has identified needs which cannot be met by services or assistance provided \textit{generally} to persons in the area of the responsible local authority} (Section 22 Point 1)
\end{quote}

By \textit{general} support we are interpreting this to mean support which is available universally within the local community, which does not require someone to meet eligibility criteria.

For carers, much of the support they access locally is provided by local carer support organisations.

This support does not require them to have a statutory carers assessment, is universally available and is preventative, helping to sustain their caring role.

The Bill does not define which services are general. However, in the policy memorandum it describes eligible services as ‘bespoke services’ and states

\begin{quote}
\textit{Bespoke support would include, for example, short breaks, training, advocacy and emotional support} (Page 22 paragraph 92)
\end{quote}

Currently many of the services which are described as ‘bespoke’ in the policy memorandum are available to carers as general or universal support, without the requirement to meet eligibility criteria.

For example, many carers benefit from training to assist them in their caring role. This may be training on moving and handling to ensure they avoid injury.

\textsuperscript{9} Rethinking Social Care and Support: What can England learn from other countries, University of York and Stirling, 2008
or courses explaining the condition of the person they care for and how it can be self-managed. Carers may also access emotional support in the form of peer support or counseling, advocacy or support to have a voice and be recognised as an equal partner in care.

In most cases this is provided by the third sector through local carer organisations and condition specific organisations. This enables early identification of carers and prevents carers from reaching crisis. The value of these forms of support has been well evidenced and is summarised in the report ‘A Good Outcome: Evidencing how local carer organisations are supporting carers to reach their personal outcomes’.

In addition, several local authority areas provide carers with a short break on a preventative basis through short break voucher schemes and through the government funded ‘Time to Live’ fund administered by Shared Care Scotland.

The diagram below provides an illustration of the role of universal, preventative services in supporting people. This model could equally apply in the context of the introduction of a duty to support carers.

To put this in context, only a small percentage of carers access statutory support following a carers assessment, with the majority accessing support through universal services.

Furthermore, with an increase in the number Adult Carer Support Plans being undertaken there will be a corresponding increase on the demands on universal services. It is essential that these supports continue, are properly resourced and that they are not defined too narrowly.

Whilst carers should be encouraged to develop an Adult Carers Support Plan, and support services should aim to ensure that carers are able to access an ACSP should they wish to, there should be recognition that:

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1. the process of delivering an ACSP (see pages 4-5) may take some time. Timescales for provision of an ACSP are not set and, as such, it make take some time for a carer to be able to access services and support. Universal, freely accessible services are vital to ensure that carers are able to sustain their caring role, health and wellbeing in the interim.

2. carers may not wish an ACSP at that time but instead may require small interventions such as peer support to sustain their caring role

3. carers may take time to identify themselves as carers. Self referral (or referral by another agency e.g. GP) to a carers support service may be their first step. It is vital that the process for accessing support in the first instance should not be overly burdensome.

The national carer organisations therefore recommend that the Bill should specify that all carers should be eligible to free access to a range of universal services including, for example, information and advice (which is already specified in the Bill), emotional and peer support and general carer support. The Bill should specify that local authorities should have a duty to ensure that a baseline level of universal, freely available services are provided for carers in their area.

(Part 3, Chapter 2: Provision of support to carers: breaks from caring)

Short Breaks

Providing opportunities to have breaks from caring responsibilities is now widely accepted to be vitally important in helping to protect carers health and well-being, and to sustaining caring relationships. For this reason we agree with government that breaks from caring deserve special prominence within the bill.

Government data and other research shows that the availability and choice of short breaks across Scotland varies considerably. Furthermore, we know from our own studies that carers often struggle to obtain information about the different short break services available in their area, and how these are accessed.

These are not recent problems, the Care 21 Report into the future of unpaid care in Scotland highlighted these concerns and consequently promoted the vision, ‘By 2014, carers will feel well supported and have a statutory entitlement to regular breaks from caring, with the cared for person, and have ready access to local practical support.’

The Carers Bill - in its current format - will not achieve these aspirations. There remains a gulf between the rights of the paid workforce and the unpaid carer workforce (which Scotland increasingly relies on to meet demographic change), which we believe must be addressed by the establishment of a clear...

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11 This list is not exhaustive
12 Care 21: The future of unpaid in Scotland, Scottish Executive 2008
right to a break for carers. However there is much within the Bill that can be built upon to help improve carers’ experience of short breaks.

In relation to short breaks the bill includes:

- as part of a general duty to support (referred to above), the Bill requires local authorities to give consideration to whether this support should take the form of a break from caring;

- a requirement on local authorities to prepare and publish a short breaks services statement which sets out the short breaks services available, which are relevant to the persons who live in that area;

- a regulation making power for Scottish Ministers to make further provisions about the preparation, publication and review of short breaks services statements;

- a power on Scottish Ministers to make regulations about the forms of support that would constitute a break from caring. These regulations may make specific provision to deal with cases where the support is delivered through the provision of replacement care, or other services to the cared-for person.

During the initial consultation phase we argued that the Bill should contain a specific Duty on local authorities to provide and promote a range of short breaks to benefit carers and the people they care for. Such a Duty would require local authorities to plan and commission provision to ensure there is sufficient supply, choice and flexibility of short break opportunities to meet the needs of eligible families. We proposed that those not reaching the eligibility threshold would be helped with advice, guidance and information to access a range of mainstream services such as accessible recreational and holiday provision, as well as other inclusive community-based leisure activities. We also proposed the establishment of local support funds to help carers that don’t meet eligibility criteria to receive financial help with a break, where they don’t have the means to pay for this themselves.

The Scottish Government has decided not to include a Short Breaks Duty in the Bill. Instead the Bill contains a general Duty (Part 3, Section 22), to provide support to carers. In meeting this Duty local authorities must give ‘consideration’ to whether support should be in the form of a break from caring.

“A local authority, in determining which support to provide to a carer under section 22 (4), must consider in particular whether the support should take the form of or include a break from caring.”

We welcome the general duty to support carers in the Bill but we are disappointed that government has decided not to take this opportunity to introduce an additional specific duty around short breaks. In our view, the

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13 See later section on our response to short breaks statements
general Support Duty, as it stands, does not tackle directly the need for local authorities to actively plan to improve the availability, choice and flexibility of short break provision. Such a duty exists in England for families caring for disabled children (a requirement on local authorities to provide services to assist individuals who provide care for disabled children to continue to do so, or to do so more effectively, by giving them breaks from caring) and there is evidence this is having a positive impact.

At the very least we would propose that a further addition is made to Section 28 on the preparation of local carer strategies to include specifically local authority plans for developing short breaks provision, taking account of current provision, an assessment of unmet need, and the demand for different types of break.

The aim should be to deliver short breaks that better meet people’s needs, that families and people who use services are happier with those services, and consequently that short breaks will be more effective and achieve better outcomes.

With reference to the duty to ‘consider’ whether support should take the form of a break from caring, we are concerned how this might be interpreted. In what circumstances might a local authority decide not to provide this support after consideration? Does a duty to ‘consider’ provide sufficient legal clarity to enable carers to challenge a local authority decision if they feel their short break needs have not been properly addressed?

We would prefer that those eligible for support, with have an identified need for a break(s), should be offered a quantified, minimum level of short breaks, which would be clearly stated in their Support Plan or Young Carers Statement, and which would be made available through the different self-directed support options. The government has already stated that adult and young carers should not be charged for the support they receive\(^\text{14}\) - including any charges related to enabling breaks from caring - and we would expect this position to continue.

Section 8, 1(h) specifies that the Adult Carer Support plan should contain, ‘information about whether support should be provided in the form of a break from caring’. We would propose this is changed to, ‘information about the support which the responsible local authority provides or intends to provide to the adult carer to enable a break(s) from caring’, and similarly for the Young Carer Statement (Section 13, 1(i)).

\((\text{Part 6, 31: Information and Advice for Carers})\)

Information and Advice

Whilst we welcome a duty on local authorities to provide information and advice to carers, we maintain this is best achieved by resourcing existing

\(^{14}\) Statutory guidance to accompany section 3 of the Social Care (Self-directed Support) (Scotland) Act 2013 and the Carers (Waiving of Charges for Support) (Scotland) Regulations 2014
services that work with carers, and only establishing a new service if there is an identified gap.

Many third sector organisations provide information and advice to carers and their families. These range from carers’ centres and carer support services – organisations that provide services to all carers or specific groups of carers – to condition-specific organisations, general advice services like Citizens Advice Bureaux, and specific advice services such as debt advice, housing advice or energy advice. SCVO’s State of the Sector report found that expenditure on the services provided by the sector and the people it supports totalled £4.7 billion in 2013\(^\text{15}\). These services have often been established in a local area for many years and are well used, with many services operating at capacity. Dedicated carers’ services in particular find themselves operating at capacity, with almost three quarters of services clear that they would not be able to cope with extra demand at their current level of resourcing\(^\text{16}\).

“We are currently at capacity with the numbers coming through the door increasing every year. Staff are stretched to the maximum at the moment. If the numbers continue to increase then waiting lists will result. At the present... we operate an appointment system and Adult Carer Support is booked up and cannot offer an appointment [until] approx. 2 weeks later.”

These services receive core funding from their local authorities; there are concerns that the Bill’s introduction of a duty to provide information and advice will lead to resources being diverted away from carers’ services in order to provide in-house services instead. Carers really value a dedicated, independent carers’ service and are concerned that the Bill may encourage local authorities to establish a service in-house that provides information and advice on the points listed in the Bill but does not go above and beyond this in the way that carers’ services do.

Despite assurances that local authorities will not seek to establish a service in areas where carers’ services already operate\(^\text{17}\), the text of the Bill is ambiguous and we believe that Part 6/Section 31/Para 1 could be altered to recognise the contribution of independent carers’ services and to ensure that local authorities do not establish a service where one is not needed. Independent carers’ centres and carers’ services can already provide expert information and advice on all the services outlined in the Bill and in many cases, will also provide the service to carers, or refer and signpost to specialist advice services, which is more convenient and supportive for the carer. In most situations, it will be better to support an existing service that has a well-known presence in an area, that carers already know and trust and that is skilled at identifying hidden carers and those who are new to caring.

In addition, these dedicated services offer a much wider range of services than information and advice. They provide vital support for carers who are


\(^{16}\) Carers’ services finance enquiry, Carers Trust Scotland and Coalition of Carers In Scotland, November 2014.

\(^{17}\) There are carers’ centres in 30 local authorities. The Shetland Islands and the Western Isles have some online and telephone-based carer support services but no carers’ centre.
struggling, an opportunity to receive direct support from professionals and peers, an opportunity to relax and have a break from caring, and other services that complement the information and advice that they receive. This kind of holistic service is unique to carers’ centres and information and advice services would not replace this.

The impact on the wider third sector

There are many provisions within the Carers Bill that will have a direct impact on the third sector and will result in additional pressure being placed on third sector resources, particularly on local carer support organisations and condition specific organisations who support carers. We are concerned that the impact on carers’ centres and the wider third sector has not been fully recognised within the Bill.

The additional duties on local authorities to provide carers with information and advice and to support carers who meet eligibility criteria will inevitably result in an increase in the number of carers identified and a corresponding increase in demand for services. Previously hidden carers will begin to seek early and preventative support and as the majority of these carers will not meet eligibility criteria, it is likely that they will need to access universal support services provided by the third sector. The assertion in the financial memorandum that the Bill will not lead to direct costs for the third sector is flawed. Third sector services are already facing significant pressures due to the wider policy context, changes to funding and the impact of welfare reform (amongst other issues), and although the need for additional resources is recognised, this will require more than transformational costs for systems and processes. Resourcing for the third sector to improve their capacity will be required in order for carers to be identified and supported.

The Bill’s requirement for local authorities to involve and consult carers and carers’ services in the preparation of local carers’ strategies will also impact on the third sector and particularly on carers’ organisations. Whilst we welcome this focus on carer involvement, carers require support and resources to enable them to participate meaningfully and carer organisations require dedicated resources to deliver this support. The development process for Health and Social Care Partnerships’ integration schemes has not always recognised the capacity of carers and carers’ organisations; further capacity building will need to be undertaken to support carers and the third sector to engage in more effective ways when preparing local carers’ strategies.

(Part 6, 32: Short breaks services statements)
Short Breaks Statements

Part 6, Section 32 of the Bill requires each local authority to prepare and publish a Short Break Services Statement. This will contain information about the short break services available for carers and the people they care for. The Bill also gives Scottish Ministers regulation-making powers to direct local authorities on the preparation, publication and review of Short Breaks Services Statements.

This is another welcome development and one that we hope will go some way towards overcoming the difficulties faced by carers trying to access information about short breaks in their local area. However, we would expect a statement to go further than just a list of the “different types and the range of short breaks that might be available”.

It must include at least the following information:

- Details of the range and flexibility of local short break supports available, and how these reflect the needs and preferences of carers in the area
- Any criteria against which the eligibility for services will be assessed and the process which will be used to do this
- Details of universally available, inclusive recreation and leisure opportunities in the local area – including provision not subject to eligibility criteria
- Information about how short breaks will be supported through age and stage transitions
- An up-to-date list of key contacts for information and assistance on short breaks
- A named Lead Manager contact with responsibility for the Short Breaks Statement
- (Separate statements will be needed for Children’s services and Adult and Older People’ services.)

This will ensure greater transparency around how short breaks are accessed and allow comparisons between the different approaches to provision across the country, which may help drive up standards.

This information must be made widely available and we would therefore like to see local authorities being more proactive in promoting the choice and availability of Short Breaks in their area. Short Breaks provision should therefore be included in the list of information and advisory services specified in Section 31 of the Bill.

Voluntary Sector Short Breaks Fund

Subject to Spending Review decisions, the government also proposes to extend the duration of the voluntary sector Short Breaks Fund. This Fund was developed by the National Carer Organisations in partnership with the Scottish Government and is administered by Shared Care Scotland. (The Family Fund administers a separate fund called Take a Break Scotland which
provides grants directly to families caring for disabled children and young people.) Between 2011 and 2015 the Fund has distributed £10.3 million to 613 projects benefiting 40,000 carers.

The continuation of the Fund is to be welcomed. The evaluation of the different programmes year-on-year has shown the considerable benefits the Fund is delivering to carers and the people they care for – many of whom may not have access to statutory services. The Fund cannot and should not replace the responsibilities of local authorities and health to support short breaks, but it can help to enhance and extend the provision available. Through the learning exchange programme, for example, the Fund is contributing to the development of new models of service provision, and is equipping services with new tools and information to help them become more sustainable.

Additional Strengthening to the Carers (Scotland) Bill

By being added, we believe the following would strengthen and improve the Bill.

(a) Carers As Equal Partners in Care

The Community Care and Health Act 2002 recognised carers as ‘key partners in providing care’. This was further strengthened by Caring Together The Carers Strategy for Scotland in 2010 which recognised carers as ‘equal partners in care’

This has been a key shift in recognising carers as service providers who have an important role to play, both in service planning at a local level, but also as equal to health and social care professionals in their knowledge and understanding of the care needs of the person they look after.

The Carers Bill includes a duty on local authorities to involve carers in the planning, shaping, delivery and review of services, which is an extension of the current provisions within the Public Bodies (Joint Working) Act.

In addition it includes a requirement for local authorities to take into account the views of the carer when determining the needs of the person being assessed and deciding what services to provide and how to provide them.

These new provisions are welcomed. However, they stop short of recognising carers as equal partners in care.

Carers have clearly stated that they believe the Carers Bill needs to include a statement recognising carers as equal partners in care.

This recognition would build on the best practice developed through the Equal Partners in Care Project (EPiC). This is a national framework for professionals developed by the Scottish Government and NES, based on six core principles. The EPiC project supports workforce learning in health, social services and other sectors with a role in identifying and supporting carers. The recognition of carers as equal partners is a core value of this training.
Having their role and expertise fully recognised is an important factor in carer satisfaction and wellbeing. It is not something that requires extensive resources, rather it requires a cultural shift by professionals. By embedding the core principle of carers as equal partners in care within the Carers Bill this would provide a foundation for both the duty on local authorities to involve carers in service development and the requirement to take the views of carers into account in the care planning of the person they look after.

(b) Emergency planning

We are concerned about the lack of emergency planning provision on the face of the Bill and believe the Bill would benefit significantly from the inclusion of a specific provision on emergency planning within Section 8 and Section 13. We would also propose a duty on local authorities to provide information and advice on emergency and future planning within information and advice services for carers (Section 31).

We are clear that emergency and future planning is a health and wellbeing issue for carers and the individuals they care for. The omission of emergency and future planning from primary statute is a missed opportunity to have a profound and positive impact on outcomes for carers and the people they care for.

ENABLE Scotland are funded by the Scottish Government to deliver their ‘Picking up the Pieces’ project which is analysing the impact of emergency planning, focusing on carer health and wellbeing and the reduced pressure on services. This is guiding their evidence submissions throughout the Bill process. We support ENABLE Scotland’s position on emergency and future planning within the Carers (Scotland) Bill and direct the Committee to their evidence submission in this respect.

(c) Inclusion of Equal Opportunities Clause

In taking forward the very positive developments in the Carers Bill, we believe that it could be furthered strengthened by the inclusion of an Equal Opportunities Clause.

Despite a legal obligation to ‘promote equality of opportunity’ for individuals with one or more of the protected characteristics, there is substantial evidence regarding differential levels of access to services for carers from minority groups including carers from Black and Minority Ethnic communities, LGBT carers and disabled carers. Despite commitments within ‘Caring Together’ to ensure actions are taken forward with due regard to “fully address the equalities perspective”, this has not been evident across local authorities and health boards in Scotland.

Whilst ‘pockets’ of good practice exist, the NCO’s believe it is time for a more concerted effort to focus the attention of local authorities and health boards on identifying and meeting the needs of carers with a protected characteristic.

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18 Equality Act (2010)
19 Equality Act (2010)
We would argue that all measures within the bill should be taken forward with due regard to promoting and encouraging equality of opportunity.

The number of BME carers has nearly doubled in the decade between the 2001 and 2011 Census with every local authority in Scotland seeing substantial growth in the number of individual BME carers residing in their locality.

Figures provided by the Scottish Government\(^{20}\) highlight that women of working age are more likely to take on a caring role. 62% of carers between the ages of 25 – 49 are female. Given the heavily gendered bias, we welcome the strong Government focus on gender equality outlined by the First Minister. A key concern must be how the Bill will support women who are already experiencing a ‘carer penalty’ alongside more general concerns about the progression and status of women within the labour market.

The Scotland Act (1998) allows for Parliament to legislate within parameters (as equality is a reserved matter) to ‘encourage’ equality of opportunity:

“The encouragement (other than by prohibition or regulation) of equal opportunities and in particular the observance of the equal opportunities requirements” &

“The imposition of duties on Scottish public authorities, and cross-border public authorities in relation to their Scottish functions”

We would recommend that the Carers bill utilises the above mechanism supported by robust monitoring and reporting processes. Local authorities and health boards should be required to develop a statement setting out how they will encourage equality of opportunity for those with protected characteristics to access and benefit from carer support services. Equalities data should be collected and submitted annually to the Scottish Government for monitoring against the statement and publication. Evidence of the process followed in delivering against the Statement should also be included.

The Scotland Act powers have already been utilised within the Regulation of Care (Scotland) Act 2001 and the Mental Health (Care and Treatment) (Scotland) Act 2003 amongst others.

(d). **Further recognition of wider policy and reform**

We welcome the recognition that the Carers (Scotland) Bill cannot sit in isolation but must sit with and link with a wider programme of reform and policy development. As noted in our consultation response to the initial proposals for carers’ legislation, this should include strategy and policy linked not only to health and social care but also to other wider social issues such as employment, social security and pensions and the reduction of poverty and inequality. We welcome the recognition in paragraph 15 of the policy memorandum that wider initiatives may “need some adjustment and tailoring to take into account the responsibilities of caring.” The national carer

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organisations would welcome the opportunity to discuss this further and would suggest, that as part of the Bill, a requirement to consider the impact on carers of all policy across Government be considered (see 3. above)

Throughout this submission we link to such policies but in the first instance we would make particular reference to policy on delayed discharge and its unintended consequences for carers. The policy to reduce delayed discharge is important, but can, in some cases, result in inappropriate hospital discharge with increased carer burden (often without consultation or adequate social care support) and likelihood of readmission.

It is also important to recognise the wider context within which the Bill sits. In particular, the significant challenges faced in delivering social care services within reduced financial circumstances at both national and local government level.

Whilst we recognise these pressures, many carers face reducing care packages for the person they care for, support that is not delivered until crisis occurs, increasing charges for care that is provided and families supplementing the costs of care and adaptations where packages do not meet the full set of needs. This is not intended to be negative but simply to recognise the context within which the Carers (Scotland) Bill will be developed and implemented. The financial memorandum outlines a range of new funding to support the delivery of the Bill, which we welcome. However it is vital that these funds are protected to ensure that they do not simply replace existing social care budgets and deliver effective early support for carers, preventing crisis and enabling carers to have a life outside caring.

In addition, we note that the financial memorandum (paras 88-98) discusses the issue of waiving charges for support and services to carers and that, which it is “fully expected” that regulations to waive charges will accompany the Carers Bill will be produced. The current regulations prevent carers being charged for support they receive in their own right, which is identified in a Carers Assessment. This position, particularly the principle that carers are equal partners and service providers and as such should not be charged for support, must not be lost.

(e) The NHS and General Practice

It is proposed that the need for health boards to develop carer information strategies will be abolished. We believe the role of health needs to be further strengthened within the Bill. The Community Care and Health (Scotland) Act 2002 required Health Boards to develop a Carer Information Strategy (CIS). These strategies have been in place since 2008 and have been supported by funding, ringfenced for carer identification and the provision of information and support. (nearly £28 million to date)

There have been many positive outcomes arising from CIS funding, including early identification of carers from health professionals, signposting carers to
support organisations and an increased awareness of the needs of carers. In addition, funding has been awarded to carer support organisations to employ dedicated workers. For example, hospital discharge liaison workers, dementia support workers and older carers support workers.

It is important to continue to build on this best practice and to strengthen the Carers Bill in relation to the ongoing role of health in identifying carers and providing them with appropriate information, signposting and support.

Carer Information Strategies have been a good way of ring-fencing money to support carers and there is a risk that Health Boards will not protect money for carer information, advice and training without this. Carer Information Strategies have also been effective in raising awareness of carers' issues within health services and we are concerned that without such a focus, that progress made will be lost.

"Health boards are still slow to understand the needs and role of carers and involve them fully. The duty to provide information keeps them focused on the existence of carers"

"Carer information strategies help ensure that money is used for carers. It is essential that carers and carer organisations are included at strategic level."

We welcome the commitment to involve carers and carer organisations at strategic and locality level within new integrated arrangements but we remain concerned that this may not involve them in sufficient depth nor is it clear how this will inform the delivery of outcomes for carers. We believe that the mechanisms for directing resources to carer support, in lieu of NHS carer information strategies, must be nationally agreed and embedded within the new integrated partnerships to ensure that health boards and local authorities are able to respond to the requirements of their local communities.

We also welcome the Scottish Government’s intention that health boards will be consulted in the development of local carer strategies. However, we believe that, in line with the integration of health and social care, these plans should be produced jointly rather than boards simply being consulted.

We have made specific reference to the role of health services on hospital admission and discharge below, however, the support of carers by health services links to the much wider policy agenda mentioned earlier in reducing health inequalities and improving health. As noted earlier, the national carer organisations would be keen to see such links made and an appropriate response made within legislation and guidance for the Carers (Scotland) Bill

General practice also has a vital role to play. In the original Scottish Government consultation on legislation reference was made to extending and consolidating the role of general practice in identifying and referring carers to support. However, the Bill does not bring specific provisions and the policy memorandum (para 122) notes that it “would be difficult to have a law about
identifying people who are carers”. It also recognises that the identification of carers is “hugely important as it is a prerequisite to assessment and support.”

The national carer organisations in our original response argued strongly that the role of GPs is critical and as such legislation and policy to support this requires to be strengthened.

We agree that identification of carers remains a challenge despite a wide range of initiatives designed to improve this. GPs are in a unique position to be able to identify carers who may be attending the practice to support the person they look after as well as attending for their own health needs, and therefore GPs and allied health professionals are perhaps the best placed people to identify carers at any stage in the caring journey. However, identification of carers through GP practices remains inconsistent across Scotland and there is limited evidence to suggest that GPs actively seek to identify carers they come into contact with.

The requirement to identify and refer carers was transferred into the core element of the GP contract in recent years, but the contract does not specifically mention a carers’ register. GP practices currently apply a code to an individual’s medical record within the practice if they are identified as a carer; collectively, this information can be used as the basis of a carers’ register.

The majority of carers (75%) who took part in our online survey felt that both local authorities and GPs should have a duty placed on them to identify carers. 17% of respondents thought that only GPs should have a duty placed on them, and only 5% of carers thought that the local authority alone should have a duty placed on them to develop and maintain a carers’ register.

“GPs have knowledge of the people who are in a caring situation within a family and would be ideally placed to check with an individual that they are aware of the ability to have their caring needs met and supported. However, with 35 years of caring behind me, I was never approached about my daughter’s care needs since I had always just managed things on my own. Even when we were forced to look for medical interventions to try to help with my daughter’s emotional and behavioural problems worsening in the home, no support was ever suggested and we were never asked if we were getting any outside help (which we weren’t!) This means that more stringent measures would need to be put in place.”

“Important for things as basic as eligibility for flu jab etc. Helps GPs to be aware of stress and strain on individual patients.”

The national carer organisations believe that there should be a legislative requirement for GP practices to develop a register of carers within their practice. The coding mechanism is already in place to enable a register to be created, but we think that there is limited value in creating a register if it is simply data collection. In addition to the identification of carers, GPs should be
required to proactively refer carers for an Adult Carer Support Plan, which should also be recorded on the individual patient record.

The carers’ register should trigger an offer of an appointment for the individual carer every six months to determine if the caring situation has changed and whether additional support is required in terms of the carer’s own health and wellbeing including an annual health check. There is currently some good practice in the provision of health checks for carers and carers are included in the Keep Well initiative (although we have limited information on the outcomes to date) but these should be implemented more widely and consistently. A legislative requirement to identify carers would assist and a method of measurement would also be required to ensure such activity is moving in a positive direction.

(f) Hospital Discharge

Spending time in hospital, either due to an emergency or a planned admission is often a time of concern and additional stress for both carers and the people they care for. This is consistently the case, both when it is the carer who is admitted to hospital and when it is the person they care for.

An admission to hospital often results in a person becoming a carer for the first time, or it can signify that their caring role is in transition as the condition of the person they care for deteriorates and there is an increase in their care needs.

Where a carer requires hospital treatment this frequently means they are unable to continue to provide care while they recover, or sometimes, due to ongoing ill-health they may no longer be able to continue their caring role or may have to re-evaluate the level of care they can provide. It is therefore essential that at these times carers have access to information and support, from the point of admission to discharge and that their views are fully taken into account when the discharge plan is put in place.

There are a range of policies and protocols in place to make the process of hospital admission and discharge run smoothly. These aim to ensure that patients receive the timely care in the right place and have safe discharge from hospital to a more appropriate setting.

Despite these processes stating that “patients and their carers are involved and supported in the discharge process” and that “the involvement of individuals, carers and family/representatives is an integral and essential part of admission, transfer and discharge management”, many carers continue to report that their experience of hospital admission and discharge is poor.

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21 These include: The Planned Care Improvement Programme; Patient Flow in Planned Care; Admission, Discharge, Length of Stay and Follow up (2007), Guidance on choosing a Care Home on Discharge from Hospital (CEL32/2013), Admission, Transfer and Discharge (ATD) protocols (or something similar)
22 NHS Forth Valley Integrated ATD protocol
In a survey of carers as part of the development of a Carers Rights Charter, the level of dissatisfaction in being treated as a partner in hospital admission and discharge was high. At these key points carers knowledge and experience of the person they care for is vital in helping to achieve the best outcomes for individuals nearly 40% said their experience of involvement on admission was poor or very poor and 45% said the same for hospital discharge.

“It caused a lot of unnecessary stress following long periods of hospitalisation. A lot was due to poor communication. I would say in 5 out of 6 discharges I was made to feel I was a nuisance. I was really upset but I was too tired to go through the complaints procedure… and so I let it pass although I know I should have taken action.”

“Very poor, uncoordinated, last minute notice, suggesting to mum next day could be discharged then she was upset when it didn’t happen. When given phone call to collect mum, we sat ages in the ward waiting for discharge sheet, tried to read it again at mums house, It was scrappy and illegible.”

Moreover, carers said they did not receive the information they needed on admission, diagnosis or discharge. More than 75% of carers said they did not receive the information they needed.

Despite Government policy aimed at reducing emergency and unplanned admissions, in research by Carers Scotland, 40% of carers said they felt the person they cared for was discharged too early, with half of those saying this was the case because services were not in place to support them at home.

35% were consulted about discharge (but at the last minute) and 30% were not consulted at all! 60% said they were not given any choice about caring when the person was discharged. Three quarters were not offered any help with caring when the person was discharged.

It has a direct impact on outcomes for patients, with nearly 20% readmitted within one month.

“It was just assumed I would look after my mother as she could not care for herself. No help was offered at all - they needed the bed so she was sent home. I told them she couldn’t look after herself and was told I would have to do it then!”

“I was assured that I need not worry about care, my wife needed carers to come (two handed) 3 times a day, I was given 5 days to find a care company. No help give apart from a book of care companies.”

“Poorly planned discharge - no referral for carers or district nurses, no equipment in place prior to discharge.”

23 Carers UK/Carers Scotland State of Caring 2014
“It meant that she had to stay in bed and we had to shower and care for her and feed her in bed. I feel the carer should be consulted more. My father said he was ready to go home so he was discharged....I had to take 2 weeks off work to care for him full time.”

“I work full time as well as taking care of my husband who has MS. When he recently left hospital, I was not asked about the impact this would have on us, what help we had in place or if he would be able to manage in our home. He had to sleep on the sofa for 3 weeks following his release and had many bathroom accidents as both the bedroom and bathroom is upstairs and he can not reach them. Very stressful for both of us.”

Proposal for a Duty on hospital admission and discharge procedures

The Scottish Government did not include this in its earlier proposals and it has not been included in the Carers Bill (as noted above). Despite the existing Scottish Government protocol on hospital discharge, practice across Scotland differs widely and very often is to the detriment of carers.

It appears that much of carers' experience of hospital discharge has not improved greatly since the publication of “You Can Take Him Home Now” in 2001. At that time, nearly three quarters of respondents were not given any choice over whether or not they provided care. Although two thirds had been consulted about hospital discharge plans, 43% felt that those arranging discharge did not take their concerns, ideas and comments into account. One in three people had to go back into hospital within 2 months of being discharged, with a third of carers saying this was due to them being discharged too early.

A carer then said: “Everything we had been told had been arranged wasn’t so we had a horrendous first week” and another “Lack of communication about patient and no detail as to when discharge would take place. Also, patient sitting for hours waiting for transportation to get home.”

To create sustained and consistent improvement, which we believe would benefit both carers and those they care for, the national carer organisations advocates that hospital discharge must begin at the point of admission with the full and active involvement of carers. Where necessary, support must be provided to the carer to ensure that their views are taken into consideration.

Discharge planning must take account of the level of care that carers are willing and able to provide (if at all) and should put in place additional support or replacement care where required.

The national carer organisations therefore proposes the Health and Sport Committee examines our proposal, which is supported by carers, that a legislative duty is included in the Carers (Scotland) Bill to require health boards, and other relevant partners, to inform and involve carers fully in

24 Carers Scotland, You Can Take Him Home Now: Carers experiences of hospital discharge (Supplementary Report for Scotland), 2001
hospital admission and discharge procedures. This includes effective support where the carer has been a patient and requires appropriate recovery and recuperation time.

(g) A real method of redress

Carers report difficulties with obtaining redress through the social work complaints system. The social work complaint system is often difficult to navigate and carers have little redress outwith the local authority. They can only complain to the Scottish Public Services Ombudsman if there is maladministration or service failure on the part of the local authority. Beyond this carers could apply for judicial review but this can place a cost and risk to carers finances.

The Bill itself will deliver new rights for carers but it is vital that, should carers not obtain these rights, that a method of redress that is both easily accessible and delivers outcomes is in place.

To explain this fully, we refer to the following information taken from the Review of Procedures for social work complaints. “The Review of Social Work Complaints in 2011 recognised that the current system of complaints to social work required some reform. A key finding of the Crerar Review of regulation, audit, inspection and complaints handling of public services in Scotland, was that complaints processes are not always accessible or easy to use, are often complex and far too variable in their content. In short, they are not fit for purpose.

In response to the Crerar Review, Scottish Ministers established a number of groups to consider the recommendations in more detail, including the Fit for Purpose Complaints System Action Group. The report of this group, known as the Sinclair report, was published in July 2008.

Recommendations specific to social work were:

• Priority should be given to introducing standardised complaints processes in the sectors where there is the greatest risk to consumers from service failure and from which most complaints emerge - namely across the social care sector and across services provided by local government.

• The SPSO should work with local government and the Care Commission (now the Care Inspectorate) to develop complaints systems for social care and social work services which must include clearer communication about responsibility for handling complaints and better sharing of information on complaints.

• The number of stand alone complaints handling bodies should be reduced and functions should be transferred, where appropriate, to simplify the process and landscape for consumers. Specifically, Government should consider:
• Transferring the role currently performed by local authority Complaints Review Committees (CRCs) for social work to the SPSO.

This last recommendation was expanded upon in the report as follows:

"The SPSO should take on the role of social work Complaint Review Committees (CRC). The current systems are based on statutory guidance from 1996, which gave each local authority scope to interpret how it should apply the rules. This has led to several different approaches being taken, and introduced complexity for consumers, and now needs simplification and updating. Government had already been considering reviewing the standard guidance issued to local authorities for handling social work complaints. A standardised system, within the SPSO would make the link between outcomes and improvements more consistent across the country and might possibly address the potential imbalance between the experience of complainants in larger and smaller authorities."

"[This would] … make the overall process simpler and more consistently applied across councils. There needn't be any reduction in influence by social work or education professionals: any transfer of functions would be dependent on Chief Executives still being able to call on professional advice in determining cases at the local authority level."

Implementing this recommendation would require a change to the law to widen the remit of the SPSO in relation to professional decisions made in social work cases. Additional resources for the SPSO would also be required. Currently the SPSO can investigate social work complaints once all the other stages of the complaint process have been completed. The SPSO only considers any maladministration or service failure (for example whether relevant policies and procedures in relation to a social work assessment have been followed correctly) but it does not have a remit to investigate professional judgement.

The SPSO has a remit over clinical judgement in relation to complaints about NHS services. If legislation provided for the same remit in relation to social work cases, the SPSO would be able to investigate the merits of a decision taken by a social worker in exercise of their professional judgement."

The Scottish Government response to this report recommended that the SPSO expanded its remit to take on a similar role to that of the Complaint Review Committees. This would provide the SPSO with a remit over social work decisions in line with its role in relation to NHS complaints.

We are aware that the Working Group was set up to consider this recommendation. However, we unclear of progress and when we may expect these recommendations to be implemented. We are aware that there are also considerations of how best to deliver a high quality complaints system within new integrated services.

The national carer organisations believe in order for carers rights to be enforceable and carers to have the opportunity to seek resolution and redress,
action must be taken to improve the review of social work complaints and indeed new integrated services.

Conclusion

In summary, the national carer organisations broadly welcome the Carers (Scotland) Bill. The Bill has much to recommend it and will offer carers, for the first time, rights to support. Our recommendations intend to offer ways to strengthen the Bill further and to enhance both implementation and ongoing delivery of its provisions.

National Carer Organisations

About The National Carer Organisations
The National Carer Organisations are brought together by a shared vision that all Scotland’s unpaid carers will be valued, included and supported as equal partners in the provision of care and will be able to enjoy a life outside of caring. They are Carers Scotland, the Coalition of Carers in Scotland, Minority Ethnic Carers of Older People Project (MECOPP), Carers Trust Scotland, the Scottish Young Carers Services Alliance, Crossroads Caring Scotland and Shared Care Scotland.

Carers Scotland

Carers Scotland is a charity led by carers, for Scotland’s 759,000 carers - our mission is to make life better for carers. Amongst other activities, we give expert advice, information and support through our dedicated advice line for carers and campaign together for lasting change.

Carers Scotland welcomes the opportunity to respond to the proposals for a Carers Bill. We welcome the Bill and are pleased that the Scottish Government has decided to introduce legislation aimed at delivering new rights and much needed support to carers.

Carers Scotland, as part of the national carer organisations, has submitted a detailed response to the Bill. This full response is also available on our website at www.carerscotland.org. This response mirrors this submission and provides a summary of the proposals which we support and areas which we feel could be strengthened or added to improve the Bill.

1. Adult Carer Support Plan
We have, with carers, campaigned for many years for carers to have a right to recognition and support. We therefore welcome the proposals to offer all carers an Adult Carer Support Plan (ACSP), rather than simply those who met the regular and substantial threshold. We believe this, along with other proposals to remove restrictions to the ACSP, is welcome and will open up access to much needed information, advice and support to carers.

We believe that the introduction of ACSPs is a welcome development. They can be crucial tool in reaching carers at an earlier stage in their caring journey and in preventing crisis. However, organisations that support carers may experience greater demand for their services if more carers being identified. It is important that additional resourcing and support is available to services.

Currently carers can wait for many months or years to receive a carer’s assessment. A defined timescale for an adult carer support plan or young carer statement, set out in a local carers’ strategy, is positive, but the timescales must be reasonable. We believe a defined reasonable timescale must be stated in regulations to ensure parity between local authorities and to make sure that carers have at least some idea of how long it will take to receive a plan.

Applications for support for people at the end of their lives and their carers should be dealt with as quickly as possible. Marie Curie is calling for automatic eligibility for carer support for those people caring for someone who has a terminal illness as indicated on a person’s Key Information Summary (KIS), an information sharing system for advanced care planning, or upon receipt of a DS1500 form, which enables someone who is terminally ill to claim Disability Living Allowance or Attendance Allowance from the DWP. We fully support the call from Marie Curie for a commitment of no more than seven days to prepare an ACSP for carers of those with a terminal illness.
2. **Young Carers Statement**

The Young Carers Statement (YCS) is generally welcome but there are some concerns. Firstly, the added value of the young carer statement as distinct from an adult carer support plan is not clear in the Bill or accompanying documents. Young carers do need specific support in their caring role, and this must be distinct from a Child’s Plan as not all young carers will want or need a Child’s Plan. However, the YCS appears to be identical to the adult carer support plan and it is not clear how tangible the young carers statement will be.

3. **Information and Advice**

Carers Scotland welcomes a duty on local authorities to provide information and advice to carers, we maintain this is best achieved by resourcing existing services that work with carers, and only establishing a new service if there is an identified gap. Despite assurances that local authorities will not seek to establish a service in areas where carers’ services already operate, the text of the Bill is ambiguous. We believe it would be possible to amend the legislation to recognise existing service provision and to ensure that local authorities do not establish a service where one already exists.

4. **Support, Eligibility and Prevention**

Carers Scotland welcomes the proposals to introduce a duty to support carers, linked to eligibility criteria. However, in line with our response as one of the national carer organisations, we believe that such eligibility criteria should be national rather than locally developed. Carers, no matter where they live, should be able to access the same level of support where there is a similar level of impact and intensity of caring role.

It is the trigger of the level of service that would be decided by eligibility criteria and not the type of service the carer choose the access. This does not mean that we do not support the concept of local best practice and the scope for local variation to meet varying needs and caring trends. Services which are suitable for carers in Glasgow may not be suitable for carers living in remote communities where transport and accessibility are a greater concern.

The Bill includes the provision for local authorities to have a power to support carers who do not meet eligibility criteria (where local authorities will have a duty to support). This is vital in delivering preventative support to assist carers in supporting their own health and wellbeing. However, we have concerns about what may be specified as general support under the Bill and thus available freely to all carers, whether or not they have an Adult Carer Support Plan, and what is “bespoke” and only available following an ACSP.

Whilst carers should be encouraged to develop an Adult Carer Support Plan, and support services should aim to ensure that carers are able to access an ACSP should they wish to, there should be recognition that timescale for provision of an ACSP are not set and, as such, it make take some time for a carer to be able to access services and support. Universal, freely accessible services are vital to ensure that carers are able to sustain their caring role, health and wellbeing in the interim. Furthermore, carers may not wish an ACSP at that time but instead may require small interventions such as peer
support to sustain their caring role. Carers also may take time to identify themselves as carers. Self referral (or referral by another agency e.g. GP) to a carers support service may be their first step. It is vital that the process for accessing support in the first instance should not be overly burdensome.

Carers Scotland believes that the Bill should specify that all carers should be eligible to free access to a range of universal services including, for example, information and advice (which is already specified in the Bill), emotional and peer support and general carer support. The Bill should specify that local authorities should have a duty to ensure that a baseline level of universal, freely available services are provided for carers in their area.

5. Waiving Charges
In addition, we note that the financial memorandum (paras 88-98) discusses the issue of waiving charges for support and services to carers and that, which it is “fully expected” that regulations to waive charges will accompany the Carers Bill will be produced. The current regulations prevent carers being charged for support they receive in their own right, which is identified in a Carers Assessment. This position, particularly the principle that carers are equal partners and service providers and as such should not be charged for support, must not be lost.

6. Personal Outcomes
Carers Scotland believes that the definition of personal outcomes within 4(1) is narrow and, in effect, relates to inputs rather than outcomes. These are defined in Measuring personal outcomes: Challenges and strategies as “all the resources a group needs to carry out its activities.” We agree that identifying the needs (i.e. resources) a carer has for support and services to continue to care safely is vital and is an integral element of the Bill (recognised in 5 2)).

However, whilst we welcome the inclusion of personal outcomes and the recognition that carers have needs for support to enable them to continue caring, we believe 4(1) should be amended to better define personal outcomes that to recognise carers not solely for their caring role but as citizens with aspirations.

Caring is a normal part of life but should not mean individuals face significant negative impacts on their finances, ability to work and take part in learning, health and wellbeing, social and leisure opportunities. Without defining personal outcomes more fully we risk support to carers being focused solely on sustaining their caring role.

Such an amendment should be included on the face of the Bill and further defined in regulation. It may be helpful to, for example, refer to Talking

1 This list is not exhaustive

2 Measuring personal outcomes: Challenges and strategies. IRISS Insights, no.12 (January 2012)
3 Also referred to in policy memorandum “Wider Initiatives” para 15
Points\(^4\), which is highlighted in the policy memorandum supporting the Bill but not translated into the definitions of personal outcomes within the Bill itself.

### 7. Short Breaks

We believe it is unfortunate that the government has decided not to take this opportunity to introduce an additional specific duty around short breaks. In our view, the general Support Duty, as it stands, does not tackle directly the need for local authorities to actively plan to improve the availability, choice and flexibility of short break provision. At the very least we would propose that a further addition is made to Section 28 on the preparation of local carer strategies to include specifically local authority plans for developing short breaks provision, taking account of current provision, an assessment of unmet need, and the demand for different types of break.

The aim should be to deliver short breaks that better meet people’s needs, that families and people who use services are happier with those services, and consequently that short breaks will be more effective and achieve better outcomes.

With reference to the duty to ‘consider’ whether support should take the form of a break from caring, we are concerned how this might be interpreted.

We would prefer that those eligible for support, with have an identified need for a break(s), should be offered a quantified, minimum level of short breaks, which would be clearly stated in their Support Plan or Young Carers Statement, and which would be made available through the different self-directed support options. The government has already stated that adult and young carers should not be charged for the support they receive - including any charges related to enabling breaks from caring - and we would expect this position to continue.

We also welcome the introduction of Short Breaks Statements. However, we would expect a statement to go further than just a list of the “different types and the range of short breaks that might be available”.

It must include significantly more detail, for example the range of local short break supports; eligibility criteria; details of universally available, accessible recreation and leisure opportunities. This will ensure greater transparency around how short breaks are accessed and allow comparisons between the different approaches to provision across the country, which may help drive up standards.

### 8. Impact on Third Sector

There are many provisions within the Bill that will have a direct impact on the third sector and will result in additional pressure being placed on third sector resources, particularly on local carer support organisations and condition specific organisations who support carers. We are concerned that the impact on carers’ centres and the wider third sector has not been fully recognised within the Bill.

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\(^4\) Also referred to in policy memorandum “Key Definitions” para 60 - Talking Points: Personal Outcomes, Practical Guide, Ailsa Cook and Emma Miller, Joint Improvement Team (2012)
The additional duties on local authorities to provide carers with information and advice and to support carers who meet eligibility criteria will inevitably result in an increase in the number of carers identified and a corresponding increase in demand for services. Previously hidden carers will begin to seek early and preventative support and as the majority of these carers will not meet eligibility criteria, it is likely that they will need to access universal support services provided by the third sector. Resourcing for the third sector to improve their capacity will be required in order for carers to be identified and supported.

Carers will require support and resources to enable them to participate meaningfully and carer organisations require dedicated resources to deliver this support. The development process for Health and Social Care Partnerships’ integration schemes has not always recognised the capacity of carers and carers’ organisations; further capacity building will need to be undertaken to support carers and the third sector to engage in more effective ways when preparing local carers’ strategies.

9. Carers Strategies
It is positive that local authorities will have a duty to prepare and publish a Short Breaks Statement and that Local Authorities must develop and publish local carer strategies, to involve carers in the development of review of strategies and to review these every 3 years. We believe that this will bring greater transparency to carers in each area and may assist local authorities in learning from experiences and developments in other areas.

10. Involvement
We welcome the duty placed on Local Authorities and Health Boards to involve adult carers, young carers, carer organisations and other relevant organisations in the planning, shaping, delivery and review of services. It is positive that this duty will extend beyond the provisions within the Public Bodies (Joint Working) Act where this is already required.

Involvement of carers and taking account of their views in determining the needs of the person being assessed and deciding what services to provide and how to provide them is important. Carers have unique experience and knowledge of the person they care for and local authorities should draw on this knowledge. We therefore welcome the duty being place on local authorities to involve (with consent) and take account of views.

However, it is vital that in such assessments that there is a clear link between the delivery of the individual’s personal outcomes and what support the carer is willing and able to provide. We therefore welcome that Local Authorities will be required to take into account the care provided by an unpaid carer when conducting an assessment of the cared-for person. Where there is an Adult Carer Support Plan in place they must take account of this and where there is not they must still take account of the care provided and ascertain that this is what the carer is ‘able and willing’ to provide. However, we believe that there must be clear guidance to practitioners and those who make decisions on funding of care packages to ensure that carers are not, however inadvertently, expected to provide care at a level they are not able or willing to do.
11. Wider Policy
We welcome the recognition that the Carers (Scotland) Bill cannot sit in isolation but must sit with and link with a wider programme of reform and policy development. This should include strategy and policy linked not only to health and social care but also to other wider social issues such as employment, social security and pensions and the reduction of poverty and inequality. We welcome the recognition in paragraph 15 of the policy memorandum that wider initiatives may “need some adjustment and tailoring to take into account the responsibilities of caring.”

As part of the Bill, there should be a requirement to consider the impact on carers of all policy across Government be considered.

It is also important to recognise the wider context within which the Bill sits. In particular, the significant challenges faced in delivering social care services within reduced financial circumstances at both national and local government level. Whilst we recognise these pressures, many carers face reducing care packages for the person they care for, support that is not delivered until crisis occurs, increasing charges for care that is provided and families supplementing the costs of care and adaptations where packages do not meet the full set of needs. This is not intended to be negative but simply to recognise the context within which the Carers (Scotland) Bill will be developed and implemented. The financial memorandum outlines a range of new funding to support the delivery of the Bill, which we welcome. However it is vital that these funds are protected to ensure that they do not simply replace existing social care budgets and deliver effective early support for carers, preventing crisis and enabling carers to have a life outside caring.

In addition to the suggestions for amendments and improvements above, Carers Scotland believes that the following should be included within the Carers Bill.

12. Additional Developments
(a) Provisions to recognise and involve carers are welcomed. However, they stop short of recognising carers as equal partners in care. Carers have clearly stated that they believe the Carers Bill needs to include a statement recognising carers as equal partners in care.

(b) We support proposals and concerns by Enable Scotland about the lack of emergency planning provision on the face of the Bill and believe the Bill would benefit significantly from the inclusion of a specific provision on emergency planning within ACSP and YCS. We would also propose a duty on local authorities to provide information and advice on emergency and future planning within information and advice services for carers. We are clear that emergency and future planning is a health and wellbeing issue for carers and the individuals they care for. The omission of emergency and future planning from primary statute is a missed opportunity to have a profound and positive impact on outcomes for carers and the people they care for.

(c) In taking forward the very positive developments in the Carers Bill, we
believe that it could be furthered strengthened by the inclusion of an Equal Opportunities Clause and support the submission made by MECOPP. The Scotland Act (1998) allows for Parliament to legislate within parameters (as equality is a reserved matter) to ‘encourage’ equality of opportunity. In supporting MECOPP’s position, we would recommend that the Carers bill utilises this mechanism supported by robust monitoring and reporting processes. Local authorities and health boards should be required to develop a statement setting out how they will encourage equality of opportunity for those with protected characteristics to access and benefit from carer support services.

(d) We have made specific reference to the role of health services on hospital admission and discharge below, however, the support of carers by health services links to the much wider policy agenda mentioned earlier in reducing health inequalities and improving health. General practice also has a vital role to play. In the original Scottish Government consultation on legislation reference was made to extending and consolidating the role of general practice in identifying and referring carers to support. However, the Bill does not bring specific provisions and the policy memorandum (para 122) notes that it “would be difficult to have a law about identifying people who are carers”. It also recognises that the identification of carers is “hugely important as it is a prerequisite to assessment and support.”

Identification of carers remains a challenge despite a wide range of initiatives designed to improve this. GPs are in a unique position to be able to identify carers who may be attending the practice to support the person they look after as well as attending for their own health needs, and therefore GPs and allied health professionals are perhaps the best placed people to identify carers at any stage in the caring journey. However, identification of carers through GP practices remains inconsistent across Scotland and there is limited evidence to suggest that GPs actively seek to identify carers they come into contact with.

Carers Scotland believes there should be a legislative requirement for GP practices to develop a register of carers within their practice. The coding mechanism is already in place to enable a register to be created, but there is limited value in creating a register if it is simply data collection. In addition to the identification of carers, GPs should be required to proactively refer carers for an Adult Carer Support Plan, which should also be recorded on the individual patient record.

The carers’ register should trigger an offer of an appointment for the individual carer every six months to determine if the caring situation has changed and whether additional support is required in terms of the carer’s own health and wellbeing including an annual health check. There is currently some good practice in the provision of health checks for carers and carers are included in the Keep Well initiative but these should be implemented more widely and consistently. A legislative requirement to identify carers would assist and a method of measurement would also be required to ensure such activity is moving in a positive direction.
(e) There is a range of policies and protocols in place to make the process of hospital admission and discharge run smoothly. These aim to ensure that patients receive the timely care in the right place and have safe discharge from hospital to a more appropriate setting. Despite these processes stating that “patients and their carers are involved and supported in the discharge process” and that “the involvement of individuals, carers and family/reps is an integral and essential part of admission, transfer and discharge management,” many carers continue to report that their experience of hospital admission and discharge is poor.

The Scottish Government did not include this in its earlier proposals and it has not been included in the Carers Bill. Despite the existing Scottish Government protocol on hospital discharge, practice across Scotland differs widely and very often is to the detriment of carers. It appears that much of carers’ experience of hospital discharge has not improved greatly since the publication of “You Can Take Him Home Now” in 2001. At that time, nearly three quarters of respondents were not given any choice over whether or not they provided care. Although two thirds had been consulted about hospital discharge plans, 43% felt that those arranging discharge did not take their concerns, ideas and comments into account. One in three people had to go back into hospital within 2 months of being discharged, with a third of carers saying this was due to them being discharged too early.

Carers Scotland therefore recommends that a duty is included in the Carers Bill to require health boards, and other relevant partners, to inform and involve carers fully in hospital admission and discharge procedures. This includes effective support where the carer has been a patient and requires appropriate recovery and recuperation time.

(f) Carers report difficulties with obtaining redress through the social work complaints system. The social work complaint system is often difficult to navigate and carers have little redress outwith the local authority. They can only complain to the Scottish Public Services Ombudsman if there is maladministration or service failure on the part of the local authority. Beyond this carers could apply for judicial review but this can place a cost and risk to carers finances. The Scottish Government response to this report recommended that the SPSO expanded its remit to take on a similar role to that of the Complaint Review Committees. This would provide the SPSO with a remit over social work decisions in line with its role in relation to NHS complaints.

We are aware that the Working Group was set up to consider this recommendation. However, we unclear of progress and when we may expect these recommendations to be implemented. We are aware that there are also considerations of how best to deliver a high quality complaints system within new integrated services.
The Bill itself will deliver new rights for carers but it is vital that, should carers not obtain these rights, that a method of redress that is both easily accessible and delivers outcomes is in place.

Conclusion
Carers Scotland welcomes the Carers Bill. The Bill has many new developments which we believe with effective implementation and resourcing can make a positive difference to carers lives. However, there are a number of areas where the Bill could be strengthened and improved which would offer greater support, recognition and redress for carers, enabling them to sustain their role as equal partners in care.

Carers Scotland
About Carers Scotland

Across Scotland today, more than 759,000 people are carers, supporting a loved one who is older, disabled or seriously ill.

That’s 1 in 8 adults who care, unpaid, for family and friends. Three in five of us will become carers at some point in our lives and, within our lifetime, there will be 1 million carers in Scotland.

Every day 500 people in Scotland become carers. Many don’t know how or where to get help. It can be frightening and very lonely.

Caring is such an important part of life. It’s simply part of being human. Carers are holding families together, enabling loved ones to get the most out of life, making an enormous contribution to society and saving the Scottish economy £10.3 billion each year.

Yet many are stretched to the limit – juggling care with work and family life, or even struggling with poor health themselves – and finding it difficult to make ends meet.

Carers Scotland is a charity led by carers, for carers – our mission is to make life better for carers.

- **We give expert advice**, information and support
- **We connect carers** so no-one has to care alone
- **We campaign** together for lasting change
- **We innovate** to find new ways to reach and support carers.
Carers (Scotland) Bill

Care Inspectorate

Introduction

The Care Inspectorate is the independent scrutiny and improvement body established under the Public Services Reform (Scotland) Act 2010, which brings together the scrutiny work previously undertaken by the Care Commission, HMIE child protection team and the Social Work Inspection Agency. Our role is to regulate and inspect care and support services and carry out scrutiny of social work services. We provide independent assurance and protection for people who use services, their families and carers and the wider public. In addition, we play a significant role in supporting improvements in the quality of services for people in Scotland.

In line with the duty of user focus and our ‘Involving People, Improving Services’ plan, we feel it is important to take into account the views of people who use services and carers in every aspect of our work. Every inspection we conduct involves contact with people using services, their relatives or carers, who provide valuable information on their experiences, whether through one-to-one discussions, conversations with our Inspection Volunteers, or our Care Standards Questionnaires (CSQs).

We welcome the opportunity to respond to this call for evidence.

1. Do you support the bill?

The Care Inspectorate welcomes the policy objectives of the Bill to provide better support to carers on a more consistent basis. Carers make a significant contribution to society and in their communities, caring for family or friends whom are affected by physical or mental illness, disability or frailty.

However, we know this can sometimes have implications for the carer’s own health and wellbeing. We are aware from our scrutiny activities that carers that are well supported, with their own needs met are better able to care for others and achieve better outcomes. It is therefore crucially important that carers are supported to manage their caring responsibilities in good health, and to have a life of their own outside of caring.

This is also in line with other Scottish Government policy initiatives, such as Self-directed Support, aimed at ensuring vulnerable people and their carers get the support they need and are empowered to shape and understand decisions affecting them. The aims of the Bill also align with the SHANARRI indicators, particularly Healthy, Active, Respected, Responsible and Included. Furthermore, Outcome 6 of the National Health and Wellbeing outcomes states: “People who provide unpaid care are supported to look after their own health and wellbeing, including to reduce any negative impact of their caring role on their own health and well-being.”
We believe that the provisions outlined in the Bill will help to further the rights of both adult and young carers and support them in this ambition.

2. What do you feel would be the benefits of the provisions set out in the Bill?

Overall we believe that the provisions set out in the Bill should ensure better support for carers on a more consistent basis, leading to better outcomes for both the carer and the cared for person and a strengthening of individual rights.

The Bill supports the drive to look at outcomes for carers and these collective outcomes should influence on-going commissioning strategies. The provisions in the Bill should also lead to greater clarity in respect of met and unmet need.

In addition to the above we have the following comments to make on specific provisions:

- Part 2 of the Bill relates to Adult Carer Support Plans and Young Carer Statements. We support the change in terminology from ‘Carer’s Assessment’ to ‘Adult Carer Support Plan’ and ‘Young Carer Statement’, believing the terms to be less stigmatising and more empowering for carers. This was something we supported in our response to the earlier Scottish Government consultation on proposals for carers legislation. Our contact with carers and carers’ organisations, as well as staff providing support to carers across the country indicates that carers may be less inclined to engage in an ‘assessment’, as often they will misinterpret its intentions.

- We welcome the introduction of distinct plans for adult carers and young carers, as we know their needs are indeed very different. It is also important that local support plans and strategies reflect these differences.

- Part 4 of the Bill relates to carer involvement, requiring local authorities and health boards to involve individual carers and bodies representing carers in the design, development, delivery and review of carers’ services – for those not already covered under the scheme of integration. We welcome this provision, believing that meaningful involvement appropriately recognises and values the unique perspective and expertise of carers, empowers the individual and supports effective partnership working. This needs to be balanced to reflect the voice, choice, rights and needs of both the person using the service and the carer.

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

We feel it is important that the Bill references and aligns with other Scottish Government policy initiatives including the National Health and Wellbeing Outcomes and the SHANARRI indicators. We believe this will
help to ensure that carers get the appropriate support while improving outcomes.

In addition, although in general we would support that 'eligibility' criteria should be determined locally, this does have high potential for strong disparity amongst local partnership areas.

We recognise that the Bill does give Scottish Ministers the power to set national eligibility in place of local criteria. There may be a middle ground in setting some 'must be included' criteria. Based on evidence from our scrutiny activities, again we would suggest that links to the appropriate National Health and Wellbeing Outcomes and the SHANNARI indicators would be beneficial.

4. Is there anything you would remove from the Bill?

No.

5. Is there anything to add to the Bill?

There will always be carers who, due to their caring responsibilities, will find it difficult to physically be involved in any form of engagement. It would be helpful if the Bill emphasised that local authorities and health boards have a responsibility to ensure that they make adequate and reasonable provision to maximise carer involvement, for example meetings arranged at appropriate times of the day / evening.

We would also welcome detail on how the provisions within the Bill are to be monitored, as this may have implications for our strategic inspections.

Care Inspectorate
The Scottish Disability Equality Forum (SDEF) works for social inclusion in Scotland through the removal of barriers to equality and the promotion of independent living for people affected by disability.

We are a membership organisation, representing individuals affected by disability, and organisations and groups who share our values. Our aim is to ensure that the voices of people affected by disability are heard and heeded within their own communities and at a national and political level.

In our response to the consultation on the Draft Carers Bill last year, SDEF and our members made the following points:

- SDEF, alongside the other Disabled Persons Organisations, welcomes and supports legislation for carers.

- Changes in legislation affecting carers inevitably impact on disabled people and other service users who are ‘cared for’. They cannot, therefore, be made in isolation; they must be co-produced with disabled people and other service users.

- We ask that terminology is aligned with the Social Care (Self-directed Support) (Scotland) Act 2013 and that the pejorative term ‘cared for person’ is replaced by ‘supported person’.

1. Do you support the Bill?

SDEF and our members welcome and support the principles of the Carers (Scotland) Bill. Carers providing unpaid support have an essential role to play in the way we provide social care and support as a society and any legislation to guide them may have a substantial positive impact on disabled people. The progression of social care and support in Scotland must be co-produced with disabled people and carers.

2. What do you feel would be the benefits of the provisions set out in the Bill?

For those individuals who use social care and support is a good example of the essential practical assistance and support needed to take part in society and lead an ordinary life. Without such support, disabled people and other social care users cannot enjoy their human rights on an equal basis to non-disabled people. Social care is an important infrastructure for the equality and human rights of disabled people and others who use social care and support.

In some cases the cared for person will choose to get care from their partner or relative. However, it is also the case that the partner or close relative has to take on the functions of a carer because there is no adequate or affordable
social care package available, therefore unpaid care does not become a choice. It can be difficult to know when the balance between choosing to have support from somebody or close relative, who willingly provides some support, switches to reliance on them as a full-time carer. We believe that the carer/cared for relationship must be a free choice by both parties.

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

It is important, that the carers support plan, whilst addressing the needs of the carer, also takes account of the needs of the “cared for person”. To achieve this, is to ensure that social care and support packages are adequately funded and that their direct provision to disabled people/cared for people is an option. It is also important to ensure that carer support plans are developed together in co-production with the carer, the “cared for person” and the statutory authorities, with the aim of supporting independent living and real choice and control over whether unpaid care is the best choice for both parties.

Although there is national guidance on eligibility criteria, each local authority can set its own definition of these criteria and the level of support it will provide. This has led to inconsistency in the support and care packages available to disabled people in different local authority areas.

We recognise that there may be good reasons to provide support in different ways to meet local needs and circumstances; however there is no reason why the eligibility criteria for support should vary from area to area. We believe the Bill should be amended to require the Scottish Government to set national eligibility criteria – for both carers and the cared for person.

As stated in our previous response, the term “cared for persons” can imply that the person receiving care is a passive recipient of that care, rather than an equal partner, with the carer and the statutory authorities. We note that there is no consistency of language between Health and Social Care Integration (service users) Self-directed Support (supported persons) and this Bill (cared for persons) which could lead to confusion.

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

It is important that the continued care and support for disabled people who relocate to another local authority changes. However, at present the principles that determine who can pay for care and support when someone moves from one local authority area to another can be confusing and the roles and responsibilities are unclear.

To be in line with the policy intentions for a joined up, seamless and efficient system of health and social care support, disabled people believe that most health and social care legislation (including the Carers Bill) should be amended to position duties on local authorities to work together to ensure that when both carers and disabled people move, they have equivalent care and support in place on arrival.
5. Is there anything that you would remove from the Bill?
No.

Scottish Disability Equality Forum (SDEF)
1. Do you support the Bill?

There is some support from Aberdeenshire Council for the intent behind the Bill, however on balance we remain unconvinced that legislation is required in this instance. The Scottish Government continues to be consistent in supporting carers through a range of policy initiatives and while we acknowledge that there is always room for improvement, we would want to be able to continue to support carers flexibly, developing the principles established by the Christie Commission by focusing on co-production, building community capacity and targeting support to ensure that carers are well supported in their role. We are aware that COSLA remains unconvinced that a sufficient case for legislation has been made and we are supportive of many of the arguments put forward in their response to the Health and Sport Committee.

2. What do you feel would be the benefits of the provisions set out in the Bill?

Regarding adult carers, the "regular and substantial test" from the definition of a carer has become meaningless over the years with very little guidance as to what this actually means in practice when individual caring situations vary so greatly. There is concern however that removal of this results in a universal entitlement for all carers to an adult carers support plan. We envisage that there will be a significant increase in the number of carers that will be eligible for this and that insufficient resources have been identified to meet that demand.

We are pleased that emphasis is more on the provision of preventative services and support and enabling carers to achieve personal outcomes however the proposal to mandate that a formal assessment is undertaken for all carers, irrespective of the level of need, runs counter to the requirement to effectively target resources towards need.

Adult Carer Support Plan (ACSP)

We are supportive of the change from the carers’ assessment to the ACSP. The carers’ assessment has very negative connotations, is not liked by carers and the change in focus to identification of personal outcomes is welcome.

We are also supportive of the inclusion of emergency plans for carers in the ACSP.

We would also want to make sure however that the change to the process is accompanied by a change to practice and culture, empowering carers to become equal partners in care rather than altering the description of the process.
The Young Carers Statement (YCS)

Having a document specific for young carers will hopefully lead to more young carers being fully assessed in a way that is appropriate to their age and stage rather than the current statutory carers assessment which is applied to young and adult carers. Currently many young people receive an assessment by their young carer’s service but do not receive the full statutory young carer’s assessment. One would expect that this can lead to huge variations in the assessment process and so the consistency that the Young Carers Statement will bring nationally is to be welcomed. It reduces concerns relating to when families move between authorities and it also sends out a clear message about the value Scotland places on its young carers.

The fact that every identified young carer will require to have a Young Carers Statement regardless of the extent of their caring role and whether they have subsequent wellbeing needs should ensure that those who do then go on to require further support will have their wellbeing needs identified early and are more likely to engage as they have been supported from the outset. This will hopefully be a preventative measure which will reduce the likelihood of situations escalating into a crisis.

This document will ensure that the full impact of a caring role is taken into consideration. The required information outlined for the statement will strengthen the GIRFEC assessment process. Having this in addition to the GIRFEC assessment process and the development of a Child’s plan where necessary, will ensure that the totality of a caring role and the complexities which surround it are fully catered for. This is particularly important in cases where there may be other contributing factors which has triggered a GIRFEC assessment for a child/young person, as caring roles can become overshadowed. However, please see comments under question 3 regarding this. This document will ensure that the monitoring and assessment of the caring role is given the priority it deserves. It is essential that the information in the Young Carers Statement is shared with the named person, regardless of whether they also require a child plan. This is important as part of the ongoing monitoring process and sits well with the Children and Young Peoples Act.

The information required to prepare the statement will ensure the child’s/young person’s views are kept at the centre particularly regarding whether they wish to take on or continue with a caring role. While the child’s/young person’s views are clearly sought in a GIRFEC assessment this specific question is extremely important and so this will ensure it is always kept at the forefront.

The focus on the appropriateness of the caring role will also ensure that children/young people are not taking on roles which they are uncomfortable with or which would be deemed unsafe or beyond their years. This is extremely important for the child/young person’s wellbeing and is also an important factor in maintaining positive relationships within the family.
It also promotes a holistic approach to support provision for young carers where all options are considered and co-ordinated. (This ties in with the duty to provide information and advice)

The stipulations regarding the review of the statement will also ensure that the erratic and volatile nature of caring roles is addressed and constantly monitored.

The fact that the statement will also hold firm until an Adult Carer Support Plan is in place should also greatly assist with transition procedures and ensure that young carers moving on to become young adult/adult carers are not lost during this process. There can be many factors which play a part in young carers slipping through the net as they move into the role of being an adult carer and this should reduce the risk of this. It is not clear however whether local authorities would be under a duty to continue to provide support attached to the YCS, given that once a young carer reaches the age of 18 they may no longer be eligible for those services. There is concern that the Bill provision will result in an expectation of continued access to children’s services which we will be unable to meet without freeing up resources from other care groups.

Local Carers Strategies

There is support for the development of local carers’ strategies although there is a need to ensure that these fit with other high level strategic plans that are required through statute such as the Health and Social Care Strategic plan. It is recognised that it is unusual to prescribe the form, content and review arrangements for a strategy in primary legislation. This would normally be covered in guidance or regulation. The local carers’ strategies will strengthen the position of carers as they will be involved in determining the priorities and how to achieve these. There is a concern about the local strategy setting out the intended timescales for preparing ACSP’s and YCS’s – this is a practice issue and will be influenced by other demands. While there is support for the proposal by the national carers’ organisations that reasonable timescales need to be set so that carers can access a Support Plan in a prompt and reasonable timescale, there will be a need to ensure that there is sufficient staffing available to undertake this – especially as the new plans will be undertaken in an outcome focused manner and are likely to take longer to complete than the current carers assessments.

The requirement for local authorities to produce carer’s strategies which take young carers into account is extremely important. This will ensure that young carer’s views are considered in the planning and shaping of services and the proposal for guidance on this is essential to reduce concerns that this may become tokenistic. This is the only way we can ensure we are meeting the needs of our young carers as well as our adult carers. It potentially puts them on a more even playing field as often young carers are overlooked and again shows the value we place on our young carers.
Young Carer involvement in determining the needs of the ‘cared for’ person

This is again essential as the role that these young people play is vital and the knowledge and understanding they have is all too often underestimated. In many cases they are the main carer. They may in some cases have a clearer insight into the needs of the ‘cared for’ person than the ‘cared for’ person themselves. By including them in this discussion and particularly in the discussion around support provision, this allows every opportunity to ensure that the role that the young carer takes on is one that they are comfortable, able and willing to provide. It also increases the likelihood that all support needs will be addressed and hopefully met and again by including them in this process we are actively engaging them in discussions which will in turn increase the chances that they will speak up when situations become more challenging, again reducing the risk of escalation to crisis point.

Information and advice to carers

We agree that the Third Sector organisations are best placed to provide an information and advice service and this is currently provided through the commissioned carer support services for both adult and young carers. We do however acknowledge that there could be improvement to the range, quality and sources of information being provided to carers but are ambivalent about the need for this to be a duty on local authorities. There could certainly be improvement to the co-ordination of information between health, social care and the Third sector organisations so perhaps making this a duty will ensure that carers remain high on the agenda and that all carers can access information. We would be supportive of the proposal to change the wording to “the local authority will have a responsibility to maintain an information and advice service for carers and young carers or establish a service where required”

Provision of support to carers: eligibility criteria

The Bill makes provision for local authorities to set local eligibility criteria and while we are aware of the strength of feeling from carers through the consultation that they believe the eligibility criteria should be national rather than local, we are supportive of the duty to set local eligibility criteria and would like to see the Ministerial power to make regulations setting out national eligibility criteria removed from the Bill as it takes away local democratic accountability for the use of resources and could potentially lead to inequity of entitlement between carers and cared for.

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

The definition of a young carer needs to be strengthened. It would be appropriate to get some differentiation between a young carer and a young person affected by a caring role. The Bill also makes reference to under 5’s being considered a young carer and therefore perhaps requiring a Young Carer Statement. We would have serious concerns about children under the age of 5 being considered a young carer, if these roles are genuinely being
undertaken should immediate action not be taken to remove this. By giving the opportunity for children under 5 to be considered a young carer and to be considered for a Young Carer Statement, we are accepting of this role at such a young age.

This would be an ideal opportunity to get a national baseline for the definition which is required for the legislative requirements and would ensure young carers statements are prepared for those who truly need it, rather than allowing for the variation which may be present in a local criteria. The local eligibility criteria, if this goes ahead, must be underpinned by robust national principles which provide guidance for setting their criteria.

**The Young Carer Statement**

Clear guidance is needed on how/where the Young Carer Statement fits within the GIRFEC assessment process as this could cause some confusion given the move to a single ‘child’s plan’. Is it possible for the content of the Young Carer Statement to be incorporated in as a very structured approach to a GIRFEC assessment and subsequent Child’s Plan when dealing with a young carer? It would also be expected that if a child is identified as a young carer then they are going to have wellbeing needs which need to be monitored closely and are likely to require support. It would therefore seem likely that all young carers will require a Child’s Plan.

Guidance is also required regarding the production of Young Carer Statements for all existing identified young carers and resources will be required to achieve this. Consideration to maximum timescales for carrying out young carers statements should be included within this. This is important to ensure that young carers can access a support plan in a prompt and reasonable timescale.

Further guidance will be needed surrounding the issue of ‘appropriate caring roles’ to promote a consistent approach to this aspect of the Young Carer Statement.

Where local authorities commission third sector services to carry out the preparation of young carers statements there will need to be really robust contracts in place for this to prove successful. Would the commissioned service provide this for all young carers or only those that they give input to, as again the criteria for the commissioned services varies from authority to authority.

Could the links between the Young Carer Statement, the Adult Carer Support Plan and the cared for persons plan be built in and made clearer to ensure they do all speak to/reflect each other.

**Local Carers Strategies**

Concerns regarding the suggestions that there could be a separate young carers’ strategy from the adult carers’ strategy. This could result in two quite distinct work streams and would miss the opportunity for a very proactive,
joined up approach. That said, having young carers taken into account within one strategy may still lead to them being overshadowed by their adult counterparts. Could consideration be given to one core strategy which contains a common approach for all, with opportunity for matters specific to the two groups to be addressed in a structured manner? This could ensure the two groups are given equal weighting and that the work is clearly linked and partnerships are strengthened between the work of adult and young carer support provision within all services.

Information and advice to carers

This provision is already well established within many local authorities and through joint work with the NHS. The wording used here needs to be considered as perhaps the duty should more be about local authorities supporting, resourcing and maintaining the local information and advice services? Also does this extend to the requirement of having a local, dedicated young carers support service or just information and advice services as this is not clear?

Carer and cared-for residing in different local authority areas

We are not supportive of the provision in the Bill that the local authority where the carer resides will be responsible for arranging the ACSP or the YCS and for meeting the cost of any support provided. We anticipate that there will be circumstances where it makes most sense for the cared for person’s authority to be the responsible authority and we would therefore be supportive that flexible arrangements should be able to be made between the local authorities concerned. We would support a position however that removed more of the opportunity for disputes between local authorities so therefore tighter guidance would still be desirable.

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

Carer involvement in the hospital admission and discharge process. This is essential for both young carers and adult carers as in situations where they are the main carer they have vital information to share. It will also ensure that carers are considered more by health professionals in terms of who all in the household is undertaking a caring role and in some situations this could lead to the identification of carers and ensure provision of support. It is also a significant event which will inevitably become part of the support provision planning process/discussion which the Bill outlines carers views should be taken into consideration during, so why would they not be involved at this stage.

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

We are not supportive of the duty on Councils to provide information and advice to all carers and the specification as to what this information and advice should cover. We recognise it is essential that carers have access to appropriate and up to date information and advice to support them in their
caring role however we are not convinced that a legislative route is required to deliver this outcome.

As already highlighted, we are of the view that the form and content of carers’ strategies should be a matter for guidance, rather than law in order that councils are able to ensure co-ordination with other local strategies so we would be supportive of this being removed from the Bill.

Aberdeenshire Council
Carers (Scotland) Bill

Scottish Health Council

About the Scottish Health Council

The Scottish Health Council was established in April 2005 to promote improvements in the quality and extent of public involvement in the NHS in Scotland. It supports and monitors work carried out by NHS Boards to involve patients and the public in the planning and development of health services and in decisions that affect the operation of those services. The Scottish Health Council has a network of 14 local offices across Scotland (one in each health board area) and a National Office in Glasgow. The Scottish Health Council is part of Healthcare Improvement Scotland.

Response to consultation questions

1. Do you support the Bill?

The Scottish Health Council welcomes the Bill. We believe that the Bill will be a significant step forward in supporting and empowering carers in Scotland. We particularly welcome:

- Introduction of the adult carer support plan and young carer statement
- Recognition of the importance of information and advice for carers
- Provisions designed to ensure support is provided to carers and that this should include consideration of the provision of short breaks
- Requirement for the development of local carer strategies including the need to consult with and involve carers and their representatives in the preparation of these
- Duties on health boards and local authorities to involve carers in carers’ services where these services have not been delegated under an integration scheme in terms of the Public Bodies (Joint Working) (Scotland) Act.

2. What do you feel would be the benefits of the provisions set out in the Bill?

We believe that carers play an invaluable role in supporting people and that their experience of health and social care services means that their views are vital in shaping how those services should be designed and delivered.

In 2014, we carried out a series of engagement activities across Scotland to inform the development of proposals designed to give a “stronger voice” to people who access health and social care services, carers and members of the public. Through those activities, we heard from many carers who were

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1 Stronger Voice: reports of engagement activity -
keen to have their voices heard and to better understand their rights and opportunities. The Bill should help to achieve this.

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

There are a number of areas where we feel the Bill could go further in order to take account of the views expressed by carers in the Scottish Government consultation, as follows:

- The Bill requires that each local authority will specify in its carer strategy “the authority’s intended timescales for preparing adult carer support plans and young carer statements”. Carers responding to the consultation felt that there should either be a duty specifying a maximum waiting time or that a standard for a reasonable timescale should be set out in statutory guidance. Some stressed the need for a set timescale particularly for those carers who are providing end-of-life care. The Scottish Health Council believes that further specification on timescales would be welcome.

- The Bill requires that each local authority must set local eligibility criteria for the provision of support to carers, and includes a power for Scottish Ministers to set national eligibility criteria if they feel that the local eligibility criteria are not working in the intended way. There was support from carer organisations for eligibility criteria to be set at national rather than local level. The Scottish Health Council agrees with the view that this would help to ensure a consistent and equitable approach across Scotland.

- Carers’ organisations have previously called for a duty on health boards to involve carers in hospital admission and discharge planning. The Scottish Health Council believes that this involvement would be beneficial to everyone concerned and would help to ensure that due account is taken of the level of care that carers are able to provide.

- Each local authority must establish and maintain an information and advice service for carers in its area. We understand that some carers’ organisations believe that it would be preferable in some areas where carers’ information and advice organisations are already well established for those organisations to be supported and maintained. The Scottish Health Council agrees it is important that account is taken of existing services prior to the setting up of any new service, including the Patient Advice and Support Service operated by Citizens Advice Scotland, as well as carers’ organisations. During our ‘stronger voice’ engagement activities (referenced above), we heard from carers who felt that whilst it could be helpful that a range of groups and organisations existed to support and speak on behalf of carers, it could also cause a degree of confusion for carers. It should therefore be necessary to review existing arrangements in each local area before determining the best way of strengthening information and advice provision for carers. Involving local carers and existing organisations in considering this would be essential.
and the Scottish Health Council would be happy to provide advice on how best to do this.

4. Further information

Further information about the Scottish Health Council can be found on our website www.scottishhealthcouncil.org.

Scottish Health Council
Carers (Scotland) Bill

A joint response from NHS Fife, Fife Council, Carers and Partner Agencies

1. Do you support the Bill?

General feedback is in support of the Bill. In principle, it is felt that consideration needs to be given to the notion of universal provision for Carers Support Plans as Local Authorities have finite resources to provide assessment/support to individuals. Current provision is targeted at those with the greatest need & risk. To support this, considerable extra funding is likely to be necessary to implement the proposal.

2. What do you feel would be the benefits of the provisions set out in the Bill?

The Bill further strengthens the responsibilities and duties in respect of Carers. However, there is a need to ensure this does not set unrealistic expectations.

It was considered that the provisions as set out place a duty on Local Authorities rather than a “power” which is a positive step. Carers Support Plans appear to be more positive than Carers Assessments.

Further benefits are the inclusion of short breaks and the recognition of Young Carers.

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

The Bill needs to focus on outcomes not inputs.

The definition of ' regular & substantial' care needs to be clarified as this terminology could be open to interpretation. This needs to be linked to eligibility criteria to ensure that resources are targeted at those with the highest need/risk.

It was felt that national, rather than local eligibility criteria is highlighted to include Carers who’s relatives are in supported accommodation.

It is important that carers are seen as equal partners in care planning, including admission and discharges and that choice, flexibility and control over the types of short breaks are available.

Further, the rights of Welfare Guardians needs to be full recognised by all professionals.

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

More emphasis on the role of the NHS and the Local Authority regarding responsibilities and accountability to fulfil their duty towards Carers is
required. There is a need to ensure that reference to Carers Support Plan
focuses on those with highest need/risk.

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

It is important that unrealistic expectations are not raised, particularly in
relation to the provision/promotion of short breaks being linked to eligibility
criteria.

The requirement for local authorities to establish and maintain an information
and advise service for Carers would appear to duplicate the work already
carried out by successful third sector agencies, e.g. Carers and Young Carers
Centres.

NHS Fife, Fife Council, Carers and Partner Agencies
Carers (Scotland) Bill

NHS Forth Valley

NHS Forth Valley supports the overall approach and direction of supporting carers in their important role of supporting the individual they care for.

1. **What do you feel would be the benefits of the provisions set out in the Bill?**

   Clarification around the arrangements for supporting carers including a new duty for Local Authorities to support carers and the introduction of national eligibility criteria, carers support plan, right of review, access to advice and information and requirement to engage and subsequent publication of local carers strategies.

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

   While welcoming the introduction of these new duties, one of the major strengths previously was the focus on a partnership approach with responsibility undertaken by local agencies working in partnership. The proposed legislation places the duty firmly on Local Authorities and this may not sufficiently recognise the important role of partner agencies or the emerging Integration of Adult Health and Social Care Agenda.

   The introduction of national eligibility criteria is welcomed, however unless this supported by a consistent approach throughout Scotland there is potential for different interpretation and approaches to be taken locally. The adoption of a defined core set of criteria with the potential for additional flexibility in a local setting would ensure carers had access to a consistent core service throughout Scotland.

   Health and Welling Being currently appears within the advice and information section of the Bill, might this be a core element of the overall approach? The importance of carer health and well being and accessing support outwith their caring role could also be recognised within the legislation.

   A number of statutory services are governed by the need to meet delivery targets whereas this is not the case for services delivered to carers as currently framed in the Bill. This could result in disjointed delivery of services to carers and the person they care for.

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

   NHS Forth Valley, working with our local partners, developed one of the first Integrated Carers Strategies in Scotland with carers’ views placed firmly at the centre of the agenda. This ongoing approach is reflected in the work we have taken forward in Reshaping Care for Older People and the Integration Fund.
The legislation as currently framed might challenge an integrated approach and the legislation might benefit from ensuring other agencies have a duty to engage and support carers in the delivery of the carers assessment and support plan. Not all carers are in contact or receipt of Local Authority services, with many being in contact with local primary care and community based health service support. While the aim is to deliver fully integrated care provision, this may take some time to achieve therefore the legislation needs to reflect this interim phase.

Carers are seen as having a central role in supporting discharge and admission to hospital and supporting the delivery of care in the community. This important role is not mentioned or recognised in the current draft with the focus for Health Boards being on engaging and consulting carers in service change and not on operational delivery.

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

No, we welcome the draft Bill which provides the basis to build on the existing role of carers and recognises and strengthens the role of carers in delivering support in the future.

NHS Forth Valley
1. Do you support the Bill?

Yes

2. What do you feel would be the benefits of the provisions set out in the Bill?

The increase in the range/number of carers that can be supported because the requirement:

i) ‘regular and substantial’ basis which legally entitled people to a carers' assessment will be removed.

ii) that the person being cared for must be someone to whom the local authority provides a community care service will be removed

We anticipate that by removing both these criteria, the identification of carers (and self identification by carers) will be easier and will happen earlier. The new adult carer support plan (ACSP) provides a lower threshold for the “legitimising” of carer needs (by both the carer themselves and health and social care professionals) than the current system which will enable earlier identification and consequent support for carers.

We welcome:

i) The replacement of the current carer’s assessment with a new ACSP and the provision of a young carer statement (YCS) for all young carers

ii) That Local Authorities (LAs) will be required to take into account the views of the carer when determining the needs of the person being assessed and deciding what services to provide and how to provide them. We acknowledge that many practitioners would say they do this already

iii) The recognition that it is not just about a carer’s ability to provide care but also their willingness to provide care.

iv) The shift towards preventative care so LAs will have a power to support carers in a preventative manner where they do not meet eligibility criteria in addition to the duty to support carers who meet eligibility criteria. We welcome that as part of the work done to determine the support carers are provided with that there is particular consideration of whether the support should take the form of, or include, a break from caring. We advocate using a Personal Outcomes approach which has shown that these types of conversations around outcomes can identify care and support that challenges prior assumptions about what might benefit the carer – including how carers can care and support themselves. In NHS Lothian we have identified these during our engagement around “Hannah” who is the ‘typical patient’ that is being used in Lothian as part of the ‘House of Care work’ that is informing the
strategic plan to help ensure that the model we work to is person-centred and integrated

v) The recognition that transition points for carers can be tricky and the need to review carer support plans at these times

vi) The requirement that LAs prepare local carer strategies for their areas (this already happens across Lothian) and that there is provision for the establishment of an information and advice service for carers in each local authority area which must include a short breaks services statement vii) The introduction of a duty to support carers whose needs cannot be met by general services in the community including the information and advice service including welfare advice/rights services

viii) The clarification about when the carer and the cared-for person live in different LA areas, the LA in which the carer resides should prepare the ACSP and that they will be responsible for the cost of providing any agreed support

ix) That LAs will be required to take into account the care provided by an unpaid carer when conducting an assessment of the cared-for person. Where there is an ACSP in place they must take account of this.

x) In relation to young carers, NHS Lothian fully supports the objective of the Bill which is to enable young carers to have a childhood similar to their non-carer peers and making real this ambition by furthering the rights of both adult and young carers and would welcome being involved in developing the secondary legislation to help how the Bill will be enacted.

xi) NHS Lothian welcome the fact that young adult carers will have a YCS until they are provided with an ACSP as this should help them with the transition to adult services.

xii) We welcome the fact that the Bill covers kinship carers

xiii) We welcome the example (in Part 1 19. ii Wider Demographic Context) of the meaning of an "Adult Carer" as it is essential that parents who care for a child or young person with complex and/or exceptional healthcare needs should be highlighted as a separate group who have different needs

xiv) We welcome the fact that the Bill mirrors the definition of a young person in section 22 of the Children and Young People (Scotland) Act 2014 so that the named person service under that Act and the provisions for young carers under this Bill can be coordinated and can be focused distinctly on the young carer’s needs as a carer

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

i) Whether or not the Bill will actually lead to benefits which are discernible by carers and the people they care for will in large part come down to the quality and consistency of implementation. Much of the detail of implementation has been left either to future (as yet undrafted) regulations by Scottish Government and/or local decisions by individual LAs. The most obvious and
important example is around the local eligibility criteria. The Bill proposes that local authorities will set local eligibility criteria which will “determine whether local authorities would be required to provide support to carers to meet carers needs”. There is a risk that this will lead to different criteria in different locations, leading to a ‘post-code lottery’ for carers. There is also a risk that in current resource-scarce environment that criteria will be subject to ongoing revisions which restrict eligibility.

ii) By linking it to Equality and Rights duties and recognising that while caring unnecessarily depresses incomes of all, the differential impact of caring on people with lower incomes can be significant.

iii) Although, in some ways we welcome the repeal of the requirement that Health Boards have to submit a Carer Information Strategy and that the Bill establishes that LAs must set out their plans for identifying carers within the context of the local carer strategy. We feel that with the withdrawal of Carer Information Strategies there is no longer any requirements on Health Boards to identify and signpost carers to support. We recognise that this will form part of the devolved function of integrated partnerships. However, we think that the section on identification could be strengthened and reference should be made to the crucial role of all health professionals to identify and signpost carers, to continue the good practice established by Carer Information Strategies.

iv) We recognise that there is no mention of supporting carers through the process of hospital admission and discharge which is seen by carers as being a particularly significant time for them and this should be addressed. The Key Information Summary and Anticipatory Care Planning potentially provide a useful way of identifying carers and enhancing communication with them. Additionally, there is a need for robust emergency planning measures for carers so if they are admitted to hospital the people they care for are appropriately supported.

v) Section 13 – Content of young carer statement. We are pleased that the content of the young carers’ statement explicitly includes the wellbeing indicators. We are however concerned that some young carers may not want their school to know about their caring role and hope that more clarity around confidentiality and data protection will be given in the supplementary guidance.

vi) Part 4: Recurrent and non-recurrent cost implications to other bodies from the provisions in the Bill. We are pleased that the Financial Memorandum within the Bill covers training and development. We also welcome that each Health and Social Care Partnership would be funded for a Carer Champion/Ambassador for two years to help achieve cultural transformation in this area, through workforce development and leadership.

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

i) There is no mention on the role of General Practitioners and primary care in the identification of carers. The Policy Memorandum does indicate (para 123) that LAs must set out their plans for the identification of carers in their local
carer strategy and that they must consult with NHS Boards before preparing their local carer strategies. However, given the centrally important role of primary care and GPs in the identification of carers there is an argument for stipulating more explicitly the need for their role to be considered in local carer strategies along with explicit guidance on how to link LA responsibilities with those of the health service to have key information summaries and anticipatory care plans. There is a clear need to link the care and support for carers across health, social care and third sector. This includes clear processes for identifying carers and then agreeing responsibility for assessing/having good conversations and collaborative care and support planning (rather than passive assessment). In addition, there needs to be a mechanism for collating information obtained from care and support planning so that there is responsive allocation of resources.

ii) An explicit recognition of the particular needs of carers involved with supporting people with mental health issues

iii) The Bill in relation to young carers: (Part 5 Local Carer Strategies 28 Duty to prepare local carer strategy (4)) Before preparing its local carer strategy, a local authority must take such steps as it considers appropriate to involve carers – it is essential that there are a range of options to ensure that the Bill enables all carers to be involved in the planning and delivery of the services that affect them, e.g. to ensure that we had views from a wide range of age groups, NHS Lothian produced a toolkit for children and young people in partnership with the Children’s Parliament to consult on the NHS Lothian Children and Young People’s Strategy. iv) In relation to young carers: (Part 6 Information And Advice For Carers) Information and advice service (31 Information and advice service for carers (3)) - it is essential that the information and advice provided is age appropriate and involves children and young people in its development.

v) In relation to young carers: (Explanatory notes, Background 10) The wellbeing indicators are not referred to specifically in this section and we feel it would be helpful if they were to provided to ensure continuity with the implementation of the Children and Young People (Scotland) Act.

vi) In relation to young carers: duty to prepare local carer strategies NHS Lothian welcomes that within paragraph 84, there will be an explicit obligation for the local carer strategy to include specific consideration of the needs and circumstances of young carers in the area. We are unsure how funding additional services for young carers through Self Directed Support will work

NHS Lothian
Carers (Scotland) Bill

The City of Edinburgh Council

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

1. Do you support the Bill?

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

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

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

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

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

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

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

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

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

The other problem is that the Bill proposes to replace the definition of a carer in current legislation as someone who provides, or intends to provide, “a substantial amount of care on a regular basis”, with a much broader definition: “an individual who provides or intends to provide care for another individual (the “cared-for person”)”\(^4\).

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

Scottish Government estimates of the resources required to meet the increased demand for assessments are flawed in two ways – three sets of unit costs for assessment are provided\(^5\), but only the highest reflects the actual average costs reported by local authorities; second, the estimated percentage of carers likely to request an assessment seems too low.

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

\(^4\) Carers Bill, section 1(1).

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

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

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

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

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

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

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

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

The cost of the new duty to support carers is estimated at £1,000 every three years (£333 pa) per eligible carer. However, one week’s respite currently costs around £1,000, so a unit cost of £333 will not buy much support. Councils will also not be able to charge carers who can afford to pay something towards their support because The Carers (Waiving of Charges for Support) (Scotland) Regulations 2014, passed under negative procedure in early 2014, made such services free of charge from 1 April 2014. Councils received no additional funding to offset the loss of income7.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The City of Edinburgh Council
I am writing on behalf of AHDS (Association of Headteachers and Deputes in Scotland) to highlight concern about a single element of the Bill – Young Carer’s Statement as set out in Chapter 2 of the Bill.

In the Government’s consultation in January 2014 it was made entirely clear (paragraph 23 on page 12) that the Carer’s Support Plan would not apply to young carers as their wellbeing would be assessed under the GIRFEC (Getting It Right For Every Child) framework and potentially through a Child’s Plan as provided for in the Children and Young People (Scotland) Act 2014. This is a position we would support.

The Carer’s Bill now being considered has stepped away from that and seeks to introduce a Young Carer’s Statement which we believe undermines the approach set out in the CYP Act and creates an unnecessary duplication of bureaucracy. In addition to creating additional workload for practitioners it risks causing considerable confusion for them and for young carers.

AHDS is a professional association representing school leaders in primary, nursery and special schools. As this is likely to create greater burdens for colleagues in secondary schools I expect similar concerns will have been raised with you by my secondary colleagues.

Greg Dempster
General Secretary
Association of Headteachers and Deputes in Scotland
Carers (Scotland) Bill

Brian Murphy (Individual)

Third Sector position statement.

Can I reiterate the view on A duty on Hospital support. The Bill does not include a duty on health boards to inform and involve carers in hospital admission and discharge procedures for those they care for, and we believe this to be a significant oversight.

Brian Murphy
Social Work Scotland welcomes the opportunity to provide written evidence to the Health and Sport Committee on the Carers Scotland Bill - introduced to Parliament on 9th March 2015.

Social Work Scotland (formerly the Association of Directors of Social Work- ADSW) is the leadership organisation for the social work profession in Scotland.

Background: the Scottish Government intends that Scotland’s estimated 745,000 adult carers and 44,000 young carers should be better/ more consistently supported, allowing them to 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 also that they should have a childhood similar to their non-carer peers.

Response questions:

(responses include information on issues that require further consideration)

1. Do you support the Bill?

1.1 Social Work Scotland has significant concern over the potential costs of implementing the legislation as its stands and the impact upon other service provision within a context of declining local authority resources.

1.2 There is a duty under Part 2 of the Bill concerning the preparation of Young Carers Statements (YCS) for all person’s identified as carers and for those who request a statement. This part also gives power to Ministers to make regulations about the identification of young person’s personal outcomes (currently as outcomes which would support continuation of caring role); includes a prescribed form and content for assessment, support plans and reviews. Social Work Scotland is concerned that the Ministerial power to re-define personal outcomes could effectively result in a duty for councils to consider any outcome (including those not related to the caring role at all) in carers assessments and support plans. This will raise expectations/ potentially cause tensions with eligibility criteria (insofar as carers may expect access to services and support to pursue their own life aims, where those types of needs may not meet eligibility criteria).

1.3 It is not consistent with’ Getting it Right for Every Child’ to introduce support plans (instead of assessments) and statements that are separate from and sit alongside the integrated processes which have we been developing as part of GIRFEC. The proposals
in the Bill run counter to long term policy goals to integrate planning processes for young people.

1.4 It requires local authorities to extend carers assessments (now ACSPs) to situations where the cared-for person is not known to social work services and is not eligible for community care services. This seems too prescriptive and may prevent councils’ from developing processes for carers in line with local arrangements for Self Directed Support. Furthermore, we are of the view that, whilst we support the emphasis on reviews, the timescales for review should be a matter for guidance rather than legislation.

1.5 There are a number of unresolved issues around costs relating to implementation- including extension of the duty to provide a carer’s assessment; additional assessment time (the ‘Adult Carer Support Plans’ (ACSP)); supporting both existing and new carers.

1.6 Social Work Scotland supports measures that will increase the uptake of carer’s assessments in principle but we have a continuing concern relating to the change of title from ‘assessment’ (which gives consideration as to whether there is eligible need) to ‘plan’ (which assumes eligible need).

1.7 The Bill moves away from the ‘regular and substantial’ test and extends duties on assessment to cover all carers. Whilst we understand the preventative intention here, we do not feel that this is realistic and will divert resources away from situations where a high level of need has been established.

1.8 We also have concerns about the stated duty to provide an Adult Carer Support Plan for all carers irrespective of the level of care they provide. This will raise expectations amongst carers, including those who may go through assessment but may not be deemed eligible for support. It is questionable whether best value for money can be achieved through investment in many additional assessments that are unlikely will result in support and which will divert resources from funding actual service provision. Social Work Scotland is informed that many carers report that if their needs are adequately considered in the cared-for person’s assessment, then they do not feel it necessary to seek a stand-alone assessment. It is not clear that the factors underpinning the low-up take up of carer’s assessments has been properly researched. If engaging with carers, assessing, planning and providing support is dealt with as a bureaucratic, stand-alone exercise then the activity will fail to recognise changing needs.

1.9 This also appears to run counter to other strands of policy, which are moving towards engagement and an outcomes
focus, encouraging independence and community capacity building.

1.10 There are issues on how best to assess/support family carers who are also paid to provide support under Self Directed Support legislation (Option 1.) There requires to be a full and frank discussion about how this will be addressed within accompanying guidance.

1.11 The above issues have resource implications and we are concerned that additional funding will not be available to meet the new duties to support carers and to ensure resources are available to meet the anticipated expansion in assessment and support plan duties. Any costs for waiving charges must be legally competent and should be met in full by the Scottish Government (these concerns will be reflected in the response to the Financial Memorandum).

1.12 Where discussions with carers do not lead to an assessment then it seems reasonable that this decision is recorded. The anticipated Carer’s Rights Charter will further progress this area.

1.13 A duty on short breaks requires that councils consider whether short breaks would be an appropriate form of support and publish information on what provision is available locally (subject to eligibility). This provision has been amended and Social Work Scotland supports this change.

2. What do you feel would be the benefits of the provisions set out in the Bill?

1.1 As stated in previous returns, Social Work Scotland acknowledges the crucial role that unpaid carers have in supporting family members, friends and neighbours. We support measures that improve identification of carers requiring support, better provision of support and plans to ensure carers are fully involved in decisions affecting their lives and those they care for. As stated above, additional support must be properly funded.

1.2 Social Work Scotland is supportive of measures that strengthen transition planning for young people. The Bill requires that a YCS remains in place once a young carer reaches 18 years of age until an ACSP is in place. It is unclear how any increase in demand for services stemming from this measure will be resourced. It is also unclear what expectation there is upon LAs to continue to implement a YCS after aged 18 years if no further support is deemed necessary.

3. How do you feel the Bill could be amended or strengthened?
3.1 Part 2 places a duty on the responsible authority (where the carer resides) for meeting costs for carer support which could potentially be a different authority from the one assessing and providing for the supported person’s needs – i.e. when the cared for and caring individuals reside in different areas. The responsible local authority is also responsible for arranging the ACSP or YCS and for meeting costs of the support provided.

Currently, when carer and cared for person reside in different areas, a local agreement between councils is reached. This provision restricts local authorities’ ability to agree flexible arrangements. Social Work Scotland would be concerned if one council could make independent decisions about another’s expenditure as this seems to contradict the principles of local democratic accountability.

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

4.1 A carer is defined as someone who provides or intends to provide care for another individual without qualification that the carer provides ‘a substantial amount of care on a regular basis. The ‘regular and substantial’ test for carers no longer applies.

We are of the view that the definition of carer should continue to be limited to those who provide, or intend to provide, ‘a substantial amount of care on a regular basis’ and a wider definition is necessary. Some third sector organisations may be able to provide support /preventative services for other carers with effective signposting.

4.2 Notwithstanding the establishment of joint bodies through the new legislation for the integration of health and social care, Social Work Scotland is of the view that there should be a specific reference in the Bill to the role of health professionals in identifying and signposting carers (otherwise this requirement on HBs will end following the withdrawal of Carer Information Strategies).

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

5.1 Part 3 places a duty on local authorities to set local eligibility criteria to establish whether it is required to provide support to carers as defined in the ACSP or YCS. This is to be done in consultation with representatives of carers. Ministers are empowered to set national eligibility criteria (via subsequent regulation) if the local eligibility criteria appear not to be working.
We are aware that carers groups are lobbying for national eligibility criteria to be set from the start. We are of the view that the proposal for a Ministerial power to make regulations setting out national eligibility criteria should be dropped from the Bill as it erodes local democratic accountability for the best use of resources.

5.2 The Bill includes a duty on LAs to develop and publish a Young Carer Statement (YCS). We have similar concerns to those around Adult Carer Support Plans. In addition, there is a proposal that a YCS will remain in place after someone turns 18 years until the point that an ACSP is put in place. This could effectively extend eligibility for children / young person’s services in a way that will be difficult to predict and will place pressure on budgets. Holistic transition planning is most appropriate—undertaken as part of the wider Child’s Plan.

5.3 Part 4 gives a duty to local authorities and health boards to involve carers in service planning, excluding services set out in a children’s service plan under the 2014 Act or relating to functions included in an integration scheme (already being consulted on). Our view is that this is unnecessary as it is a duplication of the expectations within the Public Bodies Act regulations (which specifically names carers amongst groups that must be consulted with/ part of planning activities) and the Self-Directed Support Act (and supporting regulations) which also already contains duties on community involvement which would include carers. The local authority is also already required to take into account the views of the carer as far as is reasonable and practical in determining the needs of the cared for person in assessment process (via new sections of 1968 and 1995 Acts).

5.4 Local carer issues require to be considered flexibly and in an integrated fashion across wider strategic planning activities rather than through silo activities. As with all professional activities, planning is not a static process. Rather, it needs to evolve according to best and most current evidenced practice. Social Work Scotland believes it is not in the interest of best practice to include such a level of detail on carer strategies in primary legislation.

5.5 The duties regarding establishing and maintaining information and advice services for carers duplicates the duties within the Self Directed Support Act. Local determination is essential in order that best use is made of existing resources. Social Work Scotland suggests that there should be more emphasis on supporting and resourcing existing local carer support services and organisations—with new services only being ‘established’ when necessary. We are of the view that legislation is not required in this area.

Social Work Scotland
1. **Do you support the Bill?**

Yes. Both NHS Lanarkshire and South Lanarkshire Council have a strong commitment to supporting adult carers and young carers. We broadly welcome the provisions laid out in the Bill.

2. **What do you feel would be the benefits of the provisions set out in the Bill?**

The Bill compliments the strategic direction of Caring Together, most noticeably a rights based, preventative approach to supporting carers. It is arguably the right time to extend carers’ rights (recognising the new legal rights carers have gained in England and Wales too). The benefits to carers are perhaps self-evident:

- Replacing the Carer’s Assessment with a new Adult Carer Support Plan (ACSP) and providing a Young Carer Statement (YCS) for all young carers
- Establishing an information and advice service for carers in each local authority area, which must include a short-breaks statement
- Introducing a legal duty to support carers but in line with local eligibility criteria in order for the duty to apply
- Requiring local authorities in determining which type of support to provide to the carer, to consider whether this form of support should be a short break
- Requiring local authorities to prepare local carer strategies
- Requiring local authorities and health boards to involve carers in carer services meaning services provided by the local authority or health board to carers and the cared for person

In summarising, the Bill aims to put carers’ needs on the same statutory footing as those of service-users/patients. There will be clear benefits in changing the terminology from Carer’s Assessment to Adult Carer Support Plan and the Young Carer Statement as carers told us the terminology was a barrier to asking for and accessing support.

We are aware carers have long campaigned for a legal duty to access support to be introduced as there have been many issues in relation to the Carer’s Assessment. Though carers have cited terminology as one, we do remain concerned that supporting carers remains a practice issue; getting ‘buy in’ from staff is crucial. Arguably, introducing a duty to offer support to those carers who are eligible will make a difference
in practice. We would envisage seeing a cultural shift in the support offered to carers in introducing the new legislation incorporated into a broader training programme for front-line staff.

Carers tell us of the positive support received from carers’ organisations within South Lanarkshire but we are also aware that carers’ experiences of accessing information, advice and knowledge of their rights can vary as can receiving a personalised response to their needs. On this basis, we welcome the duty to establish and maintain an information and advice service but we are unclear as to whether this would be a new service to be set up or whether existing services would be strengthened given some carers’ concerns about the quality of information received from some existing services. The Carers Rights Charter, when complete will be an invaluable aid for carers and professionals.

Within South Lanarkshire we are proud of our partnership with carers and NHS Lanarkshire and of our Carers’ Strategy so whilst we already have this working partnership/commitment, we welcome the opportunity to introduce a duty ensuring that all local authority areas have a Carers’ Strategy. This will drive accountability and consistency. Of course we welcome the opportunity to continue to work with carers in agreeing our strategic direction, setting eligibility criteria and in reviewing our strategy’s efficacy.

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

We would like to see carers supported in planning for an emergency (to include anticipatory care planning and future planning) as a requirement to be included in the ACSP. We would deem this good practice (an example could be an emergency admission to hospital or the carer no longer being able to support the cared for person in the community for one reason or another). This would not be onerous in terms of adding this to the stipulated content of the YCS or the ACSP. It would lessen carers’ anxieties, offer, where possible a personalised response to providing support to the cared for person whilst the carer is unavailable and in doing so may lessen what could be costlier alternatives of residential or nursing care.

We are not clear on two aspects in relation to the intention of the Bill (the reserved function of the Social Worker and how the carers’ budget will be determined through the self-directed support process). We understand that the policy intention is to delegate the ACSP to voluntary sector partners; the vast majority we would assume are not qualified Social Workers and this is a concern in terms of assessing and responding to risk, working holistically and from a whole family approach, assessing for outcomes and in exercising the values and principles underpinning social work. We fully acknowledge and respect the skills and commitment of voluntary sector partners in supporting carers but in terms of consistency and ultimately in giving carers confidence
that their needs are to be responded to appropriately and professionally we would welcome some further clarification on this.

In relation to self-directed support (SDS), again if voluntary sector partners are to complete the ACSP we are not clear how this will in practice marry up with the local authorities’ I.T systems that effectively calculate the care/support costs for service-users as well as carers at present. Some local authorities include carers’ support costs in the overall SDS budget. Where a resource allocation system (RAS) is deployed and there is a carer, the service-user’s budget through the RAS is decreased dependent on what care the carer provides (assuming a deflator is applied and in most cases it will be). This then opposes the policy intention of supporting carers if budgets are decreased without carers’ needs having first been assessed. The resulting situation could be one of the carer’s needs being taken into account during the SDS assessment for the service-user, the budget then being reduced because of the care the carer is providing and the carer then needs to have their needs assessed by the voluntary sector. Added to this is the need to inform voluntary sector colleagues as to how the local authority assesses risk and prioritises resources based on the eligibility criteria it will set. We feel greater clarity is needed on this point too.

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

Arguably, carers would benefit from support at the time of a hospital discharge. We are aware of good practice at the time of discharge and indeed within Lanarkshire we have our Carer Support Teams who support carers in the three acute sites across Lanarkshire but the Bill could be strengthened in this way. However, there would be resulting resource implications with this but ultimately better discharge planning and carers better supported may reduce re-admission rates. If this cannot be included then we would welcome some further research into this.

We would like to see ‘risk’ explicitly included within the proposed content of the ACSP recognising that carers may have low level needs (if well supported by a substantial care package) but risks may be substantial because of certain factors eg, the intensity of the caring role, having care needs of their own, experiencing mental ill health etc. Some carers are more resilient than others by way of exercising coping mechanisms and so consequently their level of risk may be lower than those in similar roles less able to manage their caring role.

Whilst we support the proposal to introduce locally set eligibility criteria, we do understand carers’ reservations that this will perpetuate a ‘post code lottery’, noting that in England and Wales national eligibility criteria has been set. Within South Lanarkshire we do offer services at present to those who present as in need without having to formally exercise a prioritisation framework, therefore we would support the development of national eligibility criteria but
we also welcome the power to offer preventative support through general services/support.

Along with the rights based framework, we would support the development of carer advocacy, again noting that this varies in practice nationally with there being very few advocacy services that directly and exclusively support carers. This ties in with the need to establish good, reliable, consistent sources of information and advice, not just to signpost but to truly support carers to exercise their rights through the use of advocacy. We feel this does need further discussion. For some service-users/patients there is a legal right to advocacy. Whilst we understand the reservations that may exist in developing dedicated carer advocacy, this is much debated but does appear to link in with the development of information and advice. Part 6 of the Bill stipulates carers must be given information on carer advocacy, this is a paradox if the ‘service’ as such does not exist.

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

No. As stated, we welcome the intention of the Bill but seek further clarification in relation to how this will be taken forward in practice.

6. Other Comments

Although we welcome the provisions of the Bill, the financial implications for local authorities cannot be underestimated.

The infrastructure to support the provisions of the bill such as:

- IT developments (Adult Carer Support Plans/Young Carers Statement)
- Duty to provide support to eligible carers
- Staff training
- support to voluntary sector providers
- Carer Strategy development
- carer involvement

will have significant resource implications for local authorities.

End of comment.

South Lanarkshire Council Social Work Resources
Carers (Scotland) Bill
UNISON Scotland

Introduction

UNISON is Scotland’s largest public sector trade union. UNISON members deliver a wide range of services in the public, community and private sector. Members are also tax payers, service users and often carers themselves, and are ideally placed to provide evidence to inform the committee during its scrutiny of this Bill. UNISON Scotland welcomes the opportunity to submit evidence to the Health & Sport Committee.

General Comments

UNISON members are well aware of the difficulties faced by carers who struggle to look after older, disabled or ill family members often on their own, as they are the people who currently assess them for the current Carers’ Assessment and will continue to do so when the Carers’ (Scotland) Act is implemented. The recent Scottish Health Survey puts the number of carers at 750,000 adult and 44,000 young carers. This is 1 in 8 of the adult population of Scotland who care, unpaid, for family and friends. UNISON recognises the importance of supporting carers as they can hold families together, allow those they care for to get the most out of life and save the Scottish economy billions of pounds a year. Many of them are stretched to the limit, attempting to hold down jobs, care for their own families, as well as giving care. Their own health can suffer, as can their career prospects, and they often experience poverty as a result of this.

The Bill includes many measures which help improve the identification and provision of support to carers. Currently the system is that local authorities have the power to support carers if they meet certain criteria and have had a Carers Assessment, which is often based on the number of hours they are caring. Carers have to request their local authority to carry out an assessment of their ability to provide care for people. The current assessment does not look into the carer’s needs and is usually based on the needs of the cared-for person. The Bill introduces a duty to offer a carer an adult carer support plan and a young person a young carer statement, without the test around caring “on a substantial and regular basis”. It offers more effective delivery of support to carers, aiming to address those issues that impact adversely on the carer and limit their ability to care.

The Bill will create an extra duty on local authority and health staff who will have to identify all of their carers, contact them, offer them an assessment and carry out that assessment. In times of cutbacks to local authority funding, this will mean either existing staff taking on this extra duty, which can only lead to an increase in their heavy workloads, or, as we would insist, taking on extra staff to provide the service. Additional resources will, therefore, need to be deployed so that staff numbers are adequate to carry out the new work
placed upon them and that proper training is given in the new requirements and duties.

UNISON supports many aspects of the Bill: the change in the name for both assessments; the removal of the “regular and substantial” test; the ability for a carer to request an assessment and the requirement for the local authority to offer one; the duty for a short breaks assessment, although we would prefer the duty to be extended to include a duty to provide a short break; the duty on local authorities and health boards to involve adult carers, young carers and relevant organisations in the planning, shaping, delivery and reviewing of services and when determining the needs of the person being assessed.

We would wish further clarification on the timescales needed for support plans to be developed; the duty to maintain an information and advice service; the requirement for local authorities to consider offering short breaks from caring. We believe that the emergency, anticipatory or future planning should be included within support plans and that the proposals to look at this on an individual basis do not deal with those eventualities in a sufficiently robust manner. We are also concerned at the proposal to repeal the requirement for health boards to submit a Carer Information Strategy. We accept that this function should be covered by the Health & Social Care Integration partnerships, but feel this need is best covered by retaining the good practice established by Carer Information Strategies.

Whilst in the main we are supportive of local eligibility being set, we nevertheless believe that national minimum standards should be established to ensure that there is not a postcode lottery to receiving support across Scotland. UNISON also firmly believes that health boards should have a responsibility to involve carers in hospital admission and discharge procedures. They clearly have a vital role in determining when the people they look after need hospital care and in aiding with their discharge to ensure that systems are in place for the cared for person to be able to be discharged in appropriate time.

Questions.
1. As stated above, UNISON is supportive of the bill, but would require clarification on certain issues outlined above. We would also require confirmation that additional resources would be given to local authorities to provide adequate staffing levels to ensure that the support scheme is operated timeously and thoroughly.

2. The benefits of the bill would be huge. Unpaid carers are vital; not just to the people they care for, but, as they can hold families together, allow those they care for to get the most out of life they can save the Scottish economy billions of pounds a year. Many of them are stretched to the limit, attempting to hold down jobs, care for their own families, as well as giving care. Their own health can suffer, as can their career prospects, and they often experience poverty as a result of this. The Bill would ensure that as much support as possible can be given to enable them to remain healthy, hopefully avoid them having to give up their jobs, leading them into poverty.
3. As stated above, we would wish further clarification on the timescales needed for support plans to be developed. We believe they must set reasonable timescales, so that carers can access a support plan as soon as possible. This requires adequate staffing levels, so that there are not lengthy delays in providing the assessments and introducing the support plans.

The duty to maintain an information and advice service is a welcome addition, but there are existing local carer support organisations who are already providing this advice and it would be sensible to involve these organisations when determining when additional advice is necessary.

Re the requirement for local authorities to consider offering short breaks from caring; we believe that this should be a specific duty on local authorities rather than just a duty to provide an assessment. These breaks can provide well needed respite care for carers and we believe it should be a duty, rather than a requirement.

We believe that the emergency, anticipatory or future planning should be included within support plans and that the proposals to look at this on an individual basis do not deal with those eventualities in a sufficiently robust manner.

We are also concerned at the proposal to repeal the requirement for health boards to submit a Carer Information Strategy. We accept that this function will be part of the Health & Social Care Integration partnerships, but feel this need is best covered by retaining the good practice established by Carer Information Strategies.

4. We believe the provision for the setting of national minimum standards should be part of the bill, with the eligibility criteria being set locally. This would ensure that there is not a postcode lottery in the service, but that there is no top-down organisation, and that local circumstances are taken into consideration.

The involvement of carers to be involved in hospital admission and discharge procedures should also be included as we believe this will help in the cases of delayed discharges. If the carers do not know what is happening to the person they care for, they are unlikely to be able to assist hospital and care staff to make sure necessary arrangements or packages are in place.

5. There is nothing that we would wish taken away from the Bill.

UNISON Scotland
Carers (Scotland) Bill 2015

COSLA

Introduction

1. COSLA believes that unpaid carers are equal partners in care, acting within the context of a partnership between the individual and the state, which forms the bedrock of our system of health and social care. Without the contributions made by unpaid carers, that system would be unsustainable now and in the future.

2. The past few years have seen advances in support to carers, with improved outcomes across many partnerships. Through the implementation of the Carers and Young Carers Strategies, the Scottish Government and COSLA have introduced a range of measures to help identify and support carers. Other measures, such as the Older People’s Change Fund, have also created opportunities to redesign support arrangements.

3. That said, it is clear that there is significant room for improvement and we should be investing more as a society in supporting carers. Councils and their partners recognise the importance of this community and the need to invest more heavily in prevention over time. To do this, councils and their partners need to be able to support carers flexibly, developing the principles established by the Christie Commission by focusing on coproduction, building community capacity and targeting support to ensure that carers are well supported in their role.

4. Against this backdrop, the new power to support carers introduced through the (Social Care) Self-Directed Support (Scotland) Act 2013, further enables councils to act flexibly in supporting carers to continue in their caring role and have a life alongside caring. Given this strategic context and policy direction, any move to introduce legislation which places further duties on councils (especially where doing so could restrict their ability to act flexibly) must be underpinned by clear evidence that those specific legislative proposals are required to achieve the desired outcomes.

Key messages

- COSLA remains unconvinced that a sufficient case for legislation has been made; however we will work constructively to influence the shape of the new Bill.

- COSLA believes that the Scottish Government has significantly underestimated the cost of introducing a new universal entitlement to assessment for Scotland’s 759,000 carers.

- COSLA believes that the requirement to assess all carers, irrespective of the level of care they provide, or whether they are...
likely to be eligible for support, will consume resources that could otherwise have been invested in direct support services.

- **COSLA believes the Bill is too detailed and prescriptive as regards operational matters such as assessment, support planning and review. We are concerned that including this level of detail in primary legislation will restrict councils’ ability to develop innovative approaches to support for carers in line with local arrangements for self-directed support.**

- **COSLA believes the Bill contains Ministerial powers which are unwarranted and could make it more difficult to support carers flexibly. In particular, the power to make regulations establishing national eligibility criteria should be dropped from the Bill as it erodes local democratic accountability for the use of resources and could lead to inequity of entitlement between carers and the cared-for.**

**General comments**

5. COSLA does not believe that a sufficient case for moving to legislation has been made. Indeed, many of the arguments that were offered in support of legislation during the Scottish Government’s original consultation on legislative proposals are not persuasive.

6. For example, the dispersal of carers’ rights across different acts was presented as an argument for a single piece of legislation; however, the reality is that most areas of social care provision are covered by a range of statutory provisions. Hence, we do not think that a new bill which is primarily intended to assimilate pre-existing legislation is a good use of parliamentary time.

7. What is more, many of the proposals relate to areas where it is unclear that additional legislation is required to deliver the outcome. For example, information and advice is already available, and while we should always give thought to how this could be improved, legislation is unnecessary to achieve this. It is also argued that new duties on involvement are required for services that are beyond the scope of integration and children’s services (where involvement duties already exist). However, councils already have duties to involve individuals and communities (including communities of interest) in relation to these other services. This is enshrined within existing equalities legislation and is an explicit facet of councils’ duties in relation to best value and community planning. Against this backdrop, it is difficult to perceive a clear case for additional legislation which would overlap, and in some cases duplicate, that which already exists.

8. Finally, councils have been developing improved support to carers as part of their implementation of self-directed support following the enactment of the SDS act in April 2014. This activity, including use of the new power to
support carers contained within the Act, needs time to bed in before the question of whether further duties are required can be properly considered.

9. Despite COSLA’s concerns, we remain committed to working in partnership with the Scottish Government and other key stakeholders to improve outcomes for unpaid carers. To that end, we would wish to engage positively in the parliamentary processes surrounding the Bill and so offer comment below on specific proposals within the Bill which we feel may be impractical and risk making it more difficult to support carers flexibly into the future.

Bill provisions
Definitions
Part 1 - Key definitions; Section 1 – meaning of ‘carer’

10. The Bill would replace the current definition of a carer as someone who provides, or intends to provide, ‘a substantial amount of care on a regular basis’, with the much broader definition of someone ‘who provides, or intends to provide, care for another individual’. We understand one of the main aims here is to extend the current duty on assessment to include situations where the cared-for person is not eligible for community care services – that is, where their needs are mainly in relation to health or other factors.

11. While we would support a broader interpretation of need that focuses on those caring for people with healthcare needs only, we would question whether a new duty on councils is appropriate on three main grounds. Firstly, as we understand it, there is currently no legal impediment to providing carers’ assessments in these circumstances and this issue may therefore be a matter of guidance rather than law. Secondly, this definition would include circumstances which are arguably broader than the scope of the policy intent – for example parents of children who are exhibiting behavioural difficulties which they feel are not solely attributable to their age. While we want to improve support to parents, this should be undertaken in a flexible and proportionate way; placing a duty upon councils in the manner proposed would simply compromise councils’ ability to support other carers with greater needs. Thirdly, this broader definition of a carer becomes even more problematic when coupled with the duty to provide a carers assessment (renamed an ‘adult carer support plan’ or ‘young carer statement’). Taken together, the new definition and duty effectively establish a universal entitlement to assessment for a much larger group of people than is currently the case.

12. It is COSLA’s view that the Scottish Government has significantly underestimated the increase in demand the removal of the regular and substantial definition will lead to, and that insufficient resource has been identified to meet that demand. Whereas actual direct service provision for carers will be supply-led (insofar as councils will use eligibility criteria to fairly distribute whatever resource is available), ACSPs will be demand-led (insofar as the Bill will establish a universal entitlement to assessment for
all carers). Councils will have no way of managing the demand for ACSPs which will come from among Scotland’s 759,000 unpaid carers.

13. Clearly not all of Scotland’s carers will come forward for assessment; however, as has been the case with other universal entitlements, promotion of a new entitlement to an adult carer support plan for all carers will inevitably induce demand that was not manifest before. Further details regarding COSLA’s views on the Scottish Government’s demand forecasts and cost estimates are provided in COSLA’s submission to the Finance Committee. Notwithstanding the issue of resources, there are a number of policy concerns regarding the extension of duties on assessment which are outlined below.

Assessment
Part 2. Adult Carer Support Plans (ACSP) and Young Carer Statements (YCS); Sections 6 and 11 - Duty to prepare ACSPs / YCSs.

14. The Bill proposals effectively extend the duties on assessment to cover all carers and move away from the ‘regular and substantial’ test. Councils recognise that there is a need to invest in prevention if we are to manage future demand, and that a key part of this is improving support to carers. However, the proposal to mandate that a formal assessment is undertaken for all carers, irrespective of the level of need, runs counter to the requirement to effectively target resources towards need. This carries the risk that councils are forced to invest scarce resources inappropriately and may result in carers having unrealistic expectations about the level and type of support that can be provided. It is recognised that this measure is in part being proposed as a way to address low uptake of carers’ assessments and that some carers report having to wait significant amounts of time for an assessment. However, difficulties in responding to requests quickly due to lack of resources is a separate issue from low uptake of carers’ assessments in the first place and requires a different response.

15. Currently local authorities have a duty to conduct carers’ assessments upon request from those carrying out regular and substantial care. In practice, the assessment process for the cared-for includes consideration of the carer’s input and needs, and presents an opportunity to agree whether a further stand-alone carer’s assessment is required. Many carers report that the assessment process and support provided to the cared-for is sufficient to also meet their needs as a carer, and either do not request, or actively decline, a separate carer’s assessment.

16. Councils recognise that they need to improve their recording of discussions that do not result a request for an assessment (or result in an offer being declined) and that there is a need to raise awareness among both staff and carers in terms of carers’ assessments. This is already being undertaken through the measures described above, and the imminent agreement of a Carer’s Rights Charter will deliver further improvements. Introducing further duties on assessment under these circumstances would do little to improve uptake and nothing to shorten the time taken to conduct assessments. In fact it could be argued that a
universal entitlement to assessment, irrespective of the level of care provided, could worsen the situation by adding a layer of bureaucracy around assessments which actually diverts resources away from the business of conducting the assessments themselves.

On balance, COSLA is comfortable with the proposal to re-visit the current legal definition of a carer with a view to including those who care for people with healthcare needs only. However, the definition should continue to be limited to those who provide, or intend to provide ‘a substantial amount of care on a regular basis’.

17. The Bill also replaces the term ‘carer’s assessment’ with ‘adult carer support plan’ (ACSP) and ‘young carer statement’ (YCS); the policy memorandum presents this as responding to concerns about the stigmatising effect of the current language of ‘assessment’ which can be seen as referring to an assessment of a carer’s ability to care. Indeed, some carers say they feel this can be seen as threatening or judgemental. While we understand this issue, we think it is primarily a practice and culture issue rather than a semantic issue. The solution lies in empowering carers to become equal partners in care rather than simply altering the description of the process. As councils and their partners move forward with further implementing self-directed support (SDS), there is an increasing shift away from deficit models towards outcomes-focused dialogue about what the carer wants to achieve. This is described in different ways as councils develop and consult on local approaches to SDS, and it is questionable whether there is a need to legislate to establish one particular term over another.

18. Those points aside, there are risks associated with a legislative requirement to adopt the term ‘Adult Carer Support Plan’. There is an important conceptual distinction to be made between ‘assessment’ and ‘plan’. Whereas an ‘assessment’ gives consideration to need, a ‘plan’ assumes it. The initial process that is to be undertaken is the identification of eligible need; even if a new duty to support carers is introduced, it will still be within the context of an eligibility framework and therefore not all assessments will identify need that is eligible for the provision of services. The term ‘Adult Carer Support Plan’ will raise expectations in this respect and does not allow for sufficient separation between the concepts of assessment and care and support planning. While establishing a universal entitlement to an ‘Adult Carer Support Plan’ undoubtedly has political currency, it is questionable whether it is a justifiable use of scarce resources to assess all carers irrespective of the burden of care that they take on or the level of their own need.

19. The Bill places a duty on councils to prepare a ‘young carer statement’ (YCS) for all young carers, even if the young carer also has a child’s plan under Children and Young People (Scotland) Act (which requires that a child’s plan is prepared for children with an identified wellbeing need). The effect of the Carers Bill provision is that this group would then have two support plans running in parallel. COSLA is concerned this will engender a siloed approach that will make it harder to undertake co-ordinated planning.
for children and young people, and ultimately fails to see children as a
child first and a carer second. In line with *Getting It Right for Every Child*,
children should have their needs as a child considered and appropriate
support put in place to ensure they are safe, healthy, achieving, nurtured,
active, respected, responsible and included.\(^1\) Indeed, draft guidance to
support the Children and Young People Act states that one of the main
purposes of the Act is to improve outcomes for children by ‘ensuring that a
single statutory plan, the Child’s Plan, is prepared for every child who
needs one’.\(^2\) The emphasis here is quite rightly on the child’s needs and
outcomes being paramount, with what gives rise to them being a matter for
bespoke support co-ordinated through a single child’s plan.

20. A counter argument to the concerns raised here is that not all young carers
would have a child’s plan and so the issue of having two plans running in
parallel would not arise in all cases. COSLA would challenge this on two
counts: firstly, a child’s plan is required for children with an identified
wellbeing need and in many (if not most) cases, being a child who is
carrying caring responsibilities would be seen as giving rise to a wellbeing
need; secondly even *if* this situation were only to arise in small number of
cases, it would still be unacceptable for those children.

21. We note that the Bill provides for a young carer to be able to request a
YCS, and that they are not currently able to make a similar request to have
a child’s plan. However, the issue here is about at what level of need
support planning is triggered, not whether it should take the form of a
distinct plan for young carers. Therefore the focus here should be on
ensuring GIRFEC arrangements are functioning to consider the needs of a
child (including those arising from their caring responsibilities), rather than
on introducing a parallel layer of planning.

**GIRFEC requires that we take a co-ordinated approach to meeting the
needs of children and young people. The Bill’s provision of a separate
YCS that would sit alongside a child’s plan, runs counter to this
approach and fails to acknowledge that young carers should be
considered primarily as a children and young people first. COSLA
therefore believes that where a child’s plan is in place, needs arising
from a child’s caring responsibilities should be part of that plan.**

**Support planning**
Part 2 – ACSPs and YCSs; Sections 7 – 9 and 12 - 14 – Identification of
outcomes and needs, content and review of ACSPs and YCSs.

22. The Bill proposes to establish a Ministerial power to make regulations
about the identification of carers’ ‘personal outcomes’ and the need for
support. The Bill currently defines personal outcomes (Part 1, sections 4
and 5) as those which enable carers to continue to care. It also establishes
a Ministerial power to re-define personal outcomes in regulations. We
understand the policy intent here is to give Ministers the power to establish
outcomes frameworks for carers, similar to the establishment of health and

\(^1\) www.gov.scot/Topics/People/Young-People/gettingitrigh

wellbeing outcomes and ‘SHANARI’\(^3\) outcomes for children and young people through regulations supporting the Public Bodies Act and Children and Young People Act respectively.

23. While COSLA is committed to an outcomes approach, we do not agree that Ministerial powers to establish dedicated carers’ outcomes are required in this case for three main reasons. Firstly, because outcomes for carers are already set out within secondary legislation insofar as the national health and wellbeing outcomes apply to carers as citizens, and SHANARRI outcomes to young carers as children. Layering additional frameworks on top of these would act as a barrier to co-ordinated strategic planning and would arguably add little - inasmuch as it is not clear in what way outcomes for carers as individuals are expected be substantively different from outcomes for citizens or children. Indeed, it could be argued that our focus should be on ensuring a carer’s right to expect these outcomes as a citizen or child is respected and upheld.

24. Secondly, both the national health and wellbeing and SHANARRI outcomes are high-level outcomes intended to guide strategic planning; they are not intended to replace bespoke consideration of personal outcomes within the context of personalised support planning. To define personal outcomes for carers within legislation runs counter to the ethos of empowerment and personalisation which has been the policy direction for social care for some time.

25. Thirdly, the establishment of national personal outcomes for carers raises the question of frameworks for other groups. If personal outcomes for carers are to be set out in law, then why not for older people or people with mental health problems, or other groups? In COSLA’s view, a policy direction where central government increasingly defines, in law, what personal outcomes are appropriate for different citizen groups should be viewed with caution. Such an approach equates to excessive centralisation and risks stifling collaborative approaches to support planning, including those currently developing through SDS.

**COSLA believes that carers and young carers have a right to expect existing high-level wellbeing outcomes to be delivered for them as citizens and children. Personal outcomes for carers should be a matter of agreement with the carer, and not a matter of law.**

26. Details of the form and content for the ACSP/YCS are also prescribed on the face of the Bill. Such prescription has previously been a matter of guidance, for example in relation to self-directed support. To include this level of prescriptive detail in primary legislation appears excessive and will restrict the ability of councils, the Scottish Government, and other stakeholders to evolve our approach to these processes in the future. Furthermore, it cuts across local activity in relation to self-directed support and Getting It Right for Every Child (GIRFEC), where assessment systems and processes are being developed as part of a move towards outcomes-

\(^3\) Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible and Included.
based approaches. Carers should be able to access these local systems and processes according to their need, and within the context of a holistic approach to supporting families; by prescribing arrangements for carers the Bill risks creating a parallel system which has a negative impact on holistic support planning for carers and those they care for.

27. The Bill also establishes a Ministerial power to make regulations regarding the procedure for and frequency of reviews. Such prescription has previously been restricted to legislation conferring powers to detain individuals, for example mental health and criminal justice acts. To prescribe review timescales in these circumstances seems excessive and could drive behaviour that runs contrary to the policy intent, for example by forcing councils to adopt a ‘tick-box’ approach to reviews simply to meet the statutory timescale. This limits the ability of social services staff to prioritise workloads according to need and could result in delays to other tasks, such as assessment for the cared-for, as resources are diverted to meet regulatory targets for carers’ reviews.

28. To tie how identifying outcomes, undertaking support planning, and potentially review timescales, should be approached for one particular group to primary legislation is overly-prescriptive and risks a one-size-fits-all approach to carers. This will inevitably result in inflexibility and a poor fit between support planning for carers, and the range of approaches developed locally under SDS and GIRFEC. COSLA therefore believes that approaches to carers’ assessments, support planning and reviews should be a matter of guidance rather than primary legislation.

COSLA believes that councils should ensure approaches to carers’ assessments achieve a good fit with local arrangements for self-directed support (SDS), evolve with SDS over time, and take account of national advice on assessment which is set out in guidance rather than primary legislation.

Part 2 – ACSPs and YCSs; Section 16 – Continuation of Young Carer Statement

29. The Bill requires that a YCS remains in place once a young carer reaches the age of 18 until the point that an ACSP is put in place. While we recognise the need to improve individuals’ and families’ experience of transitions from children’s to adult services, this could result in unplanned and unmanageable increases in demand on children’s services. It is not clear whether local authorities would be under a duty to continue to provide the support attached to the YCS (given that once a young person reaches 18 they may no longer be eligible for those services); however, irrespective of this point, the Bill provision will certainly result in an expectation of continued access to children’s services which local authorities will be unable to meet without freeing up resource by withdrawing support from other people or service areas.

30. More importantly, the Bill provision will make it difficult to take a holistic approach to meeting children and young people’s needs in that transition planning needs to be undertaken as part of a holistic assessment of need.
which considers the individual as a child first, and not just a carer. Having a different arrangement for a sub-set of needs could mitigate against that holistic approach and transition planning within this context should be a matter for guidance rather than law.

**COSLA believes that councils should ensure approaches to transition from child to adult services consider the needs of the child in a holistic manner and achieve a good fit with local arrangements for self-directed support. Arrangements for young carers should be developed to ensure that the needs of the individual as child remain paramount and guidance on young carer assessments should reflect this.**

**Carer and cared-for residing in different local authority areas**

**Part 2 - ACSPs and YCSs; Section 17 – Responsible authority**

31. The Bill provides that the local authority where the carer resides will be responsible for arranging the ACSP (or YCS) and for meeting the cost of any support provided. However, the responsible local authority may enter into local arrangements with the authority where the cared-for person resides, whereby assessment and support can be provided by that authority, where deemed appropriate, and costs recovered from the responsible local authority.

32. In our response to the Scottish Government’s original consultation on the proposal to introduce legislation in 2014, COSLA expressed the view that the act of introducing legislation that stipulates which local authority should be responsible for a carer’s assessment and support constitutes adopting a ‘one-size-fits-all’ approach and risks preventing councils from being able to deliver a sufficiently flexible approach. While it would still be our preference that councils reach local agreement on the services to be provided (and which council should pay for them) we recognise that this may not be a viable option when operating under a duty to support carers, rather than a power. Indeed, being able to take a flexible approach to such cross-boundary issues was one of our reasons for expressing a preference for continuing with the power to support.

33. Should the Bill nonetheless result in a duty to support, and accepting this would bring a requirement to be clear about which local authority these duties fall on, it is our view that it makes most sense for the responsible local authority to be the one where the cared-for resides. Indeed the proposed duty to support carers is explicitly defined in the Bill as support to achieve ‘outcomes that enable carers to continue to provide care for the cared-for’ (section 4 (1)) – therefore the support required by a carer is to a large extent defined by the needs of the cared-for and how these are being met. In a very practical sense, it is difficult to see how a carer’s assessment could be effectively undertaken independently from the cared-for’s, especially given that the resources available to support he cared-for will have the most impact on the carer’s needs. This also leaves the carer in the position of having to deal with two local authorities, one of whom will have no direct relationship with the person they are caring for.
34. We accept that the Bill provision allows for local authorities to enter into different arrangements by agreement, indeed it is likely that this would be exercised frequently given the points outlined above. In this sense, the Bill will make what would normally be an exception (local agreements to delegate responsibilities differently) the most likely outcome. On balance it may therefore make more sense and lead to a better experience for carers, for the responsible local authority to be that where the cared-for resides (with the option to enter into different arrangements by agreement).

**COSLA believes that in order to support holistic planning for carers and those they care for, the responsible local authority should be the one where the cared-for resides.**

**Eligibility**

**Part 3 - Provision of support to carers; Sections 19 – 21- Eligibility criteria**

35. The Bill places a duty on councils to provide support to carers to meet their eligible needs, and COSLA acknowledges that the initial approach to eligibility criteria set out within the Bill provides for criteria to be set locally. Indeed, councils already publish eligibility criteria relating to those they currently have a duty to support, and involve representatives of service-users and carers in ongoing work in this area. Section 20 of the Bill specifies timescales relating to the publication of criteria and that Ministers will make regulations regarding the timescales for review. Irrespective of the reasonableness of the timescales specified, their prescription on the face of primary or secondary legislation will limit councils' ability to take a strategic approach to the consideration of eligibility across social care as a whole, for example through alignment with other review processes. On balance, it may be more appropriate to give consideration to these issues within guidance, rather than regulations or the Bill itself.

36. Part 3, Section 21 (2) of the Bill establishes a power for Ministers to make regulations setting out national eligibility criteria, which are defined as ‘the criteria by which each local authority must assess whether it is required to provide support to carers to meet carers’ identified needs’. There are two issues with this provision - firstly, the policy of Ministers defining eligibility undermines councils’ democratic responsibility for the use of resources; and secondly, defining eligibility at a national level removes councils’ ability to manage demand that varies locally. Moreover, the proposed duty is ill-framed in that it is not clear whether it would in fact extend to a Ministerial power to define eligibility thresholds, although we understand this to be the policy intent and that this would be clarified in regulation.

37. Councils already operate eligibility frameworks, consisting of eligibility criteria and locally-set eligibility thresholds. The distinction between criteria and thresholds is an important one, insofar as criteria establish the measures used to assess and categorise need, and thresholds define at what level need will be considered eligible for the provision of support. Both are important for transparency, but the ability to set thresholds locally is vital to ensure councils are able to manage demand, which is increasing and varies from council to council, within the context of finite resources.
38. At present, section 12 the 1968 Social Work Act requires councils to assess need and decide whether that need calls for the provision of services. Eligibility frameworks (consisting of both criteria and thresholds) are simply the current mechanism by which councils fulfil this duty. Moving away from the approach within the 68 Act and introducing Ministerial powers to set eligibility ‘criteria’ on the face of the Bill, not only creates a confused legislative position, it potentially gives carers a level of national entitlement that would exceed that of the cared-for and therefore raises equality issues. Moreover, it would prevent councils from being able to adjust eligibility thresholds as a means to apportion finite resources according to prioritised needs in a transparent manner. A national eligibility threshold would therefore interfere with the management of shifting local need, and it would also cut across local authorities’ democratic accountability for local decisions about the use of resources.

*COSLA believes that a Ministerial power to make regulations setting out national eligibility criteria should be dropped from the Bill as it erodes local democratic accountability for the use of resources and could lead to inequity of entitlement between carers and the cared-for.*

*Duty to support carers*

Part 3 - Provision of support to carers; Sections 22 – 23 – Duty to provide support

39. While COSLA supports local approaches to eligibility criteria (indeed many councils already apply such criteria when exercising their power to support carers), three key risks emerge when combining this with a new duty to support carers.

40. Firstly, irrespective of where councils chose to set the ‘bar’ for eligibility, the effect is likely to be that of polarising how resources are used by attracting investment to one particular area of the spectrum of need. We could either find resources gravitate towards those with the most acute support needs – and risk those services that are designed to prevent the escalation of need – or vice versa. Hence a duty to support, which necessarily requires an associated system for deciding eligibility, restricts councils’ ability to invest flexibly across the spectrum of need, including through developing assets-based approaches to building community capacity.

41. Secondly, there is a risk that a duty to support will raise expectations about an improved offer of support which councils will be unable to meet due to insufficient resource being made available. We have concerns about the method by which estimates contained within the financial memorandum have been calculated, both in terms of the number of carers likely to be eligible for support, and in terms of what that then means for the level of support that can be provided within the Scottish Government’s cost estimates. Moreover, although the ‘per head’ financial amounts presented in the financial memorandum are simply an illustration of how far a given budget is estimated to stretch, there is a very real risk carers will perceive this as an entitlement. Should carers come forward more quickly or in greater numbers than anticipated (as we believe they will), the total budget...
would not support allocations at that level and councils would not be able to meet these increased expectations.

42. Thirdly, these issues also need to be considered alongside the new universal entitlement to an ACSP and questions about the balance in investment we want to achieve across assessment and support. While direct support will be supply-driven (insofar as councils will use eligibility criteria to fairly distribute any additional resource), provision of ACSPs will be demand-led (insofar as the Bill will establish a universal entitlement to assessment for all carers). Demand-led provision has the potential to require unanticipated levels of resource, as has been the case with guardianship applications, and demand for ACSPs is likely to be significant due to expectations of an improved offer of support. However, the ACSP process will not always lead to actual provision of support where carers do not meet local eligibility criteria. Within the context of a finite amount of resource being available to support implementation of the Carers Bill, careful consideration of the appropriate balance between investment in assessment processes, versus investment in actual support, is required. Resource invested in assessment processes is resource that could have been invested in direct support.

43. A counter-argument to the assertion that ACSPs do not always result in support, is that even where a carer does not meet eligibility criteria the new ACSP will always result in a support plan that includes information and advice and signposting to general services at minimum. However, improved information and advice and signposting to general services can be achieved by other more cost-effective means, such as awareness-raising campaigns, freeing up resources for investment in actual direct service provision and support.

44. These issues are further compounded by the current regulations requiring the waiving of charges to carers. Being unable to seek a means-tested contribution to the cost of support from the most well-off reduces the overall quantum of resource available, meaning less can be invested in meeting lower-level needs (as resource is inevitably consumed by the requirement to meet those with the most critical needs).

**COSLA believes that a duty to support carers risks polarising resources and restricting councils’ ability to invest flexibly in support for carers, across the spectrum of need, as part of an approach to community capacity building.**

**Breaks from caring**

Part 3 - Provision of support to carers; Sections 23 – 23 – Breaks from caring

45. The Bill places a duty on local authorities to consider whether support provided to a carer (in response to eligible need) should include a break from caring. While this is reasonable in policy terms, it is not clear why legislation is required. Firstly, because provision of particular types of support is driven by service-user preference, availability and eligibility - not ‘consideration’. Secondly, because local authorities already have an
obligation under SDS (which also applies to carers) to consider whatever support a person wishes in order to achieve their outcomes.

46. This Bill also establishes a Ministerial power to make regulations which define what constitutes a break from caring, and to decide whether such support should be considered as support to the carer or the cared-for person. In policy terms we would question whether it is appropriate for such matters to be the subject of regulation. In reality support is often provided to benefit both the carer and the cared-for, with the benefits to each being the subject of discussion and agreement with the carer and cared-for, and therefore rightly a matter of practice rather than law. However, we understand that this measure is required in order to allow further refinement of the waiving of charges to carers regulations, and we are continuing to work with the Scottish Government, carers organisations and other stakeholders in this area.

Carer involvement
Part 4 – Carer Involvement; sections 25 and 27 – Duty to involve carer in carer services and care assessments

47. The Bill establishes a duty to involve carers in carers’ services, including involvement in considering what needs might call for the provision of services, what and how services might be provided to meet those needs, and how they might be evaluated. The duty applies to services provided to carers in relation to the care they provide, and to cared-for persons in relation to the care they receive. There are two exemptions to the duty – services provided under a children’s services plan and services provided under functions delegated via the Public Bodies Act – in virtue of the fact that there are already duties on involvement with regard to these areas.

48. Given that the majority of services provided to carers and young carers will be covered by these two exclusions, it is questionable whether there are a significant enough amount of other services to warrant the introduction of this measure. Setting this question aside for the moment, councils already have duties to involve individuals and communities (including communities of interest) in relation to these other services. This is enshrined within existing equalities legislation and is an explicit facet of councils’ duties in relation to best value and community planning.

49. Against this backdrop, it is difficult to perceive a clear case for additional legislation which would overlap, and in some cases duplicate, that which already exists. That is not to say that councils and their partners should not focus on improving community engagement across all communities. The principles established by the Christie Commission call for genuine co-production, which requires genuine subsidiarity – ensuring that decisions are taken as locally as possible, by the communities they will affect. COSLA’s vision for local government includes working with carers co-productively, building community capacity and devolving decision-making. Layering further legislation on top of these pre-existing duties and new policy developments would add little and risks a tick-box approach which is overly-focused on consultation to the detriment of co-production and subsidiarity.
50. The Bill also amends the 68 Act to place a wider duty on councils to take account of the views of the carer on the extent of needs of the cared-for person, whether those needs call for the provision of services, and how such services should be provided. This simply reflects current best practice - it is widely acknowledged that unpaid carers play a vital role, without which our health and care system would simply collapse, and community care assessments therefore necessarily have to take account of these issues in order to result in a viable support plan. Furthermore, although resolution through discussion and agreement is always the preferred approach, there are systems in place for carers to raise issues if they feel their views have not been taken into account. Against this backdrop, and insofar as the purpose of legislation should be to address something that cannot be resolved by other means, it is not clear that this provision is required.

COSLA believes in subsidiarity - that decisions should be taken as locally as possible, by the communities they will affect. Further duties on consultation will duplicate existing duties in relation to engagement, and ultimately risk focusing activity on consultation to the detriment of co-production, engagement and the development of subsidiarity.

Local carer strategies
Part 5 – Local carer strategies; sections 28 – 30
51. The Bill places a duty on local authorities to prepare a local carer strategy, sets out the information strategies must contain, and prescribes consultation arrangements and publication and review timescales. Again, it is unusual to prescribe the form, content and review arrangements for a strategy in primary legislation. This is normally a matter of guidance, or, in cases relating to structural change such as health and social care integration, regulation. Fixing these matters in primary legislation will restrict both councils’ and the Scottish Government’s ability to evolve our approach to these processes in the future.

52. Furthermore, the Bill specifies that strategies must include the intended timescales for preparing ACSPs (and YCSs). This is an operational matter and the value of its inclusion in carers’ strategies is questionable. There is a risk that these estimates will be difficult to arrive at and actual times will be impacted by fluctuations in demand and/or workforce availability, making it likely that estimates would constantly have to be revisited in order to have any degree of accuracy. Including estimates within carers strategies will simply raise expectations amongst carers that are unlikely to be met, whilst shifting the focus away from ongoing monitoring of timescales and benchmarking of performance which should be undertaken at the operational level on a cyclical basis.

53. More importantly, the inclusion of intended timescales within strategies risks driving behaviour which is counter to the policy intent by focusing on an arbitrary target. The resulting pressure to meet this timescale risks engendering a ‘tick-box’ approach to assessment, simply to meet the target. This impacts on the ability of social services staff to prioritise
workloads according to need and could result in delays to other tasks, such as assessment for the cared-for.

**COSLA believes that the form and content of carers strategies should be a matter of guidance, rather than law, in order that councils are able to ensure co-ordination with other local strategies and evolve our approach to strategic planning over time.**

Information and advice
Part 6 - Information and advice for carers; section 31 and 32

54. The Bill extends the current duty on councils to provide information and advice to those providing regular and substantial care, to include all carers. It further specifies what this information and advice should cover, and that it must include a short breaks statement. While COSLA recognises it is vital that carers are able to access information and advice which can support them in their caring role, we do not agree that a legislative route is required to deliver this outcome. The SDS act already places a duty on local authorities to ensure the provision of independent information and advice in relation to self-directed support. More general information and advice is also already available, including that commissioned specifically for carers and, while we should always give thought to how this could be improved, further legislation is arguably unnecessary to achieve this.

**COSLA believes the Bill provisions duplicate councils’ existing duties to secure information and advice that meets the needs of people accessing self-directed support, including carers, and that our focus should be on improving the quality of this provision.**

Conclusion

55. COSLA is clear that we should be investing more as a society in supporting carers. Councils and their partners recognise the importance of this community and the need to invest more heavily in prevention over time. However, against a policy backdrop which focuses on innovation, capacity-building and co-production, COSLA is concerned that many of the Scottish Government’s legislative proposals are impractical and will make it difficult to support carers flexibly into the future. COSLA is therefore not convinced that a sufficient case for moving to legislation has been made.

56. Despite these concerns, COSLA wishes to work constructively with the Scottish Government and Scottish Parliament to influence the shape of the new Bill. To that end, we have outlined key areas where we feel the Bill requires amendment in order to secure the best outcomes for carers and those they care for. We hope this will be helpful to the Committee’s consideration of the Bill and would welcome the opportunity to provide further input as required.

**COSLA**
Carers (Scotland) Bill

East Ayrshire Health and Social Care Partnership

Purpose

To present to the Health and Sport Committee the views of East Ayrshire Health & Social Care Partnership in relation to the Carers (Scotland) Bill.

Background

The Carers (Scotland) Bill was introduced to the Scottish Parliament on 9th March 2015 following consultation on a proposed Bill during 2014. The Health and Sport Committee issued a call for views on 25th March 2015. The remainder of this response addresses the five consultation questions posed in the Committee’s call for views.

Report

1. Do you support the Bill?

East Ayrshire Health and Social Care Partnership recognises and values unpaid carers. Partners also recognise the necessity of supporting carers to maintain their caring role and have a life outwith caring. The Bill reinforces this longstanding view. It is however, our view that issues of practical implementation and cost are problematic.

Specific concerns relate to new demand for assessment arising from the removal of the ‘substantial and regular’ caring criterion. Providing universal assessment for this new group of carers will result in additional demand and significant associated costs. This is in the current context of demand for social care outstripping resources.

2. What do you feel would be the benefits of the provisions set out in the Bill?

The stated policy intention relates to greater consistency of support, strengthening the rights of carers and improving outcomes for adult carers and young carers. There would also be some consolidation of current legislation pertaining to carers in one statute specifically for carers. However, the financial model requires to be based on the real current costs of provision. Any additional costs associated with implementation should be fully met to avoid conflict between this and policy intention.

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

Some aspects of the Bill focus on mandated procedural change rather than direct support or information to support carers. This does not seem to be in keeping with a focus on outcomes and local flexibility in realising these outcomes.

The cost estimates should ensure that implementation reflects real unit costs of current delivery rather than treating these as an upper estimate.
Local flexibility to deliver shared outcomes should be preserved.

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

It is our view that clarification could be added to the Bill in respect of the relationship between responsible authority and authority of residence where the cared for and carer live in different authority boundaries.

More rapid up-take of provision within the Bill among carers is likely in any implementation phase and this would be expected to be still greater given demographic change associated with increasing numbers of carers, greater longevity and rising numbers of people living with multi-morbidity.

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

Procedural redefinition where the rationale for positive impact on outcomes for carers is unclear.

Entitlement to assessment regardless of eligibility for support as this may have the effect of unnecessarily drawing on resources which could be better used for direct support.

The Young Carers Statement which could run against the policy intentions of Getting It Right for Every Child and the provision of a Child’s Plan.

The Ministerial power to set eligibility which may constrain flexibility in delivering outcomes at a local level in the context of Self Directed Support.

**East Ayrshire Health and Social Care Partnership**
Children in Scotland is the national network organisation for the children’s sector in Scotland. We have over 440 members in the public, voluntary, community and independent sectors. We are aware that several of our member and partner organisations have responded at length and in detail to the call for evidence and while we broadly endorse and support their responses, we would not propose to reiterate many of the points made.

We welcome the opportunity to respond to the Committee’s call for views on the Carers (Scotland) Bill. Unpaid carers make a significant contribution to our society and we welcome the Scottish Government’s decision to introduce legislation to deliver new rights and entitlements to improve outcomes for all carers in Scotland. We commend the Committee’s efforts to gather directly the views of those with caring responsibilities. Children in Scotland has since 2012, worked with a large group of parent carers of disabled children through the Parent Participation Project, a Scottish Government funded project in partnership with for Scotland’s Disabled Children (fSDC), which aims to enable parents of disabled children to have more influence on policy matters that affect them and their children.

We converted the questions from the Committee’s ‘Call for views from people with caring responsibilities’ into an online survey and shared this across our network of parent carers. Parents were able to indicate if they supported or were against these aspects of the Bill and were able to add further comments if they wished. From experience we have found online surveys to be the most time-efficient method for busy parents with limited free time to be able to have a voice and share their views in these types of consultations. In total, 58 parent carers responded to our survey.

**Responses from parent carers**

1. **What do you think about the proposals to offer adult carers a support plan and to offer young carers a young carer’s statement?**

83% of respondents felt that these proposals were a good idea, 16% of respondents were unsure, and one parent carer did not support these proposals.

Some of the parents who added further comments were unsure about how the proposed support plans would actually impact on their own situations:

“Not sure what this would add to my life as a carer, if it would help access support then it's positive.”

“A care plan in itself does not mean we will get the help we need.”

Parents also raised concerns around the availability of resources to fully implement these support plans:
“Good idea if the resources are made available to carry them out. For example, I've been awarded respite hours but have been unable to find carer for the past 2yrs.”

“That seems like additional paperwork and a waste of time and resources. More thought should go into how to support carers, e.g. better respite. A written plan isn't necessary.”

Parents also expressed a desire for further clarity and information:

“...understanding what should be available.....these [support plans] need to be available to read, be explained etc., to be anywhere near effective.”

In early 2014, Children in Scotland conducted a survey of more than 250 parent carers as part of the aforementioned Parent Participation Project. 79% of respondents to our survey told us that being a parent of a disabled child has had a negative impact on their own health and wellbeing. 65% of respondents said they had never been offered or received any support for their own needs, such as counselling or a support group.

2. What do you think about the proposal that councils must consider, in particular, whether the support they provide should take the form of a break from caring for those with caring responsibilities?

84% of respondents felt that this proposal was a good idea, 9% of respondents were unsure, and 7% of respondents did not support this proposal.

Some of the parents who added further comments had concerns about local authorities making decisions around eligibility for support:

“The decision of what support is provided should be decided without input from Local Council. If people are entitled to support by default they should receive it without any discussion from council.”

“Again it will only be relevant if the councils decide they agree, and does not force councils to give a break.”

Respondents also emphasised the importance of breaks from caring to their own health and wellbeing:

“I think it MUST include a break from caring. That's often the number one thing carers need.”

“If your child gets respite care it then gives the full time carer time to themselves or spend quality time with other family members (children).”

One parent also challenged traditional interpretations of ‘breaks’:

“…A break doesn't just mean overnights. It could be coffee with a friend, a spa day or anything else that makes sense to the person.”
In our 2014 survey we asked two specific questions around breaks from caring responsibilities. 65% of respondents said they did not feel like they were able to access the support they need to have occasional breaks from caring. 92% of respondents said they would be in favour of the introduction of a duty to provide short breaks (as is the case in England and Wales).

3. What do you think about local councils being given the responsibility to establish information and advice services for carers?
60% of respondents felt that this proposal was a good idea, 23% of respondents were unsure, and 17% of respondents did not support this proposal.

Of those parents who provided further comments, the majority highlighted existing information and advice services, e.g. carers centres, and raised concerns over the duplication of these provisions:

“I think it’s often better if these things are subcontracted. There are lots of existing resources with loads of experience that could be utilised rather than duplicating services and wasting money.”

“As long as they work with the organisations already in place.”

“We already have information through a number of various charities and advice and information services, some council funded.”

4. What do you think about councils setting local criteria for those who would be eligible for support?
39% of respondents felt that this proposal was a good idea, 31% of respondents were unsure, and 29% of respondents did not support this proposal.

Of those parents who provided further comments, the majority raised concerns over equity of access to services under locally determined eligibility criteria:

“Much better if this was done centrally, then everyone would be treated the same.”

“It needs to be consistent across the board and not a postcode lottery.”

“It’s important that access to service has some clear criteria so carers know if they are eligible and so everyone gets treated the same.”

Some respondents also added that carers should be involved in the setting of criteria and further planning:

“Depends what the criteria is going to be and who is being considered when the initial criteria is drawn up. Parents should be involved in the decision making process throughout the whole consultation.”
5. Is there anything you think should be changed or added to the Bill?

Some respondents highlighted issues around anticipatory care planning, including transitions from child to adult services:

“[The Bill] should take into account the impact having a disabled child has on all of the family. Also when the child becomes of age to keep support going.”

“My son has a degenerative, terminal condition… It is inevitable that my wife or I will have to give up work at some point to provide the full time care he will need. It can only be good that there is a system in place so people like us are known about, and can be helped when the time comes.”

Respondents also emphasised the need for consistent support at an early stage to avoid parent carers reaching “crisis point”:

“Respite for parents must be regular… to prevent full-time carers from "collapsing" with the constant commitment they need to give to their children and developing their own health problems as a result.”

Concluding points from Children in Scotland
While we broadly support the introduction of the Carers (Scotland) Bill and its aim to extend and enhance the rights of both adult and young carers in Scotland, our survey of parent carers and our discussions with our member and partner organisations have highlighted several areas which require further attention.

Briefly summarised below are the additions, or areas that need strengthened, that we believe would improve this legislation to ensure the best possible outcomes for both young and adult carers, echoing the views of our third sector colleagues and the parent carers we consulted with above.

National eligibility criteria
The Bill places a duty on local authorities to provide support for carers who meet local eligibility criteria. Many of the parent carers we consulted with were explicit in their response that they believe eligibility criteria should be defined and decided at a national level. They feel that this is the only way to avoid a “postcode lottery” and to ensure that carers have equity of access to rights and entitlements across Scotland.

We understand that each local authority has differences in needs and circumstances and having flexibility in setting eligibility criteria is important e.g. variances between the service needs of carers in rural and urban area. In order to minimise the risk of inconsistencies area to area, it is important that local authorities are supported with information and resources from a national level in determining their own eligibility criteria. This also takes account of lessons learned from the current delivery of the Self-Directed Support legislation for children’s services.

There is wide support from both carers and third sector organisations for a framework of national eligibility criteria for support, which would ensure a fair
and equitable application of social care and support across Scotland. We therefore believe the Bill should be amended to require the Scottish Government to set national eligibility criteria for both carers and the “cared for person” with appropriate levels of flexibility, information and resource for local authorities to implement.

Involvement of carers and ‘cared for persons’
We welcome the duty on Local Authorities and Health Boards to involve both adult and young carers and carers organisations in the planning, shaping and delivery of services. Parent carers frequently highlighted throughout the survey that they would want to be involved in both further consultations about the Bill and in the future delivery of services. Carers often have expert and informed knowledge around the needs of the person they care for and local authorities should draw on this as an effective resource.

Provision should also be made for the cared for person to be involved and for their views to be taken seriously, including young children and those with complex needs or communication difficulties. They will have experiences and opinions that can help shape effective services, and it is important that efforts are made to ensure that this valuable information is adequately captured and appropriately utilised. Support packages and carer support plans should be developed through co-production with the carer, the cared for person and statutory services.

Provision of information and advice
Whilst we welcome a duty on local authorities to provide information and advice to carers, we believe this would be best achieved by further resourcing the many existing services that work with carers and young carers across Scotland. These services are often well-established and well-known in their local areas and there should be further considerations as to how the local authority can support these organisations to manage an increased demand on their service.

Many of the parent carers we consulted with echoed these concerns over the duplication of effort in creating “new” services. We believe new services should be established only if there is an identified gap.

Through Enquire, the national advisory helpline for additional support for learning, we have also heard from parents of the need for national level information and one single port of call for this information. This is recognised in the current Education (Scotland) Bill and Children in Scotland is working with Scottish Government to look at how this can be delivered. It is recognised amongst parent carers that finding their way through a raft of information sources can be a challenge and that anything that streamlines this and makes that exercise easier would be welcomed.

Integration with the Children and Young People (Scotland) Act and other legislation
In order to protect, respect and fulfil the rights of young carers, the Carers Bill must be consistent with, and complementary to, existing duties to promote the
rights and wellbeing of children and young people, as detailed in the Children and Young People (Scotland) Act.

We would also support the calls made by Inclusion Scotland to include the underlying principles of choice, dignity and control in the Bill, consistent with the principles adopted for health and social care integration in the Public Bodies (Joint Working) (Scotland) Act 2014 and for Self-directed Support in the Social Care (Self-directed Support) (Scotland) Act 2013.

This Bill should also take into consideration provisions under the Education (Additional Support for Learning) (Scotland) Act 2004 and forthcoming amendments in the Education (Scotland) Bill.

**Child Rights Impact Assessment (CRIA)**

We endorse the responses of Together (Scottish Alliance for Children’s Rights) and Children 1st in calling for a CRIA to be undertaken to ensure that this Bill is fully assessed in terms of its impact on the rights of children.

**Impact on the third sector and resourcing**

We have concerns that the impact on carers’ centres and other third sector organisations has not been fully recognised within the Bill. Organisations that support carers could experience greater demand for their services if there are more carers being identified. Moreover, the additional duties on local authorities to provide carers with information and advice may too result in an increased demand on third sector organisations. Finally, the Bill’s requirement for local authorities to involve and consult with carers will also impact on the third sector as carers will require support in order for them to be able to participate meaningfully in service planning and delivery, and carers organisations will require dedicated resources to deliver this support. Resourcing to improve third sector capacity will be essential in order for carers to be adequately identified and supported.

There are direct links with Part 3 of the current Education (Scotland) Bill, particularly in relation to seeking the views of young children and young people, extending the rights of children and young people and the provision of information and support that should be considered alongside these recommendations also.

Importantly, we note that the sector is experiencing a range of new legislation and it is vitally important that connections are made at a national level across these different pieces of legislation to minimize the risk of duplication and conflict and the impact that may have on delivery and ultimately outcomes for children, young people and their families.

**Children in Scotland**
Carers (Scotland) Bill

Parkinson’s UK

Question 1: Do you support the Bill?

Parkinson’s UK strongly welcomes the Bill, which ought to improve support for those providing unpaid care to support people with Parkinson’s. As can be seen below, caring for someone with Parkinson’s can be extremely hard work, and the caring relationship typically lasts and intensifies over many years.

Parkinson’s UK would like to see some changes to strengthen the legislation and ensure that carers who need support are able to access it.

Our response is informed by our work with some of the 10,000 people in Scotland who have Parkinson’s and their unpaid carers, families and friends. Our team of Information and Support Workers covers the whole of Scotland, and provides free, confidential support and advice to anyone affected by Parkinson’s. A significant amount of their time is spent supporting carers of people with Parkinson’s.

It is estimated that informal carers provide up to 80% of the costs of care provided to people living with Parkinson’s. Carers can find that they have very high levels of involvement throughout the course of Parkinson’s.

Those who care for people with more advanced Parkinson’s typically have extremely high needs for support because the person can have very significant care requirements. These can include complicated medication regimes, severe mobility problems, disturbed sleep, pain, communication difficulties, continence issues, mental health symptoms and dementia. People with Parkinson’s often live with advanced Parkinson’s for years, and the impact of caring for people with such high care needs over a long period takes its toll.

In a recent survey, nearly two third of carers of people with Parkinson’s in Scotland were providing care for more than 50 hours a week, 79% of those caring for someone with Parkinson’s said that their caring role had had a negative effect on their own physical health and 85% reported a negative effect on their mental and emotional well-being. Yet three quarters of people caring for someone with Parkinson’s in Scotland had not had a carer’s assessment.

Question 2: What do you feel would be the benefits of the provisions set out in the Bill?

The main benefit of this bill is to give local authorities duties to identify and support unpaid carers. This considerably strengthens the current position which falls short of requiring local authorities to act. As noted above, the overwhelming majority of people who care for someone with Parkinson’s have no support from local authorities for their caring activities.

We particularly welcome the following provisions:
• replacement of carers’ assessments with carers’ support plans. This terminology sounds less as though the person is being judged on their caring activities and more as though they are being supported to provide care.

• removal of the requirement for the person receiving care to get this via local authorities in order that carers qualify for an assessment of their caring needs. This recognises the reality of providing unpaid care for people with complex health conditions like Parkinson’s. People with Parkinson’s often live with the condition for some time before they access local authority services because they receive their care and support through specialist multi-disciplinary teams (often based in NHS secondary care). Carers are typically closely involved throughout someone’s journey with Parkinson’s and can provide very high levels of unpaid care before local authority care is provided.

• removal of the “substantial and regular” test. Some carers fail to meet this because Parkinson’s is a fluctuating condition, and the severity of people’s symptoms can vary from day to day – and even hour to hour. Some people with Parkinson’s have very intense support needs at certain times, but need less care the rest of the time.

• introduction of the category of being able and willing to provide care. For us, the introduction of a measure of willingness to provide care is important, as nobody should be compelled to become an unpaid carer. However, we have some concerns that the retention of the requirement of a carer to be deemed “able” to provide care may have the effect of marginalising carers who provide care to someone else while having care needs of their own.

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

In common with other voluntary sector organisations, Parkinson’s UK is concerned about the status of local and national eligibility criteria for accessing carers’ support. We would prefer to see national eligibility criteria, which would mean that everyone would be entitled to support on the basis of similar needs. Without this, we are very concerned that there will be considerable inequalities in services. We also believe that a minimum package of support for carers should be established in statute, to ensure that everyone can access basic services wherever they live.

Parkinson’s UK is also concerned that there is no requirement in the bill for carers’ support plans to include emergency and anticipatory care planning – though this is intended to be included in guidance. This is a major issue for carers who look after people with Parkinson’s, given that people with Parkinson’s are often at very high risk of unplanned hospital admission. We believe that carers’ support plans should be required to include emergency and anticipatory plans, and this should be on the face of the Bill.

On a related point, discharge from hospital can be a major challenge for carers of people with Parkinson’s, and in many cases, discharge marks an
increase the intensity of the caring role. We believe that the legislations should impose a duty on NHS Boards to include both inpatients and their carers in discharge planning from the point of admission onwards.

Overall, it is of concern that the NHS is mentioned so rarely in the draft bill, and that NHS Boards will no longer need to develop a carers’ information strategy. It is likely that this will have the consequence of reducing awareness of the essential role that unpaid carers have in supporting the people they care for. Parkinson’s UK would like to see additional duties on the NHS to recognise and support carers in their role, particularly in relation to identifying and signposting carers to support. This reflects the reality that many people with Parkinson’s and other long term conditions receive their care from NHS services, and may not be known to local authorities. We believe that this is likely to be a particular issue for people who receive their NHS support from services that are not subject to formal integration, such as those who receive their care via NHS neurology services, where links with the local HSCP may not be well developed.

Parkinson’s UK is disappointed that the Bill does not create a duty for local authorities to provide short breaks from caring for those who need it, and believes that this should be rectified. We believe that the duty should also specify that short breaks should be provided in accommodation appropriate to the person’s needs, reflecting the needs of people in the local area. Carers of people with Parkinson’s often report that it is challenging to get appropriate accommodation for short breaks, because of the complex care needs that people with Parkinson’s can have. Carers tell us that they refuse to take short when they don’t believe that the care provider have the facilities or trained staff to look after the person with Parkinson’s appropriately. People of working age with Parkinson’s often feel that it is inappropriate to take a break in a care home with residents who are very old and frail.

Many of those who care for people with Parkinson’s have long term conditions or are disabled themselves. As noted above, the requirement for carers to be deemed “able” to provide care may mean that these carers are not recognised. We would like to see an explicit acknowledgement that people with care needs can themselves be carers on the face of the bill.

We are concerned about the resource implications for local authorities, NHS, and voluntary sector services in the current climate. Delays in providing support, or responding to changing needs, can have a disastrous impact on carers, and there needs to be a system in place to make sure that those with the greatest need are able to access support as quickly as possible.

It is hard to see how the new system is going to work without local authorities, the NHS and voluntary sector having significant additional funding to provide support for carers. We are already hearing that the services needed to support carers simply are not there in many parts of Scotland and the Bill does not indicate that there are plans for additional resources to be provided to support this work.
Question 4: Is there anything that you would add to the Bill?

Please see above.

Question 5: Is there anything that you would remove from the Bill?

Please see above.

About Parkinson's
About 10,000 people in Scotland people have Parkinson's.

Parkinson’s is a progressive, fluctuating neurological disorder, which affects all aspects of daily living including talking, walking, swallowing and writing. People with Parkinson’s often find it hard to move freely. There are also other issues such as tiredness, pain, depression, dementia, compulsive behaviours and continence problems which can have a huge impact. The severity of symptoms can fluctuate, both from day to day and with rapid changes in functionality during the course of the day, including sudden ‘freezing’. There is no cure.

Parkinson’s UK
Carers (Scotland) Bill

Glasgow City Council Social Work Services

Do you support the Bill?

The Public Bodies (Joint Working) Act 2014 should provide the framework to support improvement of the quality and consistency of health and social care services through the integration of health and social care services which should help to address people’s needs holistically whether they be patients, service users or carers.

National Outcome 6 “people who provide unpaid carer are supported to look after their own health and wellbeing, including to reduce any negative impact of caring on their own health and wellbeing” will require integration authorities to support carers to achieve this.

As such we question the Bill’s reliance on ‘duties and powers’ for the local authority as opposed to the health and social care partnership or indeed the NHS.

The Public Bodies (Joint Working) Act 2014 sets out the principles which will underpin integrated health and social care and requires partners to jointly prepare a Strategic Plan for the partnership area for all health and social care services and this will include strategic planning for carer services. The Carers (Scotland) Bill places a duty of local authorities to develop and publish local carer strategies. This is a significant conflict.

Furthermore, the role of NHS could be strengthened in identifying carers and reference could be made to the crucial role of all health professional to identify and signpost carers.

The introduction of an Eligibility criteria is viewed as positive step.

Offering all carers a Carer Support Plan created significant challenges for Glasgow. Local authority settlements over the next few years will severely reduce social care budgets and this will have an impact on the delivery of social work services and is likely to impact of the voluntary sector too.

Glasgow moved to offering all carers a support plan in 2011 and this would not have been possible without the introduction of an eligibility/prioritisation criteria, with preventative support to carers provided through the Carers Information Line and Carer Centres, with Social Work Services supporting those carers where impact of caring was greatest.

Supporting carers as key partners has identified that not all carers need to have some form of statutory intervention. Many carers have the capacity to support family members with long terms conditions and disabilities out with the formal social care system. The Carers Support Plans can be used flexibly so that the level of assessment matches the level of risk, need and carer outcomes.
There is a huge challenge for universal services and the community and voluntary sector in building more caring communities where citizens who having caring responsibilities can be supported or signposted to relevant supports without having to be referred to the local authority.

**What do you feel would be the benefits of the provisions set out in the Bill?**

There are benefits in moving away from the original substantial and regular to an eligibility criteria. There is an incentive as we move to integration to deliver anticipatory health and social care support for carers and the eligibility criteria in Glasgow has supported this shift in practice. The provisions for eligibility criteria set out in the Bill will allow us to better deliver on SDS for carers.

The content of Carer Support Plans will support a greater understanding of the impact of caring role and appropriately matching services to identified needs.

The move to separating outcomes and needs is viewed as a positive approach to supporting carers, moving away from the outdated resource led practice.

The move to Carer Support Plans as opposed to Assessment has been promoted as less stigmatising for the carer but as highlighted previously, an ‘assessment’ will still be required in order to identify the carer outcomes and inform the Carer Support Plan. It would be helpful if the guidance is able to clarify that this assessment can be undertaken in a range of ways that are proportionate and commensurate with each carer’s needs and wishes.

Guidance for formally reviewing Carer Support Plans will also be welcomed.

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

As previously stated, the role of health and social care partnership and therefore the NHS should be strengthened in carer services strategic planning and carer identification. However, the Health and Social Care Partnership is a multi-stakeholder partnership, and the roles and responsibilities of all stakeholders including carers could be set out in the Bill in general terms.

People become carers as a result of the onset of a long term condition /diagnosis or at the birth of child with disabilities. As such carer identification should be embedded within primary and acute health care with appropriate signposting to carer and condition specific organisations. Identifying carers at point of diagnosis should allow for providing the right level of support, information and advice at that time and as such no need for directing all carers along a formal pathway of assessment / carer support plan as the default position.

**Duty to prepare adult carer support plans:**

Where the carer and cared for person live in different local authority areas the Carers (Scotland) Bill states that responsibility to prepare the Carer Support Plan lies with local authority where the adult carer resides. This may present significant challenges around funding arrangements depending on the needs
of the cared for and could be very controversial regarding who benefits and who pays?

We would recommend that the carer receives support from the local authority responsible for the cared for person.

**Young Carer Statement:**
The Young Carer Statement should be integrated within the proposed Child’s Plan based on GIRFEC wellbeing indicators. If there is a raising of awareness of caring issues likely to affect a child then there is an opportunity to provide a non-stigmatising, anticipatory, inclusive and preventative approach to supporting children. Health visitors and teachers are ideally placed to identify these issues in young children and hopefully prevent this escalating to child protection issues.

There is a need to re-consider how the ‘able and willing’ test will sit alongside the Young Carer statement. We believe that there should be a zero tolerance of young carers undertaking inappropriate caring roles and that our services should be family focussed with the key objective being to reduce or eliminate the caring role by young people.

The Carers (Scotland) Bill Explanatory Notes Section 17 section 64 makes reference to “where the young carer is a pre-school child...” which illustrates our concerns as stated in the paragraph above. We are uncertain how it can be reasonable to expect any pre-school child to be considered a carer.

**Is there anything that you would add to the Bill?**
As stated above, the Bill misses an opportunity in that it does not include a duty on NHS to routinely identify carers at point of admission and discharge.

**Is there anything that you would remove from the Bill?**
The duty on local authorities to establish and maintain an information and advice service for carers could be amended to local authorities/health and social care partnerships ‘should have responsibility to provide or commission’ an information and advice service for carers.

Local authorities should not be required to be the key source of information provision for carers and this inclusion misses the opportunity to highlight the potential role of wider services to undertake this task. E.g. universal services including NHS and wider information and advice networks.

**Additional Comments**
The Children and Young People’s Bill presents a radical change in children’s services and young carers are recognised as part of this agenda.

In terms of identifying young carers, this is a multi-agency responsibility – whether through schools, health and social work. All agencies need to have an awareness of what is available to support young carers and these supports should be reflected in the Child’s Plan where appropriate.
Early identification is crucial and the Child’s Plan will be an important tool in identifying the needs and risks and of these children and young people.

GIRFEC outcomes are key to this agenda and as such these outcomes will be reflected in outcome based support planning with young carers.

It is also important to note that support to young carers should be first and foremost to alleviate the caring role as much as is possible and work to young carers to allow them to have a life measurable through interventions to support the 8 SHANARRI well-being indicators.

What is trying to be achieved via this legislation is basically similar to the whole systems model in operation in Glasgow and as such we support the proposed direction of travel notwithstanding the comments above.

We have achieved this through a cultural shift whereby health, social work and voluntary sector work together in an integrated way, combining resources, reducing duplication and delivering better outcomes for increasing numbers of carers in the city.

This cultural shift also involves a world whereby increasing numbers of primary and acute health staff are routinely identifying carers at points of diagnosis / onset of condition and signposting them via our carer pathway to the Glasgow Carers Partnership.

The development of this model has only been possible through short term funding from Change Fund etc. and requires committed additional funding along with the implementation of this legislation to deliver.

We have been able to develop and implement the Glasgow Carers Partnership within existing legislation, strategies and policies but we appreciate that the legislation is likely to strengthen and enshrine carers support in law across Scotland.

Glasgow City Council Social Work Services
Carers (Scotland) Bill

Borders Carers Centre

The Borders Carers Centre has had an opportunity to review the response from the Scottish Government and the content of the draft bill. We would like to make the following observations –

- Young carers statement – all should be offered an ACSP at 18 – specific to the needs of Young Adult Carers moving into adult services and preparing for the future.
- National eligibility criteria essential to stop post code type issues
- 3rd sector capacity issues need to be addressed in general, impact of low level support via CA needs careful consideration
- Equality of access to services and a life outside caring needs to be strengthened – carers should wherever possible, within the constraints of their caring role, be able to have a life of their own
- Emergency planning and anticipatory care planning is essential
- Carer engagement and consultation needs resourced
- Discharge planning statement needs strengthened – start at admission
- CIS funding should protected so good work practices established will not be lost
- Carers strategies should be signed off by local carers
- There should be a duty on GP’s to identify carers
- Fast track palliative carers
- Recognition of the unique needs of Young Adult Carers
- Short breaks statement needs to be clear and unambiguous, stating eligibility and minimum entitlement
- Build on the years of good practice that have been developed via Carers Centres
- Recognition that rural areas have specific needs, takes longer to establish services, cultural issues that do not exist in cities

Fiona Morrison
Strategic Development Manager
Borders Carers Centre (SCIO)
Comments I had hoped to make at yesterday’s Parliamentary Committee but the questions from the MSPs did not give me the opportunity to contribute my views!

- The importance of supporting carers, if hospital discharges are to be successful and community care is to be sustainable is not in doubt. We know that if hospital discharge is well-planned and services put in place then there is a much greater likelihood of the cared-for person remaining at home with carer support. This means identifying the carer at an early stage and ensuring that the carer is part of the care and discharge plan. However, there is considerable evidence that there is still room for improvement. This is nothing new – it has been highlighted in the research literature since the 1990s. We have to remember that Health Boards main priority is to their patients, recognising that patients are supported by carers once they are home. Hospital staff are under huge pressures due to the number of demands and targets they are expected to meet. A dedicated carer worker embedded within hospital teams helps ensure that the support/information needs of the carer are not subsumed by the needs of the patient. Many of these have been funded via the Change Fund, and posts are not being main-streamed because of funding pressures

- Discharge pathways need to seen in their community context - carer support needs to be provided both in the hospital and post discharge in the community with a recognition that the focus of intervention is shifting from a hospital focus to the interface between the hospital and home with models such as ‘Discharge to Assess’.

- Identification of carers is the first step in any work of signposting carers to support and/or direct support. This is not straight forward. I highlighted the work of Carduff and colleagues which looked at supporting carers at the end of life care – they identified 3 barriers in the study:
  
  o Taking on the care of another person is often a gradual process, carers did not immediately identify with being a ‘carer’ – preferring to think of themselves in relational terms to the patient e.g. spouse, sibling, child. Often it was health and social care professionals who encouraged carers to consider themselves as a carer.
  
  o As the cared-for person’s condition deteriorated, the caring role often became all-encompassing so that carers were managing competing demands, and felt unable to look after their own needs as well as those of the cared-for person.
  
  o There was ambiguity about the legitimacy of carer needs and about the role of the primary health care team in supporting carers, from both the perspective of the carers and the health professionals.
This is not only the role of the GP – although they are important – it has to be the responsibility of the whole primary health care team, hospital team as well as social care colleagues. Continual work to raise awareness of all workers to the importance of carers needs to be seen as ‘core business’.

There has to be a willingness to provide early, small interventions so that preventative care is seen as a priority.

Fundamentally, carers’ issues need to be embedded into organisational cultures with clinical and managerial ownership and leadership so there is a culture where carers are seen as equal partners in care.

Alison Jarvis
Community Nursing Programme Manager
NHS Lothian
National Carer Organisations

Please find attached the national carer organisation’s proposed draft framework for national eligibility thresholds which we committed to provide to the Health and Sport Committee.

I hope this will assist the Committee in their considerations. If they require further information, any member of the national carer organisation policy group will be happy to discuss further. They are: myself, Claire Cairns (Coalition), Heather Noller (Carers Trust Scotland), Don Williamson (Shared Care Scotland) and Suzanne Munday (MECOPP).

National Carer Organisations
23 June 2015
A Framework for National Eligibility Thresholds

CONSULTATION DRAFT

Produced by the National Carers Organisations
June 2015
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About the National Eligibility working group
This document was created by a working group constituted by the National Carer Organisations to explore and test the possibilities for developing a national eligibility framework for carers. The group included:

- Claire Cairns, Coalition of Carers in Scotland
- Fiona Collie, Carers Scotland
- Sebastian Fischer, VOCAL
- Louise Morgan, Carers Trust Scotland
- Suzanne Munday, MECOPP
- Heather Noller, Carers Trust Scotland
- Don Williamson, Shared Care Scotland

The group met between February and June 2015 to write, test and consult on the framework. We are grateful to Colin Slasberg, independent consultant, for his expert input, and to Graeme Reekie of Wren and Greyhound Limited for independent facilitation of the process.
Part One:
Background and principles
1. Background to the National Eligibility Framework
This document was developed in response to the clearly expressed view from carers that a National Eligibility Framework for carer support should be created and tested\(^1\).

It focuses on eligibility thresholds
There are three aspects to eligibility: the criteria that determine it, the thresholds that must be passed to trigger it, and the services that follow it. Because this document proposes a national approach to eligibility, it explores the first two aspects only. It does not attempt to define the service or type and amount of service a carer would be entitled to.

It embraces prevention
Although other Scottish Government policy supports preventative work, Local Authority (LA) budgets and practice often focus on critical care. This document identifies thresholds for different levels of need, but it also aims to ensure that preventative support is embraced and embedded in policy and practice. It intends to inform and contribute to the Scottish Government’s creation of legislation for carer support.

It acknowledges the need for greater consistency in the way carers are treated and the support they receive
The Scottish Government is proposing that each local authority should be responsible for developing its own local eligibility frameworks for carer support. Such an approach will perpetuate, not address, widespread variation in the levels of support to carers with similar levels of need. This document provides a national framework within which local authorities have the flexibility to develop their carer support services taking account of local needs and circumstances, but in a way that ensures access to support is achieved more fairly, transparently and consistently.

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\(^1\) The Coalition of Carers in Scotland - Submission to the Health and Sport Committee’s call for views on the Carers (Scotland) Bill
It supports a rights based approach
- The right of every carer to have an Adult Carer Support Plan which aims to support their health and well-being by identifying their personal needs and outcomes.
- The right, through an Adult Carer Support Plan to access an appropriate balance of information, advice and support to meet these needs and achieve personal outcomes.
- The right to have a minimum level of need met.

It allows for transparency and clarity
A national framework will make it easier for carers to understand the level of support that they are entitled to. It is also clear that local variation in services is needed, but backing this with a national framework for eligibility means that comparing levels of service provision across local authorities will be made easier and carers will know what they can expect.

It is outcomes focused
The Carers (Scotland) Bill defines personal outcomes in relation to the caring role and makes provisions for subsequent regulations about personal outcomes. This framework allows for outcomes to be defined at all levels of support for carers, so that the benefits of accessing both preventative and more intensive support are clear and measurable.

It is applicable to any carer
The document was not written with young carers specifically in mind. Young carers are entitled to be children first and foremost, so frameworks like ‘Getting it Right for Every Child’ are likely to be more relevant to them. However, there is nothing in this framework document that could not apply to young carers and it is generic enough to be used in a range of situations.
2. What a National Eligibility Framework will achieve

A National Eligibility Framework would improve clarity for a number of stakeholders:

- **Carers and the people they help care for** should be at the centre of care planning. They should know what to expect, and not be treated differently because of unfair and unjustifiable variations in local eligibility. National frameworks guarantee ‘portability’ of assessment, with the same *thresholds, standards* and *criteria* in each area, even where *services* need to be different according to local circumstances.

- **Scottish Government** will be assured of more consistent and equitable implementation of the Carers’ Bill, and have more consistent, comparable data to measure its impact. The national *Carers Strategy* outcomes and *Equal Partners in Care* commitments will also be achieved.

- **Local Authorities, NHS, Health and Social Care Partnerships** will have a strong framework for measuring the need for, level of and take up of services, with increased clarity on who is eligible for support. Commissioners will be better able to plan and budget for services.

- **Third Sector and Carers Services** would be better able to define their role in preventative and universal support, and to help people access other appropriate support.

As the Carers (Scotland) Bill proposes both a power to meet needs and a duty to meet needs, there must be a clear distinction between these, using criteria that are transparent and robust.

A National Framework would identify *thresholds* and *pathways* to help people understand and identify carers’ needs – and what to do when these change. It would not propose assigning budgets based on the number or proportion of carers in a local area, but based on the number of individuals meeting thresholds for support. In this way, assessments for support would become more meaningful and person-centred.
3. Principles for a National Eligibility Framework

The following principles underpin this proposed National Eligibility Framework.

General principles
- **Recognition:** Unpaid carers are the largest contributors to care services in Scotland\(^2\). Appendix 2 compares carers’ and workers’ rights.
- **Leadership:** Local government does not have discretion to make its own rules for health and safety rights, employment rights or children’s rights; it is accepted these are matters of national concern. National leadership for eligibility criteria based on carers’ rights does not diminish the role of local leadership in shaping services to best provide for local needs and circumstances.
- **Expectation:** Carers make a vital contribution to society but many find their health and wellbeing at extreme risk due to a lack of support. Supporting carers is an investment in something of mutual interest and concern. Carers should not be worse off by caring.
- **Equity:** A National Framework would create a fair and transparent system for determining eligibility that would be more widely understood by carers.
- **Equality:** There are different communities of carers with different needs, needing different — but equal — services and support.
- **Entitlement:** Carers would be clear about when and at what point they are entitled to support, based on their rights.
- **Efficiency:** It is wrong to assume that national frameworks are more costly than local frameworks or that local authorities would use local discretion to provide the cheapest or minimum level support. Local frameworks also require duplication of effort that would be saved by having one clear framework applicable to all local authorities.

Principles for individual carers
- **Expertise:** Carers should be recognised as equal partners in providing vital care and support.
- **Aspiration:** Carers have a right to a life outside caring with opportunities to achieve their full potential.
- **Applicability:** The test of a framework is its ability to apply to different people in different situations and circumstances.
- **Equivalency:** Eligibility thresholds will be the same throughout Scotland and all those with eligible needs will be entitled to receive services, or an equivalent resource, to meet these needs. This is simple, fair and transparent.

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\(^2\) There are an estimated 759,000 carers in Scotland. [Scotland's Carers and official statistics publication for Scotland](https://www.gov.scot/publications/scotlands-carers-and-official-statistics-publication-for-scotland/), The Scottish Government, March 2015
• **Prevention and risk:** Assessments for support should factor in assessment of risk, to prevent deterioration in the carer’s health or the caring situation. One of the few effective ways to achieve (and evidence) prevention is to identify and reduce risk factors.

• **Enablement:** Assessment and support should be outcome-focused, asset-based and preventative.

• **Ease:** Carer assessment should not be burdensome. Questions about needs and outcomes should have a clear purpose for carers, not just the support system.
Part Two:
Model frameworks
4. Explaining the process
Through the Carers (Scotland) Bill, local authorities will have a duty to support carers who meet eligibility criteria. This can be broken down into four steps, from assessing the carer to the carer accessing a resource or a service.

Step One
A carer who wishes to access additional support which is not universally available, will need to have an Adult Carer Support Plan. This will involve an assessment to determine the carer’s needs, and how they can best achieve their personal outcomes. Not all carers who undertake an Adult Carer Support Plan will have an eligible need, or a right to support. However, it is likely that they will still have needs which can be addressed through universal, preventative services.

Step Two
Once the carer’s outcomes have been identified through their support plan, the local authority will need to determine if any of their needs meet eligibility criteria. This paper sets out a framework for eligibility criteria to enable local authorities to determine if carers meet the eligibility threshold, meaning they have a duty to support them.

Step Three
If a carer meets the eligibility threshold, the local authority will need to decide what level of support they are entitled to. This framework does not include information on the amount and type of support a carer would be entitled to. (It does not attempt to address the question of nationally determined minimum entitlements, and how these might be taken forward as part of a National Eligibility Framework.)

Step Four
Once the level of support has been agreed, the carer will then decide how they would prefer to arrange their support and choose from the four self-directed support options. There will be local variation in the services which are available to support carers, but local authorities have a duty to ensure, as far as practicably possible, there is a choice of services that respond to varying needs, local demographics and the local environment.

Carers should be fully involved in each stage of the process and in all decision making. They may also require support to:

- determine their personal outcomes
- decide if they meet the eligibility threshold
- agree the level of support they require to meet their outcomes
• access a service or support to best meet their needs
• explore how they can use their resource in a more creative way
5. Models for Eligibility Frameworks

The diagrams on the following pages set out an illustrative National Eligibility Framework consisting of:

1. **A model framework of eligibility thresholds**, showing how Local Authorities and NHS can support carers. This includes examples of services, which are not intended to be exhaustive or prescriptive (local circumstances will determine services).

2. **A model framework of criteria** for reaching thresholds which could be used to assess levels of need against eight carer outcomes.

The diagrams are followed by a table showing examples of indicators that could be used to assess the impact on and risk to carers’ outcomes. The diagrams are based on the following elements:

- **Universal, preventative support** (such as information and advice) is the foundation for helping carers manage their caring responsibilities. This in turn reduces the ratio of carers requiring higher level or crisis interventions and reduces demand on statutory services.

- **National thresholds** at which *powers to support carers* become *duties to support carers*. Local circumstances, approaches and services will determine exactly how carers’ needs and aspirations are supported.

The diagrams do not attempt to specify which services carers should receive at any of the levels shown. Instead, they give examples of the types of support that can be given, which include existing commitments from the [Carers Strategy](#) and the [Bill](#):

- Information and advice (including care planning for emergencies and for the future of the caring role)
- Training
- Peer support
- Emotional support and counselling
- Money and welfare advice
- Health and wellbeing support
- Advocacy
- Access to independent carers’ support organisations
- Breaks from caring
Eligibility threshold

Post-assessment support
Local Authority *duty* to support eligible carers
LA and NHS will provide more specialist support.
Carer chooses delivery mechanism (self-directed support), including the examples below

Assessment, Adult Carer Support Plan
Local Authority *power* to support carers.
1:1 assessment and outcomes-based conversation
LA and NHS will commission community supports (including examples below and other carer services such as breaks from caring, respite care, advocacy, counselling)

Universal support
With or without an Adult Carer Support Plan
Local Authority *power* to support carers.
LA and NHS will support infrastructure of information and advice, preventative and community support (e.g. registering with a GP, social prescribing, access to carer centre (online and/or in person), peer support, training, supported self-care, signposting to social and leisure opportunities)
Promote the Adult Carer Support Plan.

Figure 1: Model framework of eligibility thresholds, showing how Local Authorities and NHS can support carers, with *examples* of services
Figure 2: Model criteria framework showing how criteria for reaching thresholds could be used to assess levels of need against eight carer outcomes

Aspiration - enabling people to achieve their full potential

Key:
The blue circle shows the threshold between Levels 2 and 3 support.

The red circle shows the threshold between Levels 3 and 4 support – where the Duty to Support is triggered.

The pyramid in Figure 1 can be imagined with its base in Level 1 and its peak in Level 5.

The five levels are illustrated in more detail in Table 1.

How it works:
All carers should be offered a carer support plan and free access to general, universal services.

Being assessed as ‘at risk’ in one of the areas of a carer’s life triggers entitlement for additional services, which should be based on the four Self-directed Support options.

Figure 2 and case studies illustrate how this could work in practice for an individual carer. Section 4 explains the process in more detail.
Table 1: Examples of indicators: impact on and risk to carers’ outcomes

<table>
<thead>
<tr>
<th>Universal support moving to commissioned services &amp; support (local authority ‘power to support’)</th>
<th>More targeted, commissioned services &amp; support (local authority ‘duty to support’)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1 Caring has no impact / no risk</strong></td>
<td><strong>4 Caring has considerable impact / high risk</strong></td>
</tr>
<tr>
<td>Carer in good health</td>
<td>Carer’s health requires attention</td>
</tr>
<tr>
<td>Carer has good emotional wellbeing.</td>
<td>Significant impact on carer’s emotional wellbeing</td>
</tr>
<tr>
<td>Good relationship with cared-for person</td>
<td>Relationship with cared-for person is significantly affected</td>
</tr>
<tr>
<td>Caring is not causing financial hardship, e.g. carer can afford housing costs and utilities</td>
<td>Caring is having a significant impact on finances e.g. difficulty meeting housing costs AND utilities</td>
</tr>
<tr>
<td>Carer has regular opportunities to achieve the balance they want in their life.</td>
<td>Caring is causing severe financial hardship e.g. carer cannot afford household essentials and utilities, not meeting housing payments</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>2 Caring has low impact / risk</strong></th>
<th><strong>5 Evidence of critical impact / crisis</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Carer’s health beginning to be affected</td>
<td>Carer’s health is breaking/has broken down</td>
</tr>
<tr>
<td>Caring role beginning to have an impact on emotional wellbeing</td>
<td>Carer’s emotional wellbeing is breaking/has broken down</td>
</tr>
<tr>
<td>Risk of detrimental impact on relationship with cared-for person</td>
<td>Relationship with cared-for person is breaking/has broken down</td>
</tr>
<tr>
<td>Caring is causing a risk of financial hardship e.g. some difficulty meeting housing costs and utilities</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>3 Caring has clear impact / small, moderate risk. Response needed.</strong></td>
<td></td>
</tr>
<tr>
<td>Carer’s health at risk without intervention.</td>
<td></td>
</tr>
<tr>
<td>Some impact on carer’s emotional wellbeing</td>
<td></td>
</tr>
<tr>
<td>Some detrimental impact on relationship with cared-for person</td>
<td></td>
</tr>
<tr>
<td>Caring is causing some detrimental impact on finances e.g. difficulty meeting either housing costs OR utilities</td>
<td></td>
</tr>
<tr>
<td>Due to their caring role, the carer has limited opportunities to achieve the balance they want in their life.</td>
<td></td>
</tr>
<tr>
<td>They have access to a few breaks and activities which promote physical, mental, emotional wellbeing</td>
<td></td>
</tr>
<tr>
<td>Due to their caring role, the carer has few and irregular opportunities to achieve the balance they want in their life.</td>
<td></td>
</tr>
<tr>
<td>They have little access to breaks and activities which promote physical, mental, emotional wellbeing</td>
<td></td>
</tr>
<tr>
<td>Due to their caring role, the carer has no opportunities to achieve the balance they want in their life.</td>
<td></td>
</tr>
<tr>
<td>They have no access to breaks and activities which promote physical, mental, emotional wellbeing</td>
<td></td>
</tr>
<tr>
<td>1 Caring has no impact / no risk</td>
<td>2 Caring has low impact / risk prevention</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>------------------------------------------</td>
</tr>
<tr>
<td>Carer feels their knowledge and expertise is always valued by health, social care and other practitioners and consequently they feel included and empowered</td>
<td>Carer feels their knowledge and expertise is sometimes valued and consequently they generally feel included and empowered</td>
</tr>
<tr>
<td>Feeling valued</td>
<td>Future planning</td>
</tr>
<tr>
<td>Carer is confident about the future and has no concerns</td>
<td>Carer is largely confident about the future but has minor concerns</td>
</tr>
<tr>
<td>Carer has no difficulty in managing caring and employment and/or education</td>
<td>Carer has some difficulty managing caring and employment and there is a risk to sustaining employment and/or education in the long term</td>
</tr>
<tr>
<td>Carer does not want to be in paid work or education.</td>
<td>Carer is not in paid work or education but would like to be in the long term</td>
</tr>
<tr>
<td>Carer’s living environment is suitable, posing no risk to the physical health and safety of the carer and cared for person.</td>
<td>Carer’s living environment is mostly suitable but could pose a risk to the health and safety of the carer and cared for person in the longer term.</td>
</tr>
</tbody>
</table>
6. Case studies

Case Study 1 – Bill
Bill is 70 and cares for his mother Phyllis. Phyllis is 92 and is frail and elderly but lives independently. She manages fairly well and Bill visits daily to help her with housework, shopping getting out and about. She receives some help from the social work department to cook her meals and has a community alarm for emergencies. Bill asks for an Adult Carer Support Plan. Overall he is managing his caring role well and his health and wellbeing are generally good. However, he identifies that he has some concerns about the future (if anything was to happen to him) and he is a bit lonely as he doesn’t really have anyone to talk to about his caring role.

Using the model criteria
All of Bill’s needs fall into universal or preventative support which could be provided by a local carer support service. For example, they could arrange for him to join their male carers group to meet fellow carers. In addition, the person responsible for the Adult Carer Support Plan could write an emergency plan so that if anything happened to Bill, the plan would take effect.

Case Study 2 – Frances
Frances is 20 and cares for her mum who has cancer. She provides continuous care, although they have some help from the local hospice. She had to give up her college course and has no income. She is exhausted and depressed and has no idea how she will continue to cope. The hospital social worker arranges for her to have an Adult Carer Support Plan which identifies that:

- Caring is causing significant impacts on her mental health.
- She is exhausted and wants to be able to have a break from caring and spend time with her friends.
- She wants to return to education but does not know how she will be able to manage education and caring.
- She is really worried about finances. Although her Mum gets ESA, she does not receive any other benefits.

Using the model criteria
- Frances’s health is at significant risk of breaking down.
- She has few opportunities to have a break.
- She has no opportunities for education.
- Her finances are precarious.
She meets the high threshold on this model across a number of areas and therefore the local authority has a duty to support. This could include providing a regular break, helping her with her finances and helping her plan to return to education.

Case Study 3 – Fran
Fran cares for her husband John who has MS. She works full time. Although she has up to now managed the caring role, John’s disability is progressing and he needs more help to get up in the morning which she is finding more difficult. Fran requests an Adult Carer Support Plan. During the discussion about the outcomes the following is identified:

- Caring is causing some impacts on her health – she is stressed and has some back pain.
- Financially there are few problems as her job is well paid. Her husband is receiving DLA. However, were she to lose her job they would have significant financial difficulty including in paying the mortgage.
- Their housing is suitable and has all the adaptations they need.
- She feels her quality of life is good and despite her husband’s disability, they are able to enjoy activities together and apart.
- She is somewhat worried about the future and how they will cope as her husband’s condition progresses.
- She is keen to keep her job but it is significantly at risk as she is coming in late as she has to get her husband up and ready every morning. Her employer is concerned about her late arrivals and is threatening disciplinary action.

Using the model criteria
Fran is in the preventative/universal section for all areas of her life apart from two. This can be met with a referral to a local carer support service, for example, with access to complementary therapies and some moving and handling training.

However, employment and (potentially) finance are of concern. In this instance, she meets the highest threshold where the local authority will have a duty to provide support to ensure that she continues to be able to manage work and caring. She is at imminent risk of losing her job and there are concerns about the associated impact that would have on their finances. Some help in the mornings would prevent this happening.
Part Four:
Appendices
Appendix 1

What the illustrative framework aims to achieve

This document attempts to identify core principles, and propose models, to explore what ‘asset-based’ and ‘outcome-focused’ practice would really look like. It aims to inform discussions about eligibility criteria and illustrate what can be achieved.

In developing the framework, three possible approaches were considered:

1. **Adopting frameworks and outcomes that are used for people receiving care.** Where this currently happens, some criteria are more relevant to carers than others (e.g. about being able to look after themselves and their home). However, when considering carer’ rights it is more instructive - and more accurate - to draw parallels to workers than to service users. For example, workers have rights and safeguards - no-one questions workers’ entitlement to breaks, holidays and safe working practices, all of which are protected by legislation (see Appendix 2).

2. **An outcomes-based approach.** This can be positive where the outcomes being used to assess need are well matched to carers’ own outcomes. However carers may then have to make the case for the impact that caring has on them. It is not asset based, i.e. it focuses on what carers need, not what they have – or risk losing.

3. **A combination of outcome-based and ‘resource allocation systems’.** This is similar to the process for people receiving care, moving away from assessing levels of need (‘critical’, ‘substantial’ etc.) towards a system based on ‘triggers’ for automatic entitlement to services, support and resources.

The National Carers Organisations prefer the third option because it emphasises duties rather than discretionary powers, and would be less burdensome for carers.
Appendix 2

Comparison: Carers and the paid workforce

Carers’ entitlements are traditionally compared to those of people with support needs. Although unpaid carers can indeed need support themselves, it is more accurate to think of carers as providers of services – just like other workers. Our intention is not to professionalise unpaid caring, but to contextualise the ‘occupational’ tasks carried out in caring, the risks arising from it, and the respect that these tasks deserve.

<table>
<thead>
<tr>
<th>Entry</th>
<th>Paid workforce</th>
<th>Unpaid carers</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Typically apply for the job, have a contract, choose to do it and can leave after giving notice</td>
<td>Typically unprepared, have limited choice but to carry on caring, facing stigma for stopping.</td>
</tr>
<tr>
<td>Time spent</td>
<td>Right to flexible working, to choose one’s hours; Working Time Directive protects worker’s ability to do the job safely, requires daily and weekly rest periods and breaks between shifts. Extra rights for night shifts. Statutory annual leave entitlement (28 days p.a. for full time workers).</td>
<td>Scotland’s Carer Strategy supports Short Breaks. Most carers lack overnight support, even when supporting high and complex needs</td>
</tr>
<tr>
<td>Pay and benefits</td>
<td>Minimum wage £6.50, living wage £7.85, HMRC mileage allowance 45p per mile, automatic pension enrolment, Statutory Sick Pay £88.45</td>
<td>Carers Allowance £62.10 per week (equivalent to £1.77 per hour for a 35 hour week). Less than SSP, JSA £73.10 and state pension £115.95</td>
</tr>
<tr>
<td>Risk</td>
<td>Protected by employer insurance and Health and Safety law, including right to consultation, training, equipment, protective clothing, risk assessment, limits on manual handling etc.</td>
<td>No protection from health and safety risks. Additional risk of reduced opportunities and quality of life.</td>
</tr>
<tr>
<td>Training, support and representation</td>
<td>Right to union membership, code of practice for grievances. Most employers offer training, support, appraisal and employee assistance programmes</td>
<td>None, other than that available through carers’ centres and other voluntary services.</td>
</tr>
</tbody>
</table>

*Table 2: Comparison of the entitlements of workers in paid employment with those of unpaid carers*  

In making this comparison, we recognise that terms and conditions for paid care workers are often poor, with minimum wage pay, lack of travel expenses etc. This table illustrates the extent to which entitlements for unpaid carers are still lower than those for workers.
Appendix 3

5 CLEAR Reasons for National Eligibility Criteria

Carers want National Eligibility Criteria
Carers were clear in their response to the consultation on the Carers Bill that they wanted new rights linked to national eligibility criteria.

‘There needs to be equality across the board – everyone assessed using the same eligibility criteria with the same entitlements to support and resources’

Learning from other countries
There is clear evidence from around the world that adopting a universal approach to care provision is the fairest approach. Both England and Wales have recently introduced national eligibility criteria for social care services, including support for carers.

‘Most developed national countries have universal social care arrangements, accessible to all those with defined levels of care and support needs’

Equity
National Eligibility Criteria would be a fair system and would put an end to the frustration carers feel when they are not able to access the same level of support as other carers living in a different local authority area.

Protects all carers, not just carers who are lucky enough to live in a well-resourced area

Abolishes the postcode lottery
National Eligibility Criteria would mean that carers would know exactly what they were entitled to.

‘Eligibility criteria must be national – you don’t want people moving area to get a better service’

Rights
Eligibility Criteria is the gateway to new rights for carers. They must be clear rights available to all, not at the discretion of local criteria.

‘Where a duty is put in place, it is important LAs adhere to it. There needs to be sanctions for those who do not provide carers with their rights’

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3 Carer response to consultation on the Carers Bill, North Lanarkshire
4 Viewpoint, Rethinking Social Care and Support, University of York and Stirling
5 Carer response to consultation on the Carers Bill, COCIS meeting
6 Carer response to consultation on the Carers Bill, Borders Carers Centre
7 Carer response to consultation on the Carers Bill, COCIS Rural and Remote Carers Group
## Outcomes Mapping

This table was created as a way to check the appropriateness of the 8 carer outcomes in the framework, and to show how they relate to other relevant frameworks.

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Health</strong></td>
<td>Maintaining health and wellbeing</td>
<td>Have improved emotional and physical wellbeing</td>
<td>People who provide unpaid care are supported to reduce the potential impact of their caring role on their own health and well-being.</td>
<td>Improved health and wellbeing</td>
</tr>
<tr>
<td><strong>Emotional</strong></td>
<td>Positive relationship with the person cared for. Satisfaction in caring</td>
<td></td>
<td></td>
<td>Improved confidence/ morale as a carer. Improved ability to cope in the caring role.</td>
</tr>
<tr>
<td><strong>Finance</strong></td>
<td>Freedom from financial hardship</td>
<td>Not experience disadvantage or discrimination, including financial hardship, as a result of caring</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Life balance</strong></td>
<td>A life of their own</td>
<td>Have the ability to combine caring responsibilities with work, social, leisure and learning opportunities and retain a life outside of caring</td>
<td>Duty to Support eligible carers – including duty to consider if this support should be in the form of a break(s) from caring</td>
<td>Carers have more opportunities to enjoy a life outside the caring role.</td>
</tr>
<tr>
<td>Feeling valued</td>
<td>Valued/ respected and expertise recognised</td>
<td>Be involved in planning and shaping the services required for the service user and the support for themselves</td>
<td>Duty to take the steps <em>(it considers appropriate)</em> to involve carers in carer services, including services to the cared-for person</td>
<td>Carers feel better supported. Carers are more valued by the wider community</td>
</tr>
<tr>
<td>---------------</td>
<td>------------------------------------------</td>
<td>-----------------------------------------------------------------</td>
<td>------------------------------------------------------------------</td>
<td>------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Living environment</strong></td>
<td></td>
<td>Have access to housing which is suitable for changing needs</td>
<td>Have better access to appropriate information and training on equipment.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Have access to appropriate information on telehealthcare</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Future planning</strong></td>
<td>Choices in caring, including the limits of caring. Feeling informed, skilled, equipped</td>
<td>Have increased confidence in managing the caring role</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employment</td>
<td>Have the ability to combine caring responsibilities with work, social, leisure and learning opportunities and retain a life outside of caring; Have access to lifelong learning opportunities, further education and skills development in ways which takes account of their caring responsibilities.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Carers (Scotland) Bill

Scottish Huntington's Association

The Scottish Huntington's Association welcomes the Carers' Bill and supports the greater recognition of the needs of carers.

We recognise that carers of people living with Huntington's disease are particularly impacted by the condition. They are likely to be unable to work within four years of diagnosis, experience high levels of anxiety, depression and poor wellbeing, are frequently economically disadvantaged. At the same time they have a significant need for information, advice, emotional support and access to support services to help manage the pressure of caring responsibilities.

We see carers from around Scotland and already note that there are significant differences in local policy (Self Directed Support is a good example). We do not think the Bill addresses this issue.

We do no think the Bill addresses the issues arising from a difference of opinion between the care and cared for person or makes provision for mediating these situations.

We are concerned that in many areas of Scotland support services cannot meet the needs of HD carers and the Bill may give rise to increased expectations that cannot be met. in particular we believe that general services are poorly equipped to accurately understand the needs of people living with rare conditions and more needs to be done to 'capacity build' within general services while at the same time improving pathways and inter agency relationships.

We agree with SCVO that the Bill is likely to increase the demand for services from the Third Sector at a time when funding is being significantly reduced.

Anticipative planning and preventing hospital admission are key issues for people living with HD and we would have liked to have seen these better addressed in the legislation. Successful anticipative planning can significantly reduce harm resulting from hospital admission and should be a higher priority within health and social care.

Scottish Huntington's Association
Carers (Scotland) Bill

Angus Carers Centre

The Angus Carers Centre generally welcomes the Carers (Scotland) Bill and is pleased the Government has brought forward legislation that improves the rights and entitlements of unpaid carers. However, some aspects of the Bill require strengthening and many carers have expressed strong views that in its current form it will not make a genuine difference to their lives or fully deliver the Government’s aims.

• National eligibility criteria for carer support. The introduction of local eligibility criteria will lead to a postcode lottery of support for carers. We fully support the concept of best local practice and scope for local variation to meet varying needs and caring trends which can be lead within Health & Social Work Integration Board by the Carers representative. However, we do not believe there is any justification for a variation in the levels of need which trigger an entitlement to support.

• The Bill recommends that the Carers Information Strategy monies are integrated into the Integration Fund. This created, in real terms an inequality and disinvestment of young carer and young adult care services. Integration funding can only be used for services ‘in scope’ and for those who are 18 plus resulting in a loss of current and potential future funding Scotland’s 7,000 plus young carers.

• We agree that each council should present a Short Breaks Strategy. This should bring together all services and provision available to carers whether provided by local community activities (which do not required to be registered under SDS) and support can be accessed through of the 4 SDS options. This local strategy would clarify the relationship between the care provided to the cared for person and the carer’s entitlement to a short break. Currently respite is provided based on the carers caring role rather than the impact this has on them. This could be resolved as part of the Bill.

• The Bill does not mention the huge support required by carers when their caring role ends through bereavement. Carers find their financial situation change very quickly at a time when they are at their most social isolated. Most Carers Centres support ‘Former Carers’ to some extent or another, although national this is a very mixed picture. We know that Carers health and well being is affected adversely by their caring role and we also know that social isolation is a greater contributor to poor health than any long term condition. As the Bill recognises the significant savings that carers make to the NHS and local councils, by providing the care they would otherwise have to provide, we should provide access to a “Transition Plan” for bereaved
carers allowing Carers Centre to support them for a period of up to 12 months as part of their core funded service.

- Information and advice centres for carers are already established for each local authority through the local Carers Centre. Local authorities should be required to sustain these centres in the long term by mainstreaming a core element of their funding. The Health & Social Care Integration Strategic Plans are based on the principles of investment in preventative services at a local level which should include partnership working with the third sector. The long term future of the Carers Centres certainly matched this standard. Each Centre has been developed to meet a core level of minimum standards but also reflects local need and local partnership working. Time and time again carers tell us that the Carers Centre, as an independent source of support, is pivotal in them receiving the right information at the right time, by experienced staff. All Carers Centres in Scotland are part of the Scotland Network of Managers and Trustees. This brings together all Carers Centres in Scotland regardless of their membership of all or some of the National Carers organisations. The Government would be best placed to continue to support the development of this network of centres which will provide the consistency and experience to ensure that the carer’s voice is heard in all decision about planning and delivery of services.

- We believe that it is a positive move that all carers be offered a support plan or statement. However experience so far tell us that any carers support plan/statement which is developed to take forward carer choice under SDS must have clear guidance from statutory staff on the how the Plan/Statement should be completed and how any resource identified through the Support Plan is best utilised the carer. As with the need for a national eligibility framework, national guidance should also be developed to ensure that access to quality and timely support plans are available to all carers, no matter what their caring role or how this impacts on their life outside of caring otherwise the postcode lottery described as a consequence of a local eligibility framework will be reflected within support plans.

- Emergency planning and future planning for carers. It has been stated that this will be included in secondary legislation, but we think this is a missed opportunity and provision for emergency planning and future planning should be included as a key part of the Adult Carer Support Plan and Young Carers Statement.

- The impact of the Bill on the wider third sector. Increased identification of carers and a duty to provide support to carers will mean that the third sector will experience additional demand on their services. We do not feel that third sector services, particularly dedicated carers’ services, have been recognised sufficiently as part of the duty to provide support to carers.
• Personal outcomes for carers. The Bill defines personal outcomes for carers related to their caring role. We believe there should be recognition that carers are entitled to a life outside of caring, rather than just a life alongside caring. The type of support that councils provide for carers should include provision for time away from caring. However the Carers Support Plan should inform the support that carers need from the council, or other providers through SDS. The type of support available to carers should arranged through the Health & Social Work Integration Board as Carer Support will be best arranged by all sectors (statutory, third and private sectors) working together with carer representative groups to establish how carers support is best provided, from high level personal care for the cared for person to local volunteer befriending services carers respite.

• A clear equality statement and action plan. Despite commitments in Scotland’s Carers Strategy to ensure actions are taken forward to improve equality issues in carer support, there is substantial evidence of differential levels of access to services for carers from minority groups.

• A duty on hospital discharge. Given the Scottish government’s major investment on multi-agency working to improve hospital discharge times and further work to avoid hospital admissions the role of the family carer is central to ensuing that local pathways meet these targets. As the Bill does not include a duty on health boards to inform and involve carers in hospital admission and discharge procedures for those they care for this is a major missed opportunity in ensuring that carers are recognised and supported as key partners in the planning and delivery of care.

Angus Carers Centre
Carers (Scotland) Bill

Fraser MacLean

Over a period of nearly 13 years I provided at-home care and support for both my elderly parents. My mother was eventually diagnosed with Alzheimer’s disease in 2001 but later contracted (and in 2008 died from) cancer - which led to some truly horrific experiences in the days before nursing staff, doctors and consultants working on open NHS wards knew (or even wanted to know) anything about dealing appropriately or compassionately with patients who had dementia (thought of, at that time, as a “social services” disease, since it allowed the NHS to “bump” responsibility for it onto someone else’s budget).

My father suffered from three different kinds of cancer (prostate, skin and bowel) but also had to contend with chronic heart disease, osteoporosis, macular degeneration, partial deafness and Type 2 diabetes. From early 2007 until shortly before his death in 2013 I provided round-the-clock at home care for him which included everything from administrative and bill-paying responsibilities to incontinence care. 2 years after his death I remain unemployed and in serious debt.

I took part in the first ever Carers’ Parliament at Holyrood in October 2012 and was shocked at the lack of media coverage. The morning after the event, instead of finding coverage for this supposedly “historic” gathering on the front pages of The Scotsman, Herald, Mail, Record etc - there was instead a series of headlines about the 2013 Ryder Cup, including some less-than-flattering photographs of the First Minister (in America) waving the trophy over his head.

At moments like that - seeing such an image in place of serious, reasoned press coverage (which Holyrood could and should have sought and encouraged) of the issues raised by Carers during the open debate (and discussion sessions) - it is hard, as a Carer, to feel that much is being done or discussed beyond “window dressing”. I have included here (Page 4) my own contribution to the open debate (Session 1) as I feel strongly that most of the questions I raised then remain unanswered.

Hoping things may change direction for the better soon, with or without the implementation of the proposed Bill,

Fraser MacLean

1 Do you support the Bill?

I support the motivation behind the Bill but am doubtful about much of the wording and seriously concerned about the implementation of the suggested changes and the availability of funds to pursue (let alone achieve) many of the goals outlined in the Bill.
2 What do you feel would be the benefits of the provisions set out in the Bill?

I would hope that the main benefit would be a continued and open pursuit of realistic policy-making in this area, involving Carers themselves, and an openness to revision of all/any changes outlined in the Bill which, for whatever reason, fail to achieve their stated goals.

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

It could certainly be strengthened, in my view, by providing some indication of how all the suggested changes and improvements are going to be funded and how, over time, that funding is to be sustained.

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

Mention is made in the Bill of the negative impact that caring often has on a Carer's career. I believe additional consideration has to be given to the problems faced by Carers, like myself, whose original work (if they have had to curtail or abandon it) involved freelance, rather than full-time, employment.

For a Carer who has been part of a national or international freelance talent pool, moving from job to job with a series of different employers within a particular field, no one employer can realistically be expected to take responsibility for helping either to re-train that former employee or to make a “return” position available to him/her after a prolonged period of non-employment. It would help if the whole issue of re-training for re-entry into the non-full-time employment market, after the death of an elderly relative (for instance), could be addressed or at the very least considered in more detail in the Bill. Similar moves are already underway, in line with European and Scandinavian examples, to help mothers and fathers return to work after raising their young children at home. Comparable provision is urgently required for former Carers.

It is impossible to over-emphasise the degree to which, particularly in care of the elderly, the health of the cared-for person (or people) deteriorates; this, in turn, means that the needs of the Carer change (and usually escalate). Formal assessment of these rapidly-changing needs is often, in my experience, made at intervals which do not necessarily allow for the increasing strain placed, often suddenly, on the Carer by such rapidly-escalating, mutually-aggravating problems and challenges. The Bill needs to address this problem more directly.

The Bill "requires local authorities to establish and maintain an information and advice service for carers" - but what if this information competes or conflicts with the information and advice already available from individual charities, volunteer groups and independent agencies?

So many different agencies and charities already exist - without any official "air traffic control" service to help Carers sift through, compare or even understand the profusion of available information. The result is that, on top of
everything else the Carer has to cope with, THIS massive responsibility ALSO
lands on him or her - responsibility for digging out, ploughing through and then
COMPARING all the available information and advice.

The problem has never been LACK of information, it’s that so MUCH
information is out there, much of it conflicting. Who, ultimately, is the Carer to
trust? Particularly when, as was my experience, once an agency HAS been
identified that CAN help make sense of it all (in my case The Princess Royal
Trust for Carers) THAT agency then goes through a name-change and a
structural shake-down. Carers, at present, would need a full-time secretarial
and administrative staff to help them manage what, at present, is often a
ridiculously confusing landscape of “helpful” information.

The Bill supposedly “places a duty on local authorities to provide support to
carers” - “duty”, yes - but is this not also a burden, both financially and in
administrative terms - and where are those additional resources going to
come from? Again and again as I read through The Bill, I wondered how on
earth all of this might ever be funded (and monitored). Some degree of clarity
on this point needs, I think, to be added to The Bill.

Repeated mention is made of respite - but “respite” can be rendered almost
meaningless if a Carer’s underlying anxieties persist throughout the “break”
that they are allowed to take from their caring responsibilities; taking “time off”
can simply add to the strain experienced by a Carer because serious
elements of uncertainty are introduced regarding how the cared-for person is
actually being looked after in the Carer’s absence. Even when, for example,
free, non-agency nursing provision can be secured through charities such as
Marie Curie, it takes time and effort (and luck) to reach the point where the
Carer knows and trusts the individual person who is assigned to look after the
cared-for relative in his or her absence. The Bill ought to address this issue.

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

Unless it can be made clear WHOM the local authorities will be charging and
how they will be empowered to recover that money, I would remove the
following:

The Bill "makes provision for local authorities to charge for services to carers"

The stated aim of today’s event is to “stimulate debate on the issue of
Services and Support” for Carers. But - beyond the debate itself - what action
and improvement can we hope to set in motion if we don’t, first of all, agree
on our definition of a “carer” and our definition of a “parliament”?

Even with welcome professional support from the available agencies, caring
for people is hard work; Carers, by definition, are workers and the ‘right to
work’ under Article 23 of the Universal Declaration of Human Rights states
that ‘Everyone has the right to work, to free choice of employment, to just
and favourable conditions of work and to protection against
unemployment’.”
Though “employed” - often around the clock - very few Carers ever chose - freely - to be “employed” in this way and, because we are so often dealing with unforeseen circumstances - that are neither just nor favourable - we have to guess and invent our way through immediate, personal and often distressing challenges and, at the same time, many of us have to wave goodbye to the careers we originally did plan and train for.

I myself spent one year at University, 4 years at Art College, one year in vocational training and then 15 years, working my way up from the shop floor in my chosen profession - only to find myself, at the age of 38, faced with the responsibility of organising, managing and providing care, in all its forms, for a mother with Alzheimer’s disease and a father with cancer.

As they grew older, the “shopping list” of their combined needs grew and became both more urgent and more inescapable. I am now 51, my mother is dead, my father is still alive but requires round-the-clock support and supervision. His savings are gone, my savings are gone, the house we live in has had to be re-mortgaged twice, I have had to cash in my life insurance and, in May of this year, the car we depended on finally had to be towed away for scrap. And, though I now have a wealth of knowledge and experience of all aspects of health provision and social care - away in the distance, lie the smouldering remains of my career.

To qualify for the weekly Carer’s Allowance of £58.45p, a carer must prove, among other things, that he or she is caring for somebody for 35 hours a week. That amounts to £1.67p an hour, less then the minimum wage, for work that is often gruelling and uninterrupted.

Most dictionary definitions of the word “parliament” emphasise the outcomes of debate, the law-making powers of the individuals gathered together. But can we honestly define an event like this as a “parliament” if it is only a once-a-year gathering - and if all of us are not to be present when the resulting legislative powers are exercised?

Please let us do this more often - and let us all work to forge meaningful legislation from meaningful debate.
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Delegated Powers and Law Reform Committee

The remit of the Delegated Powers and Law Reform Committee is to consider and report on—

a. any—
   i. subordinate legislation laid before the Parliament or requiring the consent of the Parliament under section 9 of the Public Bodies Act 2011;
   ii. [deleted]
   iii. pension or grants motion as described in Rule 8.11A.1; and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

b. proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

c. general questions relating to powers to make subordinate legislation;

d. whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;

e. any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act; and

f. proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject.

g. any Scottish Law Commission Bill as defined in Rule 9.17A.1; and

h. any draft proposal for a Scottish Law Commission Bill as defined in that Rule.

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Introduction

1. At its meetings on 31 March and 28 April 2015, the Delegated Powers and Law Reform Committee considered the delegated powers provisions in the Carers (Scotland) Bill (“the Bill”)i. The Committee submits this report to the lead committee for the Bill under Rule 9.6.2 of Standing Orders.

2. The Bill was introduced on 9 March 2015 by the Cabinet Secretary for Health, Wellbeing and Sport. It reforms the manner in which the needs of adult carers and young carers are assessed by local and other responsible authorities, as well as the manner in which support is provided to those carers.

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i Carers (Scotland) Bill [as introduced] available here: [http://www.scottish.parliament.uk/S4_Bills/Carers%20(Scotland)%20Bill/b61s4-introd.pdf](http://www.scottish.parliament.uk/S4_Bills/Carers%20(Scotland)%20Bill/b61s4-introd.pdf)
Overview of the Bill

3. The Bill was introduced on 9 March 2015 by the Cabinet Secretary for Health, Wellbeing and Sport. The Health and Sport Committee is the lead committee for the Bill.

4. Part 1 of the Bill defines key terms. “Carer” is defined as an individual who provides, or intends to provide, care for another individual (“the cared-for person”). Section 1(2) excludes from this definition care provided to persons under the age of 18 to the extent that the care is provided by virtue of the person’s age, as well as care provided under or by virtue of a contract or as voluntary work. Sections 2 and 3 of the Bill then go on to define the terms “young carer” and “adult carer”.

5. Part 2 of the Bill makes provision in respect of adult carer support plans and young carer statements. Adult carer support plans and young carer statements are to set out the identified personal outcomes and identified needs (if any) of the carer as well as any support that is to be provided to the carer to meet those needs.

6. Part 3 of the Bill relates to the provision of support to carers. It imposes a duty on local authorities to set local eligibility criteria by reference to matters specified by the Scottish Ministers in regulations. The Scottish Ministers retain a power to set Scotland-wide ‘national’ eligibility criteria, which would replace any local eligibility criteria set by local authorities. Section 22(4) of the Bill requires local authorities to provide support to carers within their area to meet their eligible needs.

7. Part 4 of the Bill makes provision for the greater involvement of carers in shaping the services that affect them. Section 25 imposes a duty upon local authorities and health boards to take such steps as they consider appropriate to involve carers and bodies representative of carers in certain carer services. Section 27 of the Bill amends the Social Work (Scotland) Act 1968 so as to require local authorities to take the views of carers into account when exercising specified functions.

8. Part 5 of the Bill relates to local carer strategies. A local carer strategy is a document, prepared by a local authority, setting out various matters relating to the authority’s functions arising under the Bill, including the authority’s plans for identifying carers within its area; the authority’s assessment of the demand for support to carers within its area; and the authority’s plans for supporting carers within its area.

9. Part 6 of the Bill requires local authorities to establish and maintain an information and advice service for carers within its area. The service must provide information and advice about specified matters, including the rights of carers; income maximisation for carers; education and training available to carers; and advocacy for carers. Part 7 of the Bill makes provision regarding the issuing of directions and guidance. Part 8 contains standard provision relating to interpretation, subordinate legislation and commencement.
Delegated Powers Provisions

10. The Scottish Government provided the Parliament with a memorandum on the delegated powers provisions in the Bill. The Committee first considered the Bill at its meeting on 31 March 2015. At that meeting, the Committee agreed that it did not need to draw the attention of the Parliament to the following powers:

- **Sections 7 and 12** - Adult carers and young carers: identification of outcomes and needs for support
- **Sections 8 and 13** - Content of adult carer support plans and young carer statements
- **Sections 9 and 14** - Review of adult carer support plans and young carer statements
- **Section 19** - Duty to set local eligibility criteria
- **Section 20** - Publication and review of criteria
- **Section 21** - National eligibility criteria
- **Section 23** - Provision of support to carers: breaks from caring
- **Section 24** - Charging for support provided to carers
- **Section 32** - Short breaks services statements
- **Section 33** - Guidance and directions
- **Section 38** - Ancillary provision
- **Section 40** - Commencement

11. At the same meeting, the Committee agreed to write to the Scottish Government to raise questions on the following powers:

- **Section 1** - Meaning of “carer”
- **Section 4** - Meaning of “personal outcomes”

12. The correspondence is reproduced at the Annexe. In light of the response received by the Scottish Government, the Committee agreed that it did not need to draw the power in section 4 of the Bill to the attention of the Parliament.

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Carers (Scotland) Bill Delegated Powers Memorandum available here: [http://www.scottish.parliament.uk/S4_Bills/Carers_Bill_DPM.pdf]
Recommendation

13. The Committee comments on the remaining power in the Bill as follows:

Section 1 – Meaning of “carer”

Power conferred on: the Scottish Ministers
Power exercisable by: regulations
Parliamentary procedure: negative

Provision

14. Section 1(1) of the Bill defines the term “carer” for the purposes of the Bill. A carer is defined as an individual who provides or intends to provide care for another individual (“the cared-for person”). 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. The effect of this provision is that where care is provided in those circumstances, the Bill does not apply.

15. Section 1(3) provides that the Scottish Ministers may make regulations which provide that “contract” does or does not include agreements of a kind specified in the regulations. Regulations made in exercise of this power may also permit a relevant authority to disregard section 1(2)(b) where the authority considers that the relationship between the carer and the cared-for person is such that it would be appropriate to do so.

Comment

16. The Committee asked for further justification from the Scottish Government as to the choice of negative procedure for the exercise of the power in section 1(3) of the Bill. The power in section 1(3) appears to the Committee to be one of significance as it permits the Scottish Ministers to make regulations which could considerably expand or restrict the reach of the Bill’s provisions depending upon the manner in which it is exercised. Using the power to determine which agreements are (or are not to be) considered ‘contracts’ for the purposes of the Bill would have a direct impact on the Bill’s scope and application. The Committee accordingly took the view on its first consideration of the power that it may be more appropriately subject to the affirmative procedure.

17. In its response to the Committee’s question, the Scottish Government has provided further information as to how it intends to use this power. It has explained that the power is intended to allow for regulations to make provision as to the effect of the Bill on kinship care arrangements in terms of the Looked After Children (Scotland) Regulations 2009 and in respect of ‘mixed carers’ i.e. carers who undertake a mix of both unpaid and paid care.

18. The Government notes that the number of mixed carers is likely to increase over time as the Social Care (Self-directed Support) (Scotland) Act 2013 is implemented. On that basis, the Government may wish to make regulations which determine whether particular categories or groups of mixed carers are to be treated as ‘carers’ for the purposes of section 1 of the Bill (which will determine whether the Bill applies to such
carers or not). The response indicates that unpaid caring is a challenging concept which could become more challenging in the future.

19. The response states that the Scottish Government had considered the negative procedure to be appropriate to the exercise of this power, on the basis that the power will be used to further define how principles already established by the Bill would operate in the future, rather than to establish any new principles in regulations. The matters to be dealt with in regulations made in exercise of this power were also not considered to be sensitive therefore it was thought that the negative procedure was appropriate.

20. In light of the Committee’s concerns as to the significance of this power, however, the Scottish Government has reflected on the appropriate procedure and concluded that the power should be subject to the affirmative procedure. It therefore intends to bring forward an amendment to this effect at Stage 2.

21. The Committee recommends that the power in section 1(3) of the Bill should be subject to the affirmative procedure and welcomes the Scottish Government’s commitment to bring forward an amendment to this effect at Stage 2.
Correspondence with the Scottish Government

On 31 March 2015, the Committee wrote to the Scottish Government as follows:

1. The Delegated Powers and Law Reform Committee considered the above Bill on Tuesday 31 March and seeks an explanation of the following matters:

   Section 1 – Meaning of “carer”
   Power conferred on: the Scottish Ministers
   Power exercisable by: regulations
   Parliamentary procedure: negative

2. 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.

3. Section 1(3) provides that the Scottish Ministers may make regulations which provide that “contract” does or does not include agreements of a kind specified in the regulations. Regulations may also permit a relevant authority to disregard section 1(2)(b) where the authority considers that the relationship between the carer and the cared-for person is such that it would be appropriate to do so.

4. The power in section 1(3) appears to be one of significance as it permits the Scottish Ministers to make regulations which could considerably expand or restrict the reach of the Bill’s provisions depending upon the manner in which it is exercised.

5. The Committee therefore asks the Scottish Government:
   - For further justification as to the choice of the negative procedure for the exercise of the power in section 1(3)?
   - Why the affirmative procedure is not considered to be more appropriate for this power, having regard to the effect that its exercise may have on the applicability of the Bill to particular groups of carers?

Section 4 – Meaning of “personal outcomes”
Power conferred on: the Scottish Ministers
Power exercisable by: regulations
Parliamentary procedure: negative

6. Section 4 of the Bill concerns the meaning of the term “personal outcomes”. Section 4(1) provides that “personal outcomes” means outcomes which would, if achieved, enable carers to provide or continue to provide care for cared-for persons. Section 4(2) provides that the Scottish Ministers may by regulations make further provision about personal outcomes, including provision about which outcomes may be
personal outcomes and the matters to which a relevant authority is to have regard in considering which outcomes may be personal outcomes.

7. The Committee asks the Scottish Government:

- Whether the drafting of the power in section 4(2) is considered to be sufficiently clear, on the basis that it appears to contemplate both the Scottish Ministers and relevant authorities determining which outcomes may be personal outcomes?

- For further explanation as to the relationship between sections 4(2)(a) and 4(2)(b) and for clarification as to the respective roles of the Scottish Ministers and relevant authorities in relation to this power.

On 14 April 2015, the Scottish Government responded as follows:

1. I am writing in response to your note of 31 March 2015 which sets out the Delegated Powers and Law Reform Committee’s request for further information regarding sections 1 and 4 of the Carers (Scotland) Bill.

Section 1(3)

2. In relation to section 1(1)-(3), the Committee asked for “further justification as to the choice of the negative procedure for the exercise of the power in section 1(3)” and “why the affirmative procedure is not considered to be more appropriate for this power, having regard to the effect that its exercise may have on the applicability of the Bill to particular groups of carers”.

3. The power at section 1(3) and the regulations made under it are intended to give effect to the policy that kinship care agreements under The Looked After Children (Scotland) Regulations 2009 (S.S.I. 2009/210)\textsuperscript{iii} are not to be regarded as “contracts” under this Bill and to put beyond doubt that similar agreements that exist between foster carers and local authorities are to be regarded as contracts for the purposes of the Bill.

4. Section 1(3)(b) is also intended to make provision for those people who in policy terms we refer to as “mixed carers”. The terminology, “mixed carers” is not used in law. “Mixed carers” are carers who undertake both unpaid care for a family member and paid care as a personal assistant (being in receipt of a direct payment from the cared for person) for the same family member. Under the Self-directed Support (Direct Payments) (Scotland) Regulations 2014\textsuperscript{iv}, the local authority can agree to a supported person employing a close relative or family member where appropriate.

5. Implementation of the Social Care (Self-directed Support) (Scotland) Act 2013 (“the SDS Act”) is still in its early stages. It is anticipated that over time, as more local authorities introduce and use the provisions in the SDS Act to make direct payments,


\textsuperscript{iv} http://www.legislation.gov.uk/ssi/2014/25/part/3/made
the numbers of people in the “mixed carer” group might increase. It is also possible that further types of “mixed carer” will emerge. It is anticipated that the Scottish Government will therefore wish to make regulations setting a framework governing the treatment of new generic types of “mixed carers”, including specifying whether or not such types of “mixed carer” fall within the definition of “carer”. The regulations might also provide some flexibility for local authorities to exercise discretion in the determination of individual cases.

6. The negative procedure had been considered appropriate here as the power is intended to be used to further define how the principles already established in the Bill should operate, rather than to establish such principles. The main principle we have in mind is that the duties and powers in the Bill should be exercised by local authorities and other bodies as set out in the Bill in relation to carers who are “unpaid.” Moreover, the amendments envisaged in regulations were not considered to be sensitive. Indeed it was anticipated that local authorities would both need and welcome the additional clarity on the treatment of kinship and foster carers and “mixed carers” to be set out in the regulations, coupled with the flexibility to deal pragmatically with individual cases of “mixed carers”. This flexibility would, for example, enable carers who care for someone on an unpaid basis for some of the time and on a paid basis for the remainder of the time to benefit from, for example, training on moving and handling as set out in the adult carer support plan.

7. Despite the Scottish Government’s views about the appropriateness of the negative procedure, we have considered the Committee’s concern that the power in section 1(3) could considerably expand or restrict the reach of the Bill’s provisions depending on the manner in which it is exercised. It is certainly the case that “unpaid” caring is a challenging concept which could become more challenging in the future. In light of the Committee’s concerns, and our further consideration, the Scottish Government intends to bring forward a Stage 2 amendment to make the section 1(3) power subject to affirmative procedure.

Section 4

8. The Committee has asked:

- whether the drafting of the power in section 4(2) is considered to be sufficiently clear, on the basis that it appears to contemplate both the Scottish Ministers and relevant authorities determining which outcomes may be personal outcomes; and for

- “further explanation as to the relationship between sections 4(2)(a) and 4(2)(b) and for clarification as to the respective roles of the Scottish Ministers and relevant authorities in relation to the exercise of this power”.

9. The policy intention of section 4(1) is to provide as much scope as possible within the definition, for carers to determine their own personal outcomes and to be pragmatic and yet creative in doing so. This section makes the link in the Bill between the personal outcomes being set and the caring role. It might be the case however that in the light of experience over time, it becomes necessary to further refine this
definition. It is not the intention however of the Scottish Government to restrain carers’ ability to establish their own personal outcomes in agreement with the person preparing the adult carer support plan/young carer statement, but to provide further explanation as appropriate.

10. A further consideration is that those involved in preparing adult carer support plans or young carer statements may find it helpful, for example, for Scottish Government to specify in regulations that “personal outcomes” should be set with reference to a broader framework of outcomes.

11. There already exists both in legislation and in policy broader frameworks of outcomes. For example, the national health and wellbeing outcome 6, that “people who provide unpaid care are supported to look after their own health and wellbeing, including to reduce any negative impact of their caring role on their own health and well-being” is part of a suite of nine outcomes set out in The Public Bodies (Joint Working) (National Health and Wellbeing Outcomes) (Scotland) Regulations 2014. Outcome 6 is carer-specific but the other outcomes apply to carers as citizens or as users of health and social care. There are also high-level outcomes for carers set out in the Carers Strategy. Therefore, it might not be necessary to set further high-level outcomes or broader frameworks but the regulation-making power at section 4(2)(a) provides the option to do so, or to ensure that the personal outcomes are contextualised by reference to a broader framework.

12. Section 4(2)(b) is intended to help relevant authorities interpret what is meant by “personal outcomes” through regulations which specify the sort of outcomes that are envisaged. Consequently relevant authorities will be able to help carers to identify their “personal outcomes” more effectively. It is also envisaged that such regulations would protect the rights of carers by minimising any risk that “personal outcomes” could be so narrowly defined as to render support to the carer unnecessary.

13. Both the Scottish Government and relevant authorities are therefore intended to have a role in relation to determining “personal outcomes”. The Scottish Government’s primary role is in specifying the regulatory framework within which personal outcomes should be set and the role of relevant authorities is in interpreting those regulations and working with an individual carer to help identify the carer’s personal outcomes for articulation in the adult carer support plan or young carer statement.

14. I hope this is helpful to the Committee.

http://www.legislation.gov.uk/sdsi/2014/9780111024522

http://www.gov.scot/Publications/2010/07/23153304/0
Carers (Scotland) Bill: The Committee agreed its approach to the delegated powers provisions in this Bill at Stage 1.
The Convener: The purpose of agenda item 2 is for the committee to consider the delegated powers in the Carers (Scotland) Bill at stage 1. The committee is invited to agree the questions that it wishes to raise with the Scottish Government on the delegated powers in the bill. It is suggested that those questions be raised in written correspondence. The committee will have the opportunity to consider the responses at a future meeting before the draft report is considered.

Section 1(1) 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 in which care is or would be provided “under or by virtue of a contract, or ... as voluntary work.” When care is provided in those circumstances, the bill does not apply.

Section 1(3) provides that the Scottish ministers may make regulations that provide that “contract” does or does not include “agreements of a kind specified in the regulations.” The regulations may permit a relevant authority to disregard section 1(2)(b) “where the authority considers that the relationship between the carer and the cared-for person is such that it would be appropriate to do so.”

The power in section 1(3) appears to be significant, as it permits the Scottish ministers to make regulations that could considerably expand or restrict the reach of the bill’s provisions, depending on the manner in which it is exercised.

Does the committee therefore agree to ask the Scottish Government for further justification of the choice of the negative procedure for the exercise of the power in section 1(3) and for an explanation of why the affirmative procedure is not considered to be more appropriate for that power, given the effect that its exercise might have on the applicability of the bill to particular groups of carers?

Members indicated agreement.

The Convener: Section 4 concerns the meaning of the term “personal outcomes”. Section 4(1) provides that “personal outcomes” means “outcomes which would, if achieved, enable carers to provide or continue to provide care for cared-for persons.”

Section 4(2) provides that the Scottish ministers “may by regulations make further provision about personal outcomes, including provision about ... which outcomes...
May be personal outcomes ... and the matters to which a relevant authority is to have regard in considering which outcomes may be personal outcomes."

Does the committee agree to ask the Scottish Government whether the drafting of the power in section 4(2) is considered to be sufficiently clear, on the basis that it appears to contemplate both the Scottish ministers and relevant authorities determining which outcomes may be personal outcomes; to explain further the relationship between sections 4(2)(a) and 4(2)(b); and to provide clarification of the respective roles of the Scottish ministers and relevant authorities in relation to the power?

Members indicated agreement.

John Scott (Ayr) (Con): I think that it is very important that not just Government and local authorities but individuals have a right to determine what are personal outcomes, rather than have it imposed on them that something will or will not be a reasonable personal outcome. A good opportunity ought to be provided for the individual to have tailor-made personal outcomes, and I hope that that is part of the legislation.

The Convener: I have no doubt that the Government will want to make sure that that is part of the process. What we are looking for is clarity on where that would be specified.

The committee may wish to welcome the level of detail and the number of examples that are provided in the delegated powers memorandum that accompanies the bill. The inclusion of such information in delegated powers memoranda is extremely helpful to the committee.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I found the structure that is consistently used in the DPM to be particularly helpful. In each case, it describes the provision, gives the reason for taking the power and then has a section entitled “Choice of procedure”. I thought that that was a good way of structuring the discussion. I do not recall having seen that structure used in other DPMs, and I encourage the author of the memorandum to share it with their colleagues.

The Convener: The committee and its advisers would probably endorse that. Thank you for that comment.

That completes agenda item 2.

11:35

Meeting continued in private until 11:36.
Finance Committee

Report on the Carers (Scotland) Bill’s Financial Memorandum
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Finance Committee

1. The remit of the Finance Committee is to consider and report on-
   a. any report or other document laid before the Parliament by members of the Scottish Government containing proposals for, or budgets of, public expenditure or proposals for the making of a tax-varying resolution, taking into account any report or recommendations concerning such documents made to them by any other committee with power to consider such documents or any part of them;
   b. any report made by a committee setting out proposals concerning public expenditure;
   c. Budget Bills; and
   d. any other matter relating to or affecting the expenditure of the Scottish Administration or other expenditure payable out of the Scottish Consolidated Fund.

2. The Committee may also consider and, where it sees fit, report to the Parliament on the timetable for the Stages of Budget Bills and on the handling of financial business.

3. In these Rules, “public expenditure” means expenditure of the Scottish Administration, other expenditure payable out of the Scottish Consolidated Fund and any other expenditure met out of taxes, charges and other public revenue.

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### Committee Membership

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<th>Deputy Convener</th>
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<td>John Mason</td>
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<td>Richard Baker</td>
<td>Gavin Brown</td>
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<td>Scottish Conservative and Unionist Party</td>
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**Finance Committee**

Report on the Carers (Scotland) Bill's Financial Memorandum, 2015 (Session 4)
Introduction

1. The Carers (Scotland) Bill (“the Bill”) was introduced by Shona Robison MSP, Cabinet Secretary for Health, Wellbeing and Sport, on 9 March 2015. The Committee issued a call for evidence on the Financial Memorandum (FM) for the Bill to which it received 18 responses.

2. At its meeting on 13 May 2015, the Committee took evidence on the FM from the Scottish Government Bill team. Following that evidence, the 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 to the Committee on 3 June 2015. The Committee’s letter and the clarification received from the Minister are attached as annexe A to this report.

The Financial Memorandum

3. The Policy Memorandum (PM) sets out the Scottish Government’s intentions that carers “should 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.” The intention is similar in relation to young carers “but that young carers should have a childhood similar to their non-carer peers.” The PM states that the “objective of the Bill is to make real this ambition by furthering the rights of both adult and young carers.”

4. The duties and provisions of the Bill that are addressed in the FM are—
   - duties to prepare and review the adult carer support plan (ACSP) for adult carers
   - duties to prepare and review the young carer statement (YCS) for young carers
   - duties to establish and maintain an information and advice service for all carers and young carers in the local authority area
   - duties to provide support to both adult and young carers where needs fall within local eligibility criteria and powers to provide support where needs do not fall within local eligibility criteria
   - duties to prepare a local carer strategy
   - waiving of charges for support to carers
   - training and development of the statutory health and social care, third sector and education workforce and awareness-raising with carers and young carers
   - the implications flowing from the regulations and guidance underpinning the Bill

5. The FM provides the Government’s best estimates but also states that—
“It is recognised, however, that it is challenging to predict the demand profile with complete accuracy. The Scottish Government is, therefore, very willing to work in partnership with COSLA if any new information comes to light about the cost estimates. The Scottish Government would be prepared to consider any such information.”

6. The total costs of the Bill, as set out in the FM are—

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<td></td>
<td></td>
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<td>support plan</td>
<td>0.74 (min)</td>
<td>1.82 (max)</td>
<td>2.35 (min)</td>
<td>5.75 (max)</td>
<td>3.42 (min)</td>
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<td>statement</td>
<td>0.13 (min)</td>
<td>0.21 (max)</td>
<td>0.27 (min)</td>
<td>0.43 (max)</td>
<td>0.50 (min)</td>
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<td><strong>Information</strong></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>and advice service</td>
<td>3.30</td>
<td>3.04</td>
<td>3.04</td>
<td>3.04</td>
<td>3.04</td>
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<td><strong>Duty to support</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>adult carers</td>
<td>3.721</td>
<td>9.935</td>
<td>17.079</td>
<td>24.808(^1)</td>
<td>51.218</td>
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<tr>
<td><strong>Duty to support</strong></td>
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<td></td>
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<td>young carers</td>
<td>0.732</td>
<td>1.465</td>
<td>2.930</td>
<td>4.395</td>
<td>6.493</td>
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<td>short breaks</td>
<td>2.36 (recurring)</td>
<td>2.36</td>
<td>2.36</td>
<td>2.36</td>
<td>2.36</td>
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<tr>
<td>component</td>
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<td><strong>Local carer</strong></td>
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<td>strategies</td>
<td>0.32</td>
<td>0</td>
<td>0</td>
<td>0.16</td>
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<td><strong>TOTAL</strong></td>
<td>11.303 (min)</td>
<td>19.415 (min)</td>
<td>29.329 (min)</td>
<td>42.143 (min)</td>
<td>71.791 (min)</td>
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</table>

\(^1\) Written evidence from Social Work Scotland suggested that this figure was incorrect. The Bill team confirmed in oral evidence that the figure in the FM is incorrect and should actually be £36.288.
Adult Carer Support Plans (ACSPs) and Young Carer Statements (YCSs)

Adult Carer Support Plan

7. Under the Bill local authorities would be required to prepare an ACSP with individual adult carers. This would “replace the current carer’s assessment which is available to carers of any age…who undertake a substantial amount of care on a regular basis.”

8. Paragraphs 38-54 of the FM set out detail about the methodologies used in calculating the levels of uptake, and therefore costs of providing, ACSPs. The estimate reached “is that over time 34% of adult carers will be the highest percentage of carers who will have an ACSP.” This estimate is “based on a number of factors relating to the evidence”. Details of what has been factored in are set out in paragraph 56 of the FM and include information gathered from the Scottish Health and Care Experience Survey and the 2012 and 2013 Scottish Health Surveys.

9. A range of costs is provided based on three separate unit costs for providing an ACSP. The highest point in this range is £176.

10. Based on the unit costs the total costs for ACSPs estimated are:—

<table>
<thead>
<tr>
<th>Year</th>
<th>% carers receiving ACSP</th>
<th>ACSPs per annum</th>
<th>Additional ACSPs per annum</th>
<th>Unit cost of £72 (£m)</th>
<th>Unit cost of £110 (£m)</th>
<th>Unit cost of £176 (£m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017-18</td>
<td>3</td>
<td>22,350</td>
<td>10,350</td>
<td>0.745</td>
<td>1.138</td>
<td>1.821</td>
</tr>
<tr>
<td>2018-19</td>
<td>6</td>
<td>44,700</td>
<td>32,700</td>
<td>2.354</td>
<td>3.597</td>
<td>5.755</td>
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<tr>
<td>2019-20</td>
<td>8</td>
<td>59,600</td>
<td>47,600</td>
<td>3.427</td>
<td>5.236</td>
<td>8.377</td>
</tr>
<tr>
<td>2020-21</td>
<td>14</td>
<td>104,300</td>
<td>92,300</td>
<td>6.645</td>
<td>10.153</td>
<td>16.244</td>
</tr>
<tr>
<td>2021-22(recurring)</td>
<td>16</td>
<td>119,200</td>
<td>107,200</td>
<td>7.718</td>
<td>11.792</td>
<td>18.867</td>
</tr>
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</table>

11. By comparison, current recurring costs for providing 12,000 carers assessments per year at each unit cost would be £0.86 million, £1.32 million and £2.1 million.

12. The submissions received by the Committee contained a number of comments about the estimates provided in the FM in relation to the provision of ACSPs. Comments addressed both the anticipated level of uptake and the estimated unit costs.

13. COSLA’s submission set out three “areas of concern” in relation to ACSPs – the unit cost of assessment, the speed at which carers will come forward for assessment and the total number of carers that will come forward for assessment.
14. In relation to unit costs, COSLA observed that the FM “makes no clear recommendation” about which of the three unit cost estimates provided is thought to be most accurate and states that it—

“has concerns about the representation of these unit costs as alternative options as these could lead to a presumption that the lower unit costs are realistic. Given that the FM itself describes the £176 as the average unit cost, it is COSLA’s view that, in presenting a range of unit costs in the FM with £176 at the top of the range, this is misleading.”

15. Glasgow City Council stated that it “estimated that a carer assessment in Glasgow costs around £280” and for young carers “submitted an estimated unit cost of £394.” These figures contrast with the FM estimates of unit cost ranges of £72-£176 for ACSPs and £106-£167 for YCSs.

16. SWS also commented on the unit costs in the FM stating that—

“…the selection of the lowest and highest options is biased. Footnote 32 explains that the questionnaire survey of Scottish local authorities yielded unit costs for 14 LAs of between £72 and £342 per carer assessment, after excluding the highest and lowest unit costs. The average unit cost was £176…This would normally generate low, medium and high estimates of £72, £176 and £342. Instead the FM takes the average of £176 as the high end estimate.”

17. On the speed at which carers come forward, COSLA noted the “low and slow” uptake that is anticipated in the FM which estimates moving from 3% of adult carers with an ACSP in 2017-18 to 34% in 2012-22. COSLA states that “there is no evidence presented to support the year-on-year increases profiled in Table 1 regarding the speed at which carers will come forward for assessment.”

18. COSLA went on to state that—

“Whilst councils have indicated that further consultation is needed locally to estimate the likely patterns of demand, the broad view from councils is that the duty to provide an ACSP, along with the removal of the ‘regular and substantial test’, will lead to an increase in uptake well above the estimates provided in the FM.”

19. Comparing these estimates to previous experience of the uptake of entitlements, COSLA commented that for “Free Personal Care, for instance, growth was closed to 30% of the eligible population over the first 3 years of the new policy coming into place, compared with 16% over 5 years for take up of ACSPs estimated in the FM.”

20. The assumptions about the build up of demand were also questioned by SWS which considered that a faster build up of demand is likely because—
“(1) The Scottish Government wishes to ensure that all carers who request an assessment will get one – that is bound to increase demand for assessments significantly.

(2) Previous social care legislation known to increase demand did so more quickly. Published Free Personal Care statistics from implementation in July 2002 to 2013 show three distinct periods: (a) early take-up period of just over 3 years from July 2002 to September 2005; (b) a period of lower growth up to the end of 2010 (with demography a key driver); and (c) a flatter period of growth from 2011 in response to increasing austerity and resource constraint.

(3) The UK Government has implemented very similar legislative changes for England within the Social Care Act 2014: their analysis of new demand for carer’s assessments assumes only two years of build-up before saturation in year three.”

21. In relation to the assumption of assessment levels, both for ACSPs and YCSs, SWS stated that—

“While there are many statistics quoted in the Finance Memorandum from different carer surveys and research, none of this evidence leads to these particular estimates, or to the “steady state” cumulative estimates of 34% of the total number of adult carers ever having had an ACSp, and 64% of young carers ever having had a YCS. It would be helpful if the FM had achieved greater transparency about the basis for the estimates: clearly many are matters of judgement.”

22. North Ayrshire Council stated that it had “estimated that 1,430 carers within North Ayrshire will require an ACSP” and went on to say that it “would expect that through the annual review of the service user, the ACSP will be completed for each carer” and that this is estimated at “53% in the first year not as stated in the bill “when carers come forward”, this wording suggests that it is only on requests and contradicts the duty to prepare an adult care and support plan.”

23. Argyll and Bute Council believed “that there has been a significant underestimate of the increase in demand which will emanate from the introduction of adult carer support plans” and goes on to caution that the “potential worst case scenario is arriving at a position where the role of local authorities in targeting limited resources to those of greatest need is displaced by a demand driven by a formal assessment of all carers irrespective of need.”

24. Asked about the level of uptake, the Minister accepted—

“There was also a suggestion that the provision should be compared to free personal care, but that is not a fair or direct comparison. It is reasonable to expect that the take-up of free personal care is higher than the take-up of the new rights in this bill, certainly initially. That is primarily because those
entitled to free personal care already receive local authority services—in many cases, in a care home. That makes it much easier to raise awareness of the new rights, and it means that the cohort of people who are targeted by the provisions are already in contact with the state.”

25. The National Carers Organisations (NCOs) noted that “the costing for the duty in relation to the provision of Adult Carer Support Plans appears to be based on the model of a one-off intervention” but that “an outcome based support plan is a process, rather than a single event.”

26. The FM states—

“The largest cost element in assessments and reviews is the pay of the professionally qualified, and other, staff who carry them out. The biggest contribution to reducing the costs of the ACSP might come from considering changes to the mix of staff grades and skills.”

27. In relation to this point, the NCOs stated that—

“...it is important that all staff who carry out this task have the correct skills to do so and are experienced in working directly with carers. This does not mean that staff at lower grades are necessarily less skilled at working with carers, but that additional training and learning may be required and will have associated costs.”

28. The submission went on to suggest that, for the third sector, resourcing “will be required if the local authority wants a carers centre or other third sector organisation to carry out the ACSP on their behalf” and that it would therefore “be useful to explore the costs of completing a carers’ assessment for the third sector in the same way as the costs have been estimated for completion by the local authority, especially as the Financial Memorandum states that contracting the third sector may lead to cost savings.”

29. The Committee sought clarification from the Bill team about how the unit cost for an ACSP had been estimated. The Bill team explained that—

“It is difficult to look across the piece, and we have done our best with the information that has been presented. Concern was expressed that we had not taken account of the figures over £300, but the fact is that only two of the returns were at that level. Although the median unit cost in England is
To consider whether the unit cost should be increased towards £176 to take account of rurality and other issues, but that issue would be explored by the finance group…"¹⁰

30. The Committee also sought clarification of whether the estimated unit cost had taken into account the number of assessments carried out in each local authority or whether an average figure for each local authority had been taken and the calculation made on that basis. The Bill team responded that—

“For each questionnaire return that we received, the unit cost itself was not presented. What was presented was the number of assessments carried out in a year and the cost of carrying out those assessments. We then calculated the average unit cost for each authority, based on that. It was an arithmetical calculation. To that extent, the number of assessments carried out in each local authority area was taken into account.”¹¹

31. Asked about the concern expressed by SWS that the average unit cost of £176 was set out as the highest unit cost estimate in the FM, the Bill team stated that—

“It was a minority of local authorities that gave unit costs of more than £176. The reason why the unit cost for the adult carer support plan was set out in that way was to give the Finance Committee an indication that assessments can be carried out in different ways. I mentioned telephone assessments and so on. The lowest figure, which is £72, was not originally the lowest. We took out of the equation the lowest and the highest figures, because they were at the extremities.

The £176 figure is presented as the average across a good number of local authorities. There are ones at the higher end, so I understand Social Work Scotland saying, ‘You haven’t presented the higher ones.’ That is the case, but there would appear to be a good reason for that, especially given what we know about the costs of assessment down south. However, it is something that will be looked at and considered further.”¹²

32. Asked to comment on the selection of the high-end figure of £176 as the estimated unit cost for an ACSP, the Minister stated—

“There is no attempt to present the costs in a biased form or to present them in any way other than the clearest possible fashion.

I think that I am right in recollecting that we conceded that there are some other average costs that we did not include in our consideration because they seemed to us to be outliers. It was not only the higher figures that we did not include when we came to our estimate; we also discounted some of the lower estimates. If we had included one group of figures rather than the other, we could have been open to accusations of bias.”
33. Expanding on this, the Minister said “I note that I have met the COSLA spokesperson for health and wellbeing, and I made the offer...that, if COSLA has alternative estimates and an alternative methodology, we are very willing to see them.”

34. Commenting on the challenge of estimating both the unit costs and demand for the ACSP and other part of the Bill, the Minister stated—

“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 the Convention of Scottish Local Authorities 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.”

35. The Committee regrets that the finance-led group referred to by the Minister was not established prior to the introduction of the Bill and considers that, if it had been, the findings of the group may have led to fewer concerns among stakeholders about the way in which the estimated unit costs and uptake of assessment set out in the FM have been calculated. The Committee also considers that clarity should be provided about the establishment, membership and deadlines for the work of the group. The lead committee may wish to seek this information from the Minister.

36. The lead committee may also wish to seek confirmation from the Minister as to whether COSLA has responded to the offer he made to them.

Young Carer Statement

37. The current assessment landscape for young carers differs from that for adult carers with a number of different assessment types which “include the child’s plan, children’s plan, integrated comprehensive assessment and third sector assessment.”

38. The FM states that there “are challenges in estimating the average until cost of a carer’s assessment (or other assessment) for young carers.” The FM goes on to note that in reaching unit cost estimates, the higher costs provided by local authorities have not been taken into account “as they encompass comprehensive integrated assessments which will be more costly than a YCS...because the comprehensive integrated assessment tends to address all the needs of a child and the capacity of his or her parents to respond appropriately to these needs within the wider family and community context.” By comparison the YCS “addresses the caring situation only on a personal outcomes basis.”
39. The YCS would be available to all young carers. The FM assumes that over time about 60 per cent of 37,500 young carers might want the YCS. The 37,500 estimate is based on a total of 44,000 young carers across Scotland less 3,500 supported in dedicated young carers’ services and an estimated 3,000 young carers receiving a good service from mainstream services such as schools and youth clubs.

40. As with the ACSP, costs for the YCS are based on a range of three unit costs—

<table>
<thead>
<tr>
<th>Year</th>
<th>% Carers Receiving YCS</th>
<th>YCSs per Annum</th>
<th>Additional YCSs per Annum</th>
<th>Unit Cost of £106 (£m)</th>
<th>Unit Cost of £125 (£m)</th>
<th>Unit Cost of £167 (£m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017-18</td>
<td>12</td>
<td>5,280</td>
<td>1,280</td>
<td>0.135</td>
<td>0.160</td>
<td>0.213</td>
</tr>
<tr>
<td>2018-19</td>
<td>15</td>
<td>6,600</td>
<td>2,600</td>
<td>0.275</td>
<td>0.325</td>
<td>0.434</td>
</tr>
<tr>
<td>2019-20</td>
<td>20</td>
<td>8,800</td>
<td>4,800</td>
<td>0.508</td>
<td>0.600</td>
<td>0.801</td>
</tr>
<tr>
<td>2020-21</td>
<td>25</td>
<td>11,000</td>
<td>7,000</td>
<td>0.742</td>
<td>0.875</td>
<td>1.169</td>
</tr>
<tr>
<td>2021-22 (recurring)</td>
<td>30</td>
<td>13,200</td>
<td>9,200</td>
<td>0.975</td>
<td>1.115</td>
<td>1.536</td>
</tr>
</tbody>
</table>

41. By comparison, current recurring costs for providing 4,000 assessments for young carers per year at each unit cost would be £0.424 million, £0.500 million and £0.668 million.

42. The build up to 60 per cent of young carers with a YCS over a five year period is set out in a table on page 43 of the FM.

43. SWS commented on the range of units costs estimated for this part of the Bill, noting that the “lowest cost of £106 appears to be based on one return, while the £125 middle cost is an “average across five LAs with a unit cost of less than £200”, and the higher cost of £167 is an “average across seven LAs with a unit cost of less than £300”.”

44. SWS went on to state—

“The exclusion of all assessment unit costs above £300 may or may not be valid; if it is, then we can take a weighted average of the three unit costs in terms of the number of LA questionnaire returns behind each figure: that suggests an average of £146 across the 13 LAs. Quite why the assessment cost should be lower for young carers is not clear, and there may be an argument for using a common unit cost for young carers and adults.”

45. In relation to young carers of pre-school age, the health board would be the authority responsible for preparation of the YCS, although approval of the YCS would rest with the local authority where the young carer lives. The estimated number of pre-school age young carers is 200. The costs of this work for health boards is estimated “to be around £1,800 in 2017-18, £2,250 in 2018-19, £3,000
in 2019-20, £3,750 in 2021-22 and £4,500 in 2021-22 on a recurring basis. (This is a maximum 120 YCS in 2021-22 and on a recurring basis from 2021-22 @ £125 unit cost assuming that a proportion of young carers in pre-school will not have a YCS.)"15

46. The lead committee may wish to note that the issues around estimating the unit cost of a YCS are the same as those outlined above in relation to the ACSP and may therefore wish to raise the issues about estimating both types of assessment with the Minister.

Duty to support carers

47. Clarification was also sought of the assumptions underpinning the estimated unit costs for support to carers. The response to this is provided in Annexe D of the letter from the Minister.

48. Under the Bill, local authorities will have a duty to support carers with eligible needs and will be required, in particular, to consider whether that support should include or take the form of a break from caring. The FM states that the "eligibility criteria will be locally determined but overlaid by matters set out in regulations which the local authority must have regard to" and that these matters "will include the desirability of providing support to meet carers’ needs at a stage where doing so is likely to prevent those needs from escalating."16

49. Paragraphs 72-76 of the FM discuss the number of carers who will need targeted or bespoke care under this duty. This discussion includes consideration of the percentage of carers who currently feel supported to carry on caring, the number of carers who would benefit from access to information and advice services and access to community based services through local carers centres.

50. The estimates assumed in the FM are that 21 per cent of adult carers and 40 per cent of young carers would be eligible “for targeted or bespoke support which does not include the support or services which are provided to members of the public or adult carers generally, or are being met through services provided to the cared-for person.”17

51. The FM assumes an average spend on carer-specific support to be £1,000 per carer over a period of 2-3 years but that this would “vary according to the individual circumstances of carers.”18 The FM goes on to state that it is “challenging to estimate how quickly an increase in ACSPs and YCSs and provision of support might occur” and that this will “largely depend on the time it takes local authorities and the third sector to recruit additional staff to prepare the ACSP and YCS.”19
52. Based on a spend of £1,000 over three years equating to a unit cost of £333 per year. In evidence to the Committee, the Bill team explained that “the Government has based the £333 figure... on fairly recent published research from the Carers Trust.” The table below sets out the estimated costs provided in the FM (with the ACSP costs 2020-21 corrected) for providing support to carers—

<table>
<thead>
<tr>
<th></th>
<th>Estimated numbers receiving support and % of carer population</th>
<th>% of ACSP holders</th>
<th>Costs to support adult carers @ £333 unit cost (£m)</th>
<th>Estimated numbers receiving support and % of young carer population</th>
<th>% of YCS holders</th>
<th>Costs to support young carers @ £333 unit cost (£m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017-18</td>
<td>11,175 (2%)</td>
<td>50</td>
<td>3.721</td>
<td>2,200 (5%)</td>
<td>42</td>
<td>0.732</td>
</tr>
<tr>
<td>2018-19</td>
<td>29,837 (4%)</td>
<td>50</td>
<td>9.935</td>
<td>4,400 (10%)</td>
<td>45</td>
<td>1.465</td>
</tr>
<tr>
<td>2019-20</td>
<td>51,288 (7%)</td>
<td>50</td>
<td>17.079</td>
<td>8,800 (20%)</td>
<td>57</td>
<td>2.930</td>
</tr>
<tr>
<td>2020-21</td>
<td>108,973 (15%)</td>
<td>60</td>
<td>36.288</td>
<td>13,200 (30%)</td>
<td>61</td>
<td>4.395</td>
</tr>
<tr>
<td>2021-22 (recurring)</td>
<td>153,811 (21%)</td>
<td>60</td>
<td>51.218</td>
<td>19,500 (40%)</td>
<td>69</td>
<td>6.493</td>
</tr>
</tbody>
</table>

53. While the estimates in the table cover support including short breaks, the FM states that there is a need to build in a further estimate. The FM states that this is “due to the Bill’s provisions and also because short breaks are required by some carers.” Based on information from Scottish Health Surveys and the Scottish Health and Care and Experience Survey, the FM uses information about those carers who reported neutral or negative views that they had a good balance between caring and other things in their life as a proxy for carers requiring short breaks. The estimate of this is £11.8 million by 2021-22 or £2.36 million per year, which is reflected in the table at paragraph 10 above.

54. Paragraph 83 of the FM states that the “Bill has a power for local authorities to support carers who do not meet the eligibility for support” and that the “resources for implementation of the power can be found from within the resources that the Scottish Government is making available to local authorities for the Bill’s provisions.”

55. The NCOs were “unsure how the estimate of need has been calculated” and “are concerned that this is likely to be an underestimate of demand, both of the number of carers requiring support and also of the cost of providing adequate support.” The submission also commented that that unit cost estimate of £333 is “drawn from research which does not include the cost of providing a short break to the carer.” According to the submission, the estimate “is based on the average cost of providing support through a local carer support organisation, for services such as information and advice, peer support and carer training and does not include the cost of providing short break services.”
56. COSLA commented in similar terms stating that “little in the way of justification is given in the FM for the estimate of 21% of adult carers and 40% of young carers being eligible for targeted or bespoke support.” COSLA went on to state that it is also “unclear from the FM whether 40% and 21% are the percentages of those carers who come forward for assessment or of the total carer population.”

57. The unit cost of £333 per year was also commented on by COSLA—

   “…should only be viewed as a component used to arrive at an overall costing. This cannot be seen as an actual entitlement as the actual cost will vary depending on the nature of support provided, which is entirely driven by the eligibility criteria determined locally.”

58. COSLA also stated—

   “…there is a tension between the two duties insofar as the Bill will establish a universal entitlement to assessment through the provision of ACSPs, whilst at the same time councils will need to manage demand for direct support to carers in light of the funding available for this. Within the context of a finite resource being made available under the Carers Bill, there is the concern therefore that resources which could have been available for direct support are instead required to be diverted to assessment.”

59. The NCOs pointed to data showing “an overall decrease in provision [of respite care] over the last 12 months of almost 2,000 weeks despite continued additional government funding to local authorities to sustain levels of respite care.” They “believe strongly that future funding to support carers, including short breaks, has to be provided within a robust monitoring and evaluation framework to ensure funding is being used for purposes intended. In the absence of ring-fencing we believe there must be clear, measurable success indicators in place so that progress can be reliably tracked and corrective action taken if necessary.”

60. Shared Care Scotland submitted a response which also highlights a question about the funding of carer short breaks in which it contends that if “sufficient funding is not attached to the Bill, particularly to cover the costs of implementing the Duty to Support, then local authorities will adjust their eligibility criteria thresholds ‘upwards’ to reduce the number of carers falling within the scope.”

61. Paragraphs 10-12 of the Shared Care Scotland submission set out their calculations of the potential cost of supporting carer short breaks. It concluded that this would produce a cost of £47.3 million annually recurring and comments that—

   “However, the total amount identified in 2017-18 to cover all costs associated with the Duty to Support only amounts to £6.8m. This eventually rises to £60m by 2021-22. The position therefore appears to be that the estimated levels of eligible need, which exists now, will not be met until at least 2021-22. We believe this needs explanation.”
62. Both Shared Care Scotland and the NCOs commented that the FM does not include any costs for replacement care that might be needed by the carer-for person in the period in which the carer is taking a short break.

63. SWS considered that the “cost of meeting this new duty is likely to be far larger than anticipated in the FM” noting that the—

“The FM assumes that the proportion of carers assessed who are also eligible for support will be 60% for adults who have had an assessment and 69% for young carers by 2012-22 (para 79). The numbers who have had an assessment are cumulative, but are adjusted for people ceasing their caring role – estimated at 13% per year for adults and 20% for young carers – and also for “renewals”: people already assessed whose ASP or YCS is revised (re-assessed), also assumed at 20% for both adults and young carers. This brief description shows the complexity of the calculations, which are highly sensitive to the various assumptions.”

64. SWS went on to comment that—

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

65. In the FM calculations for the cost of support to adult carers in 2020-21, SWS identified “what seems to be an error” where the figure in the FM should be £36.288 million but is given in the published FM as £24.808 million. The Bill team confirmed that this is an error and that they will take the new figure into account.

66. The Committee explored the number of carers receiving support estimated in the FM, as set out in the table at paragraph 52 of this report. The comparison the Committee sought to explore was the estimate of 2% of the carer population receiving support from 2017-18 against the 4% of carers indicated as currently received short breaks or respite care in the 2012 and 2013 Scottish Health Surveys, as referred to in paragraph 81 of the FM. In a follow-up letter to the Committee (Annexe B to this report), the Minister explained—

“The 4% of carers in the Scottish Health Survey who say they receive short breaks/respite and the estimated 2% of carers who will receive carer-specific support are not directly comparable. The 4% in the Scottish Health Survey includes carers who are supported directly by breaks provided by the third and independent sectors, including through the voluntary sector short breaks fund, as well as by health and social care public sector providers and indirectly by provision put in place for the cared-for person
from which the carer benefits. In contrast, the figure of 2% relates to carers supported solely by local authorities, or by local authority commissioned services, since the duty to provide support in the Bill falls on local authorities. The 2% is also for direct support only and not for indirect support via the cared-for person and excludes those carers who will be supported by the information and advice services and by general services in the community.”

67. The number of carers currently receiving support was not provided.

68. Paragraphs 88-98 of the FM set out background to the options that local authorities currently have to waive charges for services provided in relation to support for carers, including challenges being faced by local authorities in implementing the regulations, the main challenge being identified as “the categorisation of replacement care provided to a cared-for person at the point when a carer takes a break.”

69. The FM states the Scottish Government is working with COSLA to resolve the difficulties and that resolution “would be expected to result in a favourable position regarding breaks from caring” but that it is “not possible to set out in this Financial Memorandum the position that the Scottish Government and COSLA are working towards as the position has not been finalised and would be subject to further discussion with key interests.”

70. The FM goes on to state that—

“"In moving forward on what is a challenging issue for local authorities, with repercussions for carers, any cost implications of changes to the waiving of charges regulations would be considered by the Scottish Government."

71. In concluding on this section, the FM states that—

“"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. If there are cost implications to the Scottish Government arising from the regulations, the Scottish Government would present these in a revised Financial Memorandum.""

72. The NCOs explained that the “current regulations prevent carers being charged for support they receive in their own right, which is identified in a Carers Assessment.” The NCOs “welcome this statement of expectation that regulations will accompany the Bill to waive charges for carers” but express concern about the expectation that those regulations would be different from the current regulations. They state that—

“"It is difficult for us to comment on the financial memorandum in respect to this without sight of the proposed regulations and accompanying financial
memorandum. However, once the Scottish Government and CoSLA discussions are complete and these are forthcoming (along with accompanying financial information), the NCOs will make a full response.”

73. SWS noted that the current regulations on waiving charges went through “without any additional Scottish Government funding to councils to implement.’ In relation the statements in the FM regarding the “challenges” of implementing the current regulations, SWS notes the FM suggests—

“…that this is due to practical ambiguities as to whether care is provided to benefit the carer (not chargeable), or to benefit the cared-for person (chargeable, unless free personal care for older people), or to benefit both. However, in our view, the fact that there was no implementation funding is at the very least an equal ingredient in the “challenging” mix.”

74. Argyll and Bute Council commented that the waiving of charges—

“is a core matter that requires resolution and associated full acknowledgement of the financial loss to local authorities. There is a case for a means tested approach to charging as with many areas of social care services and delegated decision making for charging that reflects the additional costs in rural and island locations.”

75. In its response to the COSLA questionnaire on this issue, Inverclyde Council commented that—

“The waiving of costs and charges has a direct negative impact on current budgets and would lead to tightening of eligibility criteria reduced provision which is counter intuitive to the principals driving the Carers Bill. Further funding is required to offset this and to increase the provision and availability of short breaks and respite.”

76. The issue of waiving charges and the potential cost implications of this was one of the main issues explored in taking evidence from the Bill team. The Bill team explained the background to the waiving of charges—

“The previous Minister for Public Health gave a commitment when the Social Care (Self-directed Support) (Scotland) Bill was going through Parliament. That bill—now the Social Care (Self-directed Support) (Scotland) Act 2013—contains a power to support carers, and the minister gave a commitment that, if the power is used, charges will be waived for the support that the carer receives, because carers are providers of services and should not be charged for the services that they provide.

The Scottish Government developed regulations and guidance around that waiving of charges, and it was stated that, if local authorities use that power under section 3 of the 2013 act, after going through the carer’s assessment and so on, the charges will be waived...
Referring to support under section 3 of the 2013 act, the issue and the challenge that have arisen are around replacement care. COSLA and some local authorities have told us that it is unfortunately not possible to say whether replacement care benefits the carer or the cared-for person. If it benefits the carer, the charges would be waived. If it benefits the cared-for person, normal charging would apply. Charging would be waived where it supports the carer.\(^{24}\)

77. The FM estimate of £333 for the unit cost of providing support to carers does not include costs for the provision of respite care. Asked about the comparison between the FM estimate and the figure of £967, given in COSLA’s submission as the average cost per year for carers requiring short breaks/respite, the Bill team stated—

“If we were to include a similar figure for respite care in Scotland, it would be a figure of more than £600 rather than a figure of £900 because that is the national care contract figure for residential care, so that would be the figure. We have not included such figures for respite care or replacement care because the Scottish Government, along with COSLA and others, is considering waiving charges, which I can speak about later, and that will have an impact.\(^{25}\)”

78. The Bill team went on to explain that—

“The £609 figure that has been quoted is the per-person cost of respite care in a care home. That would be for a cared-for older person going into a care home so that the carer gets a short respite... However, the figure down south of £900 is not directly comparable to the figure here.\(^{26}\)”

79. The Committee sought to clarify the impact on the overall costs of the Bill if the waiving of charges is not resolved. The Bill team stated that the “type of support to carers will vary and that “it would not be appropriate to say that, in all cases, the unit cost will be over £600.” Expanding on this point in relation to short breaks, the Bill team said—

“There can be a variety of short breaks, including some that are not traditional. Although some traditional forms of respite are very much relevant, we can try to get in an element of innovation regarding the type of holiday break. Even purchasing a greenhouse is quoted as providing a break for some people, and although that is not seen as traditional respite, we know from feedback that there are carers who would say that with that sort of facility they can do what they want and get time out from caring. That is what they want. Respite does not have to mean that the cared-for person is in a care home.\(^{27}\)”

80. Asked whether the cost of replacement care could be the major cost of the Bill, the Bill team stated—
“The cost of replacement care could be in the region of £30 million across Scotland—that is at present prices. 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.”

81. When clarification was sought from the Bill team as to why this figure was not provided in the FM, the Bill team responded—

“The figure was worked out fairly recently, after the financial memorandum was submitted. We did not mean not to be straightforward about it. Also, the waiving of charges issue is still outstanding. I think that it is fair to say that a further financial memorandum should be presented, but it probably would not have been appropriate to present a figure of £30 million, had it been known, because some replacement care could certainly be of prime benefit to the cared-for person rather than the carer.”

82. In taking oral evidence from the Minister, the Committee sought further clarification about the £30 million figure mentioned by the Bill team. The Minister stated that the figure—

“…encompasses a whole range of expenditure. Indeed, some of that expenditure is happening at this very moment. The £30 million is therefore a fairly broad-brush figure and is, perhaps, a starting point for us to analyse how we take forward the waiving of charges.”

83. The Committee asked the Minister to follow-up in writing what portion of the £30 million would be accounted for by existing expenditure and for confirmation of whether it is an annual sum. The response from the Minister confirmed that some of this was existing expenditure but stated—

“We have not identified what per cent this is and what it is presently expended on. We cannot ascribe a £30 million cost to anything we determine to do regarding replacement care and the waiving of charges. This is because the mechanism which we may bring forward for the Bill at Stage 2 that will affect costs is not worked out yet.”

84. The Minister also confirmed 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.”

85. The Committee is concerned 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.
86. The Committee notes that the difficulty with the waiving of charges is a known issue arising out of the Social Care (Self-directed Support) Scotland Act 2013. It is not clear to the Committee how much progress has yet been made on resolving this issue. The Committee is concerned that this is the case given that the difficulties around waiving charges was a known issue at the time the Bill was introduced in early March.

87. The Committee believes that clarification of these issues and the nature of any amendments that the Government intends to bring forward should be provided before the Parliament is asked to vote on the Bill at Stage 1.

88. The Scottish Government has indicated that it would intend to bring forward a supplementary FM to address the costs of any amendments at Stage 2. The Committee is of the view that sufficient time must be allowed between Stage 2 and 3 of the Bill to allow proper scrutiny of a supplementary FM, including time for the Committee to seek evidence from stakeholders and the Scottish Government.

89. Clarification was also sought from the Government about the operation of any system to waive charges where replacement care is provided by a private company rather than by a local authority. In his letter, the Minister explains that—

“If a private care provider (for example, Four Seasons Care Home) is commissioned by the local authority to provide care home places, and if the local authority has made the decision that the cared-for person should be placed there for a period in order to support the carer and meet needs identified in the course of a carer's assessment, then the local authority may not charge the carer in respect of that support. The cost of care in this instance will be met by the local authority. This is because a local authority is obliged to waive charges where services or support are provided to adult carers under section 3(4) of the Social Care (Self-directed Support) (Scotland) Act 2013 Act.

If, however, the cared-for person is in the home as a result of the local authority's decision that the cared-for person's own needs call for the provision of such accommodation, then the local authority would charge the cared-for person for the accommodation (subject to the rules which apply in relation to free personal and nursing care and means testing).

If any respite care is purchased privately by the carer or the cared-for person (rather than through arrangements made by a local authority), then the care provider would charge directly for the provision of that service in accordance with its normal terms. The regulations do not apply to such private arrangements.”
Voluntary sector short breaks fund

90. The Committee also asked for clarification of the Scottish Government’s intentions in relation to the continuation of the voluntary sector sort breaks fund beyond the end of the current spending review period. The Minister states that “Given there is currently a baseline budget for the Short Breaks Fund, the current working assumption would be that this would continue, subject to the Spending Review process.”

Other issues raised in evidence

Local carer strategies

91. Local authorities will be required to prepare and publish a local carer strategy and there will be an explicit obligation for the strategy to consider the needs and circumstances of young carers in the area. The FM states that “in the main, this duty will formalise what most local authorities are presently doing with regards to preparing local strategies.”

92. The FM notes that in the responses to the questionnaire issued to local authorities “a few…were content to absorb the costs of preparing the strategy while others saw significant additional costs.” It further notes that “in at least two cases, the costs of preparing the local carer strategy now is met by the health board using carer information strategy (CIS) funding.” The FM goes on to note that there are differing approaches to preparing strategies for young carers. The FM states that the exact figures for these three approaches are unknown.

93. The FM states that there “will be some additional costs of preparing local carer strategies to ensure robust methodology on data gathering and analysis.” The estimated costs set out in the FM are—

<table>
<thead>
<tr>
<th>2017-18 to 2019-20 (duration of strategy)</th>
<th>£m</th>
</tr>
</thead>
<tbody>
<tr>
<td>NB: Not all first statutory local carer strategies will be prepared and published in 2017-18 as the timing is dependent on the date by which the next review of the strategic plans under the Public Bodies (Joint Working) (Scotland) Act 2014 takes place.</td>
<td>0.32</td>
</tr>
<tr>
<td>(£10,000 to each local authority)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2021-22 to 2023-24</th>
<th>£m</th>
</tr>
</thead>
<tbody>
<tr>
<td>(£5,000 to each local authority recurring every three years. Data collection and methodology will be embedded in local authority practice)</td>
<td>0.16</td>
</tr>
</tbody>
</table>

94. Responding to the calculation of these costs COSLA comments that the FM “presumes that the preparation of strategies is an extension of existing local strategies and hence will be covered by existing staff” but goes on to state that—
“In order to develop robust strategies, with proper consultation, COSLA argues that more resource is required. A number of councils have indicated that they would require at least an additional staffing resource to prepare local carer strategies, citing the fact that these are more formalised and require far more extensive consultation with the caring community.”

95. The NCOs note that the FM recognises “the current lack of comprehensive data on spending by local authorities on support to carers” and state that—

“We therefore believe that section 28 of the Carers Bill relating to the duty on local authorities to prepare a local carers strategy should specify the inclusion of a financial breakdown. Each local carer strategy should outline the resources which are allocated to local carer support and what these resources will be used for. In addition, this information should also be reflected in the Joint Adult Strategic Commissioning Plan.”

Directing authorities

96. For young carers in independent and grant-aided schools, the YCS will be prepared by the directing authority of the school. The FM states that “it is not known how many young carers are in these sectors nor the proportion of carers who would want a YCS.”

97. The FM uses an estimate of 620 (2 per cent) pupils in these sectors being young carers and a unit cost of £125 for the preparation of a YCS to be approved by the local authority. In the period from 2017-18 to 2021-22 this would give a cost to the sector of £77,500 or £15,500 per annum.

98. The Scottish Council of Independent Schools’ (SCIS) view is that—

“… the numbers provided may not be accurate. Moreover, the logic to how the numbers have been calculated is unknown and more accurate data should be an early requirement. It may be that the number of young carers attending independent schools has been over or underestimated in other ways and may also have been underreported, however, SCIS cannot currently be certain of the number of young carers attending independent schools in Scotland.

SCIS would be happy to work with schools to attempt to provide more definitive numbers. When discussing this Bill with independent schools there was an indication that it was likely that there were young carers who were pupils. Independent schools have an important role to play in supporting young carers are part of their pastoral role and they take this very seriously. This Bill would therefore clearly hold financial implications specific to the independent school sector. At present it is unclear what these will be. SCIS hopes these implications will be borne in mind when decisions are made about the Carers (Scotland) Bill.”
99. SCIS also comments that the FM does not reflect the costs of training and workforce development that would be necessary to ensure staff in independent schools had the skills required. SCIS notes that the FM indicates that training will be “provided via NES and SSSC and it would be helpful to know if independent schools [would] be able to access this training.”

**Third sector**

100. The Bill does not set out any duties for third sector providers and does not therefore identify any directs costs on the sector arising from the Bill. However, the FM notes that the Government encourages local authorities and health boards to work in partnership with the third sector on the Bill's provisions and states that—

> “If the third sector is commissioned as intended by local authorities and health boards to help prepare the ACSP and the YCS, to provide information and advice and to support carers, then, in addition to the financial support from local authorities and health boards that must flow to the third sector to allow this to happen, there will be a requirement for additional resources. It is expected that transformation costs for this sector will centre around systems (such as IT, accounting, data collection, data protection and recording).”

101. In terms of funding that would be allocated for these transformation costs, the FM goes on to state that—

> “The allocation is estimated at £500,000 per annum in each of 2017-18, 2018-19 and 2019-2020. This would help support about 50 providers in each of the three years at £10,000 each. Some of the 50 providers might work across local authority boundaries as some third sector organisations do this in any event. As stated, the funding would not be to support carers.”

102. The submission from the NCOs states that they are “extremely disappointed” that the FM states there will be no direct duties on third sector providers and therefore no costs identified. The submission states that the “third sector, in particular local carer organisations, will be instrumental to the successful implementation of the Bill” and that unless “they are adequately resourced, they will be unable to cope with the additional demands placed on them.”

103. The NCOs view is that the “impact of The Carers Bill on third sector carer support organisations must be properly scoped and additional resources must be identified to ensure they are in a position to respond to the increased demands on their services.”
Conclusion

104. The Health and Sport Committee is invited to consider the above as part of its scrutiny of the Bill.

1 The FM can be found at page 23 of the Explanatory Notes for the Bill.
2 Policy Memorandum, paragraph 2
3 Financial Memorandum, paragraph 7
4 Unless otherwise indicated in the table costs are recurring from 2012-22
5 Financial memorandum, paragraph 36
6 Their estimated increase in the number of assessments has been criticised as too low by leading academics – see Linda Pickard, Derek King and Martin Knapp (2015): The ‘visibility’ of unpaid care in England, Journal of Social Work online, 1-20.
7 We use this term to denote the period after the initial increase in assessment requests following implementation of the Bill.
8 Paragraph 56 states that: “The estimate is that over time 34 per cent of adult carers will be the highest percentage of carers who will have an ACSP”.
9 Paragraph 60 says “about 60%”, however Table 2 in paragraph 64 gives 64%.
10 Official Report, 13 May 2015, cols 51-52
13 Financial Memorandum, paragraph 57
14 Financial Memorandum, paragraph 62
15 Financial Memorandum, paragraph 102
16 Financial Memorandum, paragraph 71
17 Financial Memorandum, paragraph 77
18 Financial Memorandum, paragraph 78
19 Financial Memorandum, paragraph 79
20 Financial Memorandum, paragraph 80
21 Financial Memorandum, paragraph 95
22 Financial Memorandum, paragraph 96
23 Financial Memorandum, paragraph 98
24 Official Report, 13 May 2015, cols 60-61
26 Official Report, 13 May 2015, col 56-57
27 Official Report, 13 May 2015, col 57
28 Official Report, 13 May 2015, col 68
29 Official Report, 13 May 2015, col 68
30 Official Report, 3 June 2015, col 53
31 Financial Memorandum, paragraph 84
32 Financial Memorandum, paragraph 85
33 Financial Memorandum, paragraph 86
Annexe A – Correspondence between the Committee and the Government following 13 May meeting

LETTER TO THE SCOTTISH GOVERNMENT – 13 MAY 2015

At its meeting today the Finance Committee took evidence from Scottish Government officials on the Financial Memorandum (FM) accompanying the Carers (Scotland) Bill.

In the course of the evidence-taking it became apparent that there are a number of areas where the information set out in the FM requires further clarification.

I am therefore seeking clarification from you on—

- details of the assumptions underpinning the estimated unit costs for Adult Carer Support Plans, Young Carer Statements and support to carers
- resolution of the issues in relation to the waiving of charges given the impact that this may have on the costs of providing support to carers
- the position in relation to the waiving of charges if the carer taking a short break involves respite care being provided for the cared-for person in a private facility
- the intention to continue funding the voluntary sector shorts breaks scheme, currently funded at £3 million per year, which is due to end in 2016.

The Official Report of today’s meeting, which is due to be published by Monday 18 May, will provide full details of the Committee’s consideration of these issues.

The Committee invites you to provide written clarification of these issues by Thursday 28 May and to provide oral evidence on Wednesday 3 June. The Committee will then aim to provide a submission to the lead committee by 18 June.

I am copying this letter to the Convener of the Health and Sport Committee.

Kenneth Gibson MSP
Convener
RESPONSE FROM THE SCOTTISH GOVERNMENT – 28 MAY 2015

Thank you for your letter of 13 May to the Cabinet Secretary for Health, Wellbeing and Sport seeking further clarification in a number of areas regarding the Financial Memorandum accompanying the Carers (Scotland) Bill. I am replying as the Bill is within my area of responsibility.

Estimated unit costs for the adult carer support plan, young carer statement and support to carers

Annexes A to D attached set out the detailed assumptions. Annex A provides the background to the unit costs for the adult carer support plan (ACSP) and young carer statement (YCS), Annex B sets out the assumptions underpinning the estimates for the ACSP and Annex C sets out the assumptions underpinning the estimates for the YCS.

I see merit in further work to refine the assumptions set out in the Financial Memorandum and the detail which underpins them. We intend to set up a Finance-led Group with key stakeholders. The exact membership of that Group is being determined, but I will write to you again as soon as that is finalised. The Group would consider, amongst other things, the cost estimates in further detail and an extension of the time period beyond 2022-23, and would review any relevant additional information which comes to light. It would also review appropriate methods of funding distribution and would establish procedures for monitoring demand, costs and achievements against the Bill's objectives. The Group should also aim to establish a clear understanding of risks and play a role in ensuring that risks are understood, shared and mitigated as far as is possible. Again, I am happy to keep you informed of the work of that Group.

Resolution of the issues in relation to the waiving of charges

Work is on-going in order to resolve the issues of whether any replacement care provided through a local authority is to be categorised as support for the carer or as a community care service for the cared-for person, and whether any charges should be made by a local authority in respect of the provision of replacement care. There is an additional issue concerning the extent to which the carer, cared-for person or both should make decisions about the provision of replacement care. We intend to bring resolution to that for Stage 2 of the Bill. Paragraphs 88 to 98 of the Financial Memorandum provide background to the waiving of charges issue. They were included at the request of the Scottish Parliament's Legislation Team in order to meet Standing Order requirements. I recognise of course that the Committee has an interest and critical role to play in scrutinising any commitment to public expenditure that will arise as a result of any decisions made in this area. If there is an impact on the cost of providing support to carers, as stated in paragraph 98 of the Financial Memorandum, I will provide a revised Financial Memorandum for the Finance Committee's consideration. Paragraph 98 states: "if there are cost implications to the Scottish Government arising from the regulations, the Scottish Government would present these in a revised Financial Memorandum."

The position in relation to the waiving of charges if the carer taking a short break involves respite care being provided for the cared-for person in a private facility
The term 'waiving of charges' refers to the charges which a local authority would have been entitled to make in respect of services which it provides under specific provisions of social care legislation. Section 87(1) of the Social Work (Scotland) Act 1968 generally permits a local authority to recover such charge as it considers reasonable from a person to whom it provides such a service (subject to more specific rules about charges for personal and nursing care and residential accommodation, and a general requirement not to charge more than is practicable for the person to pay). This rule applies to services provided directly by the local authority itself, or by the local authority having made arrangements with other statutory, independent or third sector bodies in pursuance of the local authority's functions under that social care legislation.

The Carers (Waiving of Charges for Support) (Scotland) Regulations 2014 require the local authority to waive any charges which it would have been entitled to make under section 87(1), where the service or support in question is provided under section 3(4) of the Social Care (Self-directed Support) (Scotland) Act 2013 (support to adult carers) or provided to a child who requires it because they are a young carer under section 22 of the Children (Scotland) Act 1995. The regulations have no application to the charges made for the provision of services by any body other than a local authority (i.e. a private or third sector provider).

If a private care provider (for example, Four Seasons Care Home) is commissioned by the local authority to provide care home places, and if the local authority has made the decision that the cared-for person should be placed there for a period in order to support the carer and meet needs identified in the course of a carer’s assessment, then the local authority may not charge the carer in respect of that support. The cost of care in this instance will be met by the local authority. This is because a local authority is obliged to waive charges where services or support are provided to adult carers under section 3(4) of the Social Care (Self-directed Support) (Scotland) Act 2013 Act.

If, however, the cared-for person is in the home as a result of the local authority's decision that the cared-for person's own needs call for the provision of such accommodation, then the local authority would charge the cared-for person for the accommodation (subject to the rules which apply in relation to free personal and nursing care and means testing).

If any respite care is purchased privately by the carer or the cared-for person (rather than through arrangements made by a local authority), then the care provider would charge directly for the provision of that service in accordance with its normal terms. The regulations do not apply to such private arrangements.

To be absolutely clear, 'waiving of charges' do not relate to any charges levied by private organisations to commissioning bodies or individuals. To be clearer still, I do not believe that the Parliament is even empowered to legislate for such at provision, even if it were the Scottish Government's intention to legislate for that, which I reiterate it is not.

The intention to continue funding the voluntary sector short breaks scheme, currently funded at £3 million per year, which is due to end in 2016

I value the voluntary sector short breaks fund. Paragraph 32 of the Financial Memorandum states that "subject to Spending Review decisions, this funding would
continue for short breaks." Given there is currently a baseline budget for the Short Breaks Fund, the current working assumption would be that this would continue, subject to the Spending Review process.

I am copying this letter to the Convener of the Health and Sport Committee.

Jamie Hepburn
Minister for Sport, Health Improvement and Mental Health

Annex A – Carers Bill

Estimated Unit Costs of the Adult Carer Support Plan (ACSP) and Young Carer Statement

Background

1. COSLA issued a questionnaire to local authorities seeking information on a range of issues to help inform the Financial Memorandum. This questionnaire was designed in collaboration by Scottish Government and COSLPD officials and with input from Social Work Scotland.

2. Questionnaire returns were submitted to COSLA by 21 local authorities. In addition, Glasgow City Council submitted its return directly to the Scottish Government. NHS Highland’s return is relevant too as it is the lead agency for adult carers in Highland. One council, Inverclyde, submitted its return directly to the Finance Committee and it is posted on the Finance Committee’s website.

3. The questionnaire included the following questions:

   a) On average, how many carer’s assessments do you currently undertake in a year for adult carers?

   b) What is your total spend in a year on carer’s assessments carried out, excluding the cost of any self-assessments and excluding spend on community care assessments and assessments for disabled children?

   c) On average, how many carer’s assessments other assessments do you currently undertake in a year for young carers?

   d) What is your total cost in a year on carer’s assessments for young carers carried out, excluding the cost of any self-assessments and also excluding the cost of community care assessments and assessments for disabled children?

4. The questionnaire included a footnote that "total spend" covered, as appropriate for each individual local authority, cost of staff time 011 initial contact, assessment, inputting data into the database, travel time, review, and developing a support plan. It was stated that the cost will depend too on whether the assessment is being carried out by a qualified social worker or not. It was also stated that local authorities should not include the cost of any support provided.
5. Based on the answers provided to the questions, the Scottish Government calculated for each local authority the average cost in a year of a carer's assessment for adult carers and of a carer's assessment/other assessment for young carers. The reason that other assessments were taken into account for young carers is that a number of different types of assessment are undertaken with young carers - see paragraph 57 of the FM.

Annex B – Carers Bill

Assumptions Underpinning Estimated Unit Costs of the Adult Carer Support Plan (ACSP)

1. The assumption underpinning the estimated unit cost of the ACSP is:

   a) the average unit cost of preparing the ACSP should be approximately the same as the unit cost of a good quality carer's assessment (paragraph 52 of the Financial Memorandum (FM)). A good quality carer's assessment is one which is co-produced with the carer in an empathetic way based on conversation rather than being a tick-box exercise. The aim is to provide the ACSP as efficiently as possible.

2. An average unit cost (Scotland-wide) was calculated by looking at the unit cost of completing a carer's assessment in 14 local authorities. The Scottish Government removed from the calculation the lowest and highest unit costs in two local authorities in order to provide a level of confidence with the figures as both the lowest and highest unit costs were extreme by comparison with the other unit costs. Even then, the range of costs is between £72 and £342 (footnote 32).

3. The average unit cost works out at £176 (table at paragraph 54 of FM) and this is presented as option 3 (highest cost) in the Financial Memorandum.

4. The lower unit costs in the Financial Memorandum (options 1 and 2) are presented to show that the lowest unit cost within the group of 14 local authorities was £72 and the mid-range was £110 based on a comparison with the Surrey Council average of £100 and other factors (paragraph 50 of FM). The unit cost of £176 compares very well with the median unit cost of £116 presented in the final Impact Assessment for the Care Act 2014 in England.

5. The unit cost will vary according to a number of different factors including rurality, level/grade of staff involvement, whether the assessment is carried out by the third sector and the degree to which assessments are carried out with the most vulnerable and isolated carers (paragraph 48 of FM).

Annex C – Carers Bill

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2 Carers assessment and outcomes focussed approaches to working with carers. A joint project between Midlothian Council Community Care Team and VOCAL Midlothian Carers Centre. A series of research projects about health and social care for older people - 2013
Assumptions Underpinning Estimated Unit Costs of the Young Carer Statement (YCS)

1. The assumption underpinning the estimated unit cost of the YCS is:
   a) the YCS should not cost more than the carer's assessment for young carers (paragraph 64 of FM)

2. The average unit cost (Scotland-wide) was calculated by looking at the unit cost of completing a carer's assessment in five and then in seven local authorities. Five local authorities presented unit costs of less than £200 giving an average unit cost of £125. Seven local authorities presented unit costs of less than £300 giving an average unit cost of £167. These average unit costs are set out in paragraph 63 of the Financial Memorandum.

3. The Financial Memorandum at paragraph 62 states that there are challenges in estimating the average unit cost of a carer's assessment for young carers. Comprehensive integrated assessments undertaken in some local authorities are more costly than a YCS and the costs of these were excluded from the estimates.

4. Three local authorities presented unit costs at over £1,000. Two of these were for integrated assessments and were excluded. A third said that the young carer's assessment provided by the voluntary sector covers a 6-8 week period with individual or group work or referral on. This was considered to be a different type of assessment from the YCS and was also excluded from the calculations.

Annex D – Carers Bill

Assumptions Underpinning Estimated Unit Costs of Support to Carers

1. The estimated unit cost of supporting one adult or young carer is £333 every year (paragraph 78 of FM).

2. The £333 is a figure used in a survey by the Princess Royal Trust for Carers (now the Carers Trust). Footnote 51 in the FM states that a more recent Carers Trust review of personal budgets and direct payments of carers in England shows wide variation in the financial amounts carers receive. However, 19 out of 30 authorities reported a maximum of between £250 and £500. On this basis, £333 was deemed therefore to be reasonable.

3. The £333 would exclude information and advice to carers as additional separate resources are being made available for the information and advice services. Paragraphs 65 to 70 of the FM set out the estimated costs of the information and advice services. The £333 could include the cost of a short break if appropriate. Paragraph 82 of the FM sets out an additional short breaks element at an estimated unit cost of £300.

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3 Includes other types of assessments completed for young carers
4. The unit costs do not include the costs of replacement care. This is because the costs of replacement care are linked to the waiving of charges issue. Paragraph 96 of the FM states that "any cost implications of changes to the waiving of charges regulations would be considered by the Scottish Government. It is not possible to provide further information in this Financial Memorandum as discussions between the Scottish Government and COSLA are on-going."
LETTER FROM THE MINISTER FOR SPORT, HEALTH IMPROVEMENT AND MENTAL HEALTH – 10 JUNE 2015

I refer to the Senior Assistant Clerk's email of 4 June requesting follow-up information on three issues arising in my evidence session to the Finance Committee on 3 June. The information is set out below.

How much of that £30 million potential cost would be accounted for by existing expenditure and whether the figure of £30 million that was given as the potential cost for replacement care is an annual figure

As set out in my previous reply to you of 28 May, the waiving of charges issue is to be resolved for Stage 2. However, I confirm that a portion of £30 million will be accounted for by existing expenditure. We have not identified what per cent this is and what it is presently expended on. We cannot ascribe a £30 million cost to anything we determine to do regarding replacement care and the waiving of charges. This is because the mechanism which we may bring forward for the Bill at Stage 2 that will affect costs is not worked out yet. We will take this into account if a revised Financial Memorandum is required at Stage 2.

The current number of carers receiving support and the percentage of the carer population this represents

During the evidence session, Mr Brown noted from paragraph 81 of the Financial Memorandum that 4% of carers said they received short breaks or respite care (estimates from the Scottish Health Surveys 2012 and 2013). Mr Brown then queried that in 2017-18, the estimated numbers of carers receiving carer-specific support at 11,175 or 2% of the carer population (table under paragraph 79 of the Financial Memorandum) seems low.

The 4% of carers in the Scottish Health Survey who say they receive short breaks/respite and the estimated 2% of carers who will receive carer-specific support are not directly comparable. The 4% in the Scottish Health Survey includes carers who are supported directly by breaks provided by the third and independent sectors, including through the voluntary sector short breaks fund, as well as by health and social care public sector providers and indirectly by provision put in place for the cared-for person from which the carer benefits. In contrast, the figure of 2% relates to carers supported solely by local authorities, or by local authority commissioned services, since the duty to provide support in the Bill falls on local authorities. The 2% is also for direct support only and not for indirect support via the cared-for person and excludes those carers who will be supported by the information and advice services and by general services in the community.
The table under paragraph 56 in the Financial Memorandum shows that the ambition is to double the number of adult carer support plans carried out in 2017-18 from the current estimated number of 12,000 to 22,350. We estimate that bespoke support will be required for 50% of these adult carer support plan holders. This represents 11,175 carers or 2% of the carer population.

The Finance-led Group to be set up will consider further the demand profile for support to carers if any new evidence comes to light.

I trust this letter is helpful to you and the Finance Committee but if I can provide any further clarity, please let me know. Similarly, if I can be of any other assistance to you or the Committee, please do not hesitate to contact me again.

I am copying this letter to the Convener of the Health and Sport Committee.

**Jamie Hepburn**  
**Minister for Sport, Health Improvement and Mental Health**
Present:

Richard Baker    Gavin Brown
Malcolm Chisholm    Kenneth Gibson (Convener)
John Mason (Deputy Convener)    Mark McDonald
Jean Urquhart

Carers (Scotland) Bill: The Committee took evidence on the Financial Memorandum from—

Julie McKinney, Head of Internal Financial Performance, Health Finance, Moira Oliphant, Team Leader, Carers Branch, Care, Support and Rights Division, Lynn Lavery, Carers Bill Delivery Manager, Care, Support and Rights Division, and Fee Hodgkiss, Principal Researcher, Analytical Services, Scottish Government.
On resuming—

**Carers (Scotland) Bill: Financial Memorandum**

**The Convener:** Our final item of business is to take evidence on the financial memorandum to the Carers (Scotland) Bill from the following Scottish Government officials: Fee Hodgkiss, Lynn Lavery, Moira Oliphant and Julie McKinney. Members have received copies of all the written submissions and the briefing paper. We will move straight to questions from the committee. I will start with some opening questions and colleagues will explore in depth some of the issues that are raised.

The policy memorandum states that the intention is that carers

"should 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, ... young carers should have a childhood similar to their non-carer peers."

Part 2 of the financial memorandum contains two estimates for areas of expenditure that do not appear to have been included in the calculation of the total figures that is set out. Those are the costs to NHS Education for Scotland and the Scottish Social Services Council of training that is directly associated with the bill and awareness raising that is indirectly associated with the bill, and the costs to the third sector that are indirectly associated with the implementation of the bill. Can you comment on that?

**Moira Oliphant (Scottish Government):** The training and development costs to be borne by NHS Education for Scotland and the Scottish Social Services Council are included in one of the tables near the beginning of the financial memorandum, as are the costs for development in the third sector. The confusion may have arisen because the costs for NES, SSSC and the third sector do not carry on to 2020-21 and the costs that are presented in the paper to which you refer are the costs in 2020-21. That is why the costs that you ask about are not in the totals.

**The Convener:** Thanks for that clarification.

The submission from North Ayrshire Council—my own constituency is in that area—comments on the adult carer support plan. According to North Ayrshire Council, although

"The financial memorandum states that demand will peak at 34% of the population"—

as is made clear on page 5 of the memorandum—in North Ayrshire

"at present 53% of local carers would be eligible for an ACSP".
which would mean that
“6 FTE additional staff would be required”.

The submission also suggests that the three years of additional support funding for children and younger adults appears to be too low. It states:

“Once a carer has an expectation that they will receive a sum of money to purchase support, it cannot be time limited, this may increase pressures in forthcoming years on carers support within limited budget constraints.”

All in all, North Ayrshire Council is saying that the estimates for the additional work and associated costs are too low and unrealistic. A number of organisations, including the Convention of Scottish Local Authorities and others, appear to have said that. What are your comments?

Before you answer, there is a caveat, as I cannot remember an occasion when a bill came before the committee and people said that the funding was exactly right and that everything was hunky-dory. Having said that, there seem to be substantial concerns about some issues. How did you come up with the figures for adult carers and young carers?

Moira Oliphant: It would have been good if there had been a meeting of minds on the financial estimates—I am sure that the committee would have welcomed that—but the financial memorandum is based on the best estimates possible. We must also acknowledge the difficulties in calculating and estimating demand. That is by no means an exact science—in fact, it is a very grey area—and to a great extent demand will depend on carer behaviour and what predicts that. Moreover, issues such as the bill’s publication, local campaigning and peer-to-peer references from carer to carer will have a bearing on demand. The Scottish Government certainly wants to be ambitious with the bill, but that ambition should not be equated with unrealistic expectations about a demand profile.

The figures that you have quoted are important. Although they are from only one council, we must nevertheless recognise what that council is saying. However, submissions in response to the Scottish Government’s consultation show that other local authorities take a different view of the demand profile and feel that, instead of a peak from year 1, there will be a slower build-up in demand. We do not expect large numbers of carers to come forward from year 1 of the bill’s implementation.

The figures might relate to the number of carers that might be known to that particular council through their association with the cared-for person, but that does not necessarily mean that those carers will want an adult carer support plan. The bill also contains a duty on local authorities to offer an adult carer support plan, but we know from research that, at the moment, not all carers want what is now called a carers’ assessment and that a proportion of carers are content and happy with inputting into the community care assessment or the disabled child’s assessment of the cared-for person.

There are therefore a good number of reasons why the figures could be quite different from those given by the local authority in question, although, as I have said, its comments are important in their own right. However, we know that carers decline the offer of a carers’ assessment. We very much hope that carers who want an adult carer support plan will come forward, but we do not see the situation in quite the same way that those figures might present it.

The Convener: I am always interested in what this particular local authority says, because, apart from anything else, it is my own authority. It has said that the view in the financial memorandum “is not based on evidence”.

You also talked about being realistic, but I note that in point vii of paragraph 5 of its submission, COSLA says:

“The unit costs for support to carers are also unrealistic.”

It then points out:

“In England, the government assumes that £967 was the average cost per year for carers requiring short breaks/respite”.

whereas the figure in this bill is only £300. Is that not quite a significant difference?

Moira Oliphant: With regard to the unit costs for support rather than the unit costs for the adult carer support plan or the young carer statement, the Government has based the £333 figure for that unit cost on fairly recent published research from the Carers Trust. I also note that the figure exceeds many of the time to live grants. Time to live is one of the programmes under the voluntary sector short breaks fund. Carers get a direct grant that enables them to purchase what they wish, especially short breaks. That is where the figure of £333 comes from.

It is right that a figure of more than £900 is cited for respite in the English impact assessment. If we were to include a similar figure for respite care in Scotland, it would be a figure of more than £600 rather than a figure of £900 because that is the national care contract figure for residential care, so that would be the figure. We have not included such figures for respite care or replacement care because the Scottish Government, along with COSLA and others, is considering waiving charges, which I can speak about later, and that will have an impact.

Even though the Scottish Government has not included in the financial memorandum a figure for
respite care, which would have been more than £600 in the latter years of the demand profile, if they are taken on a pro rata basis, the resources for Scotland are greater than those for England. I should add a caveat, because the Care Act 2014 deals with adult carers of adults, whereas the Carers (Scotland) Bill deals with adult carers of adults, adult carers of children and young carers.

**The Convener:** Thank you for that.

In paragraph 9 of its most recent submission, COSLA says:

> “Although Scottish Government indicated that it would be prepared to consider any new information which comes to light about the cost estimates ... this willingness did not extend to being prepared to jointly agree revised estimates, or to addressing unfunded pressures on councils that result from this new legislation.”

In paragraph 1.3 of their submission, the national carers organisations say:

> “We believe the government should undertake further scoping on the financial impact of the Carers Bill”.

COSLA also says:

> “we are calling on the Scottish Government to work with us to reach joint agreement on the model to be used to estimate cost and demand”.

In its conclusion, in paragraph 12, COSLA says:

> “many of these concerns are shared by relevant professional associations such as Social Work Scotland, and to an extent by third sector colleagues.”

There seems to be significant concern about some of the financial assessments and, given that the national carers’ organisations include Carers Scotland, the Coalition of Carers in Scotland, the Minority Ethnic Carers of People Project, the Carers Trust Scotland, the Scottish young carers services alliance, Crossroads Caring Scotland and Shared Care Scotland, concern about how the costings have been arrived at seems to be widespread.

**Moira Oliphant:** You are absolutely correct to say that COSLA, Social Work Scotland and the national carers’ organisations have made those statements. Under fiscal constraints and in an extremely challenging economic climate, it is understandable that those organisations want fair, proper and transparent costings for the bill. They all agree that it is important to support adult carers and young carers—as, of course, does the Scottish Government.

Those organisations have not, however, provided alternative costings to those that are set out in the financial memorandum—at least, they have not provided full alternative costings, especially on unit costs for adult carer support plans and young carer statements or on the demand. Across the spectrum, there is no alternative position on the financial estimates.

You asked how the Scottish Government arrived at the financial estimates. COSLA sent a survey to local authorities on their behalf. We got 22 returns, which is a very healthy rate of return. We also sent questionnaires to health boards and again we got a healthy level of response. The Carers Trust and Coalition of Carers also surveyed care centres on our behalf. A bottom-up approach was therefore taken to estimating the figures in the financial memorandum.

12:15

As I have said, and as those other organisations acknowledge, estimating the figures is very challenging and is not an exact science—it depends on carer behaviour. I am happy to set out how we arrived at the unit costs for the adult care support plan, which COSLA, Social Work Scotland and some local authorities have commented on.

I am also happy to talk about the removal of the substantial and regular test, which has been mentioned. There was a transparent process to build up the costings for the financial memorandum, based on the information that was presented to us in the local authority returns. I am happy to set that out in detail in relation to the unit cost of adult care support.

**Julie McKinney (Scottish Government):** I agree with Moira Oliphant. We recognise the concerns of COSLA and the other local authorities about the accuracy of the estimates but they are our best estimates at this time. We have given a commitment to take on board any new evidence as it comes to light and we will review the estimates.

We propose to do something similar to what we did for the Public Bodies (Joint Working) (Scotland) Bill on the integration of health and social care and create an expert finance group, with representatives of all key stakeholders, including COSLA, to review the costs as we move towards implementation, taking on board any new evidence.

As things stand, the estimates are the best position that we have at this time.

**The Convener:** Of course, that raises the question of what a best estimate is, but I will leave that just now.

We have been told in written evidence that although the costing for the adult carer support plan appears to have been based on the model of a one-off intervention,

> “an outcome based support plan is a process rather than a single event.”

How does that impact on the bill’s financial aspects?
Moira Oliphant: That is a fair point by the national carers organisations, which know how the current carer’s assessments are carried out. Although a carer’s assessment such as the adult carer support plan can involve building up information and can be an iterative process, which can be reviewed, it can also be quite a low-profile form of assessment. It depends on the carer’s situation and on finding out from the carer or young carer the impact of the caring on them and the personal outcomes that they would like to achieve—which brings us back to your earlier remarks—to be able to continue caring in good health, to have a life alongside their caring responsibilities and, in the case of young carers, to have a childhood.

Carer’s assessments can take many forms. We are aware that, as the national carers organisations have pointed out, a carer’s assessment and an adult carer support plan can take longer, especially when there are complex needs and issues to explore. However, we also know from the returns that we have received and from research that the process can be much shorter if the needs are not as demanding.

As for the question of how the unit costs have been derived, it would be a difficult, challenging and detailed exercise to try to build up a unit cost based on the different types of assessment, the number of days it takes to carry them out and so on. We know from the returns that some assessments are carried out by social workers, some by health professionals, some by social care assistants and some by the voluntary sector, and as the financial memorandum itself points out, the efficiencies involved need to be looked at.

The financial memorandum sets out three possible unit costs, with £176 at the top end. I recently spoke to colleagues in London about the estimates in their impact assessment for the provisions for carers in the Care Act 2014, and they also sought returns from local authorities in England on unit costs. The English unit cost is presented in the financial memorandum as £100 but, based on returns from 120 of England’s 152 local authorities—or a 79 per cent return rate, which is very good indeed—the median cost for different types of assessment is now £116, which is much lower than the high-end cost of £176 for Scotland set out in the financial memorandum.

With regard to the returns from local authorities and the unit costs for the current carer assessment, only two authorities out of all those that made returns presented a unit cost of more than £300. Four or five presented unit costs of less than £100, with the rest congregating in the middle between £100 and £250 or so, and we derived from that an estimate of £176. That said, we acknowledge that the unit cost will be variable, depending not only on whether the assessment is an iterative one or one involving a much simpler process but on whether it relates to complex or more straightforward needs and whether it involves rurality, travelling time and so on.

Some local authorities—I do not know how many—are beginning to look at telephone or online assessments, but they would be valid only in certain circumstances. After all, carers value face-to-face interventions. One local authority terms its assessment a conversation, another calls it a journey and a number call it a carer support plan, but the point is that that kind of face-to-face intervention is valued.

It is difficult to look across the piece, and we have done our best with the information that has been presented. Concern was expressed that we had not taken account of the figures over £300, but the fact is that only two of the returns were at that level. Although the median unit cost in England is £116, we agree that there is merit in considering whether the unit cost should be increased towards £176 to take account of rurality and other issues, but that issue would be explored by the finance group that Julie McKinney has referred to.

The Convener: Thank you for that comprehensive answer. I will now move to questions from the committee.

Gavin Brown: In response to the convener, you said that other organisations had not provided alternative costings.

Moira Oliphant: That is the case across the piece for the financial memorandum.

Gavin Brown: Would their doing so cause you to revisit the figures?

Moira Oliphant: As I have said, organisations did not provide alternatives across the piece. I think that Social Work Scotland and COSLA said that they did not want to present an alternative at this stage, because it was not right or appropriate to present one set of estimates against another. That is not the way that we want to work. We want to work together on this; indeed, we presented our estimates to COSLA in mid-February.

I am certainly aware of the fact that any adjustment for the number of carers coming into the system or any change in demand will impact on costs. However, given the very uncertain position in estimating demand, the Scottish Government has done the best that it can in the circumstances.

Julie McKinney: For the purposes of the bill, we accept the estimate that we have. However, as I have said, if, over time and through the working group, we can get more robust estimates or more submissions from local authorities with sufficient
evidence to back up the position, we will take them into account and look at them as they have been presented.

**Gavin Brown:** You have both said that there are a huge number of uncertainties with a demand-driven service, which I am sure is right. Let us assume that COSLA turns out to be right and that the more expensive estimates that some local authorities are coming up with are correct and your figures are significant underestimates. Were that to happen, would the Scottish Government commit to underwriting any shortfall or would that be just tough luck on local authorities?

**Julie McKinney:** We will look again at the evidence once the bill has been implemented. If there is a significant difference between the estimates and the costs, we will obviously need to look at the issue again in light of the overall Scottish Government financial settlement and at the options available to us at that time alongside other policy and legislative commitments.

**Gavin Brown:** Perhaps it would be fairer to put my question to ministers, who would have to confirm that.

**Julie McKinney:** Absolutely.

**Gavin Brown:** After all, this is an important matter. As the convener has suggested, there is always a difference between what local authorities, for example, say that the costs will be and the Scottish Government’s estimates, with the answer often lying somewhere in between. The important question is: who bears the risk if the figures are wrong? Is it the local authority or the Scottish Government? However, I will put that question to ministers—you have already answered it.

Moving on to some of the detail in the memorandum, I direct you to table 3 on page 34, which sets out the costs to the national health service. I will skip the first row of costs, which are for “YCS”—or young carer statement—“recurring”, as they are pretty small. The next row of costs, which relate to “Information and advice service”, appear to be £2 million a year; that figure does not change, which I can sort of understand. However, the third row, on “Duty to support carers”, sets out costs of £3 million in year 1, and that amount does not change at all over the five-year period. Are you confident that over six years there will be no increase in the costs of a duty to support carers? That strikes me as odd.

**Moira Oliphant:** I can explain that. The £2 million for the information and advice service and the £3 million for the duty to support carers across all the years add up to the £5 million that is available now and which has been available for the past number of years to health boards for carer information strategies. Arguably, the figures should not have been presented in the financial memorandum—and I say “arguably”, because the vast majority of duties are on local authorities. Health boards themselves have only two duties.

Because there has been so much favourable comment and very credible information about the impact of the relatively modest sum of £5 million for carer information strategies by health boards, which have built up expertise working with the third sector and local authorities over a number of years, the decision has been taken to include that funding in the financial memorandum and to recognise the value of what has been achieved so far. As a result, the £2 million for the information and advice service as well as the £3 million for the duty to support carers that you focused on will be added to the funding that has been attributed to local authorities for the duty to support carers as set out in the table on page 33.

12:30

**Gavin Brown:** You sound fairly confident about that.

The costs of the support plan are set out on page 32 of the financial memorandum. In the top row, which goes from 2017-18 to 2022-23, the costs start at a maximum of £1.82 million and increase year on year to a maximum of £18.86 million per year. According to you, the figure will not increase after that but will recur from 2021-22. Is that right? Once the maximum of £18.86 million has been reached, can it not increase?

**Julie McKinney:** We see that figure as the maximum based on the 34 per cent of carers who would receive an adult carer support plan by that time. If we were to maintain that 34 per cent, the numbers could, if anything, start to decline in the latter years, and we want the expert group to look at the bill’s longer-term implications over perhaps a five to 10-year period. The figure is a maximum that could reduce, and that could free up resources to invest in the duty to support carers.

**Gavin Brown:** In its submission, COSLA suggests that when this was happening south of the border, it was assumed that the jump from year 1 to the maximum would take two years. You have assumed that it will take five years. Can you explain why that is more likely? Has anything happened down south that has led you to think that the two-year period was a mistake? Are you able to expand on that?

**Moira Oliphant:** I am. COSLA, Social Work Scotland and others are right to point out that the timeframe for the build-up for the adult carer support plan in Scotland is different to that for the carer’s assessment in England.
The reason is that, according to the estimates that we have built up from the local authority returns that we received, more carer’s assessments are carried out in England as a proportion of the population than in Scotland. As the impact assessment for the Care Act 2014 shows, 370,000 carer’s assessments were carried out in 2013-14; 10 per cent of that figure is 37,000, but the estimates suggest that nowhere near 37,000 carer’s assessments were carried out in Scotland. In fact, it is estimated that only about 12,000 carer’s assessments of adult carers were carried out. As a result, we are starting from an extremely low base compared with the situation south.

It is true that carers can be assessed with the person whom they care for—there are different types of assessments—but, if we are talking about carer’s assessments, the base that we have is very low. When we take into account other types of assessments, including assessment with the cared-for person, the figure doubles from 12,000 to 24,000, but that is still low compared with England. Because the profile starts from such a low base, the build-up period will have to be longer. I note, however, that it builds up in the later years.

**Gavin Brown:** You have taken the average unit cost for the assessments as being £176. You have put that at the top end of your table. You give low, medium and high figures, and you have put that figure as the high one. You have spoken to people in local authorities and you have drawn an average. Is the figure of £176 just splitting the average for local authority A and local authority B, for instance, or did you consider the number of assessments in each authority and then average the figures out? I do not know which local authorities had figures of £260 and £300 but, if we are talking about the very small local authorities, the average might be slightly skewed. Have you taken into account the number of assessments in each local authority, or have you just taken an average figure for each local authority and divided it that way?

**Moira Oliphant:** For each questionnaire return that we received, the unit cost itself was not presented. What was presented was the number of assessments carried out in a year and the cost of carrying out those assessments. We then calculated the average unit cost for each authority, based on that. It was an arithmetical calculation. To that extent, the number of assessments carried out in each local authority area was taken into account.

**Gavin Brown:** Referring to your comparison with English local authorities, where the figure was £100 to begin with—you now say that it is £116— are you definitely comparing apples with apples, or is there something different about those assessments that could make the costs in England lower?

**Moira Oliphant:** On the information in the impact assessment, we do not have the full information on the English costs, but colleagues said that, like us, they got returns and they got a unit cost for each local authority area. They said that, similarly to the situation here, the unit costs in England varied widely, with the lowest being less than £100. They said that it was exactly the same as it is for us, and that there were a few places where the cost was over £300. They did some sort of weighting according to area so, to that extent, the figures could be different, but that was the basis of their figures.

It is instructive to look at the English costs. The number of complex cases will be similar north and south of the border, although there may be more issues around rurality and remoteness in Scotland.

**Gavin Brown:** I refer you to the financial memorandum at page 46. The table features the “Cost of support”, with the £333 unit cost that you spoke about. In one of your earlier answers, you mentioned that the English figure is £967 and that, if you were calculating the Scottish one on a like-for-like basis, it would be closer to £600. What is the difference between that £600 and the £333 unit cost figure that you have used in the financial memo?

**Moira Oliphant:** The £333 unit cost is based on research from the Carers Trust. It has to be said that there is not a huge amount of research in the area. It is based on direct support to carers. A point was made in the response from the national carers organisations that the £333 figure does not include short breaks, although it includes advocacy, information and advice and emotional support. However, we have costing information and advice separately. Therefore, the £333 figure appears to be reasonable, certainly in comparison with time to live grants, which are given directly to individual carers under the voluntary sector short breaks fund. As we would expect, those grants vary depending on individual circumstances, but the £333 figure is certainly above a good level of grants under the time to live fund. To reiterate, the £333 represents direct support to carers.

The £609 figure that has been quoted is the per-person cost of respite care in a care home. That would be for a cared-for older person going into a care home so that the carer gets a short respite. As a result, we have not included that figure at the moment, because there are challenges around existing regulations on waiving of charges that we want to take stock of. Therefore, there is a need for further work. However, the figure down south...
£900 is not directly comparable to the figure here. The £333 figure, as an average unit cost, could certainly provide a good level of support to carers.

At this point, since you have referred to the table on page 46 and I have it in front of me, I apologise to the committee for an error in the figures. Social Work Scotland is indeed right, and we value its very careful eye and scrutiny of the figures. Under the £333 unit cost column, we have the figure for 2020-21 as £24.808 million, but it should be £36.288 million. We will take that new figure into account.

Gavin Brown: Regarding the earlier part of your answer, you are saying that further work is needed to look at getting rid of charges and so on. Is there any possibility that the £333 unit cost could become a unit cost of £609?

Moira Oliphant: Again, it is for the group that Julia McKinney mentioned to look at the matter in more detail. We have done the best that we can with what we have. I referred to the waiving of charges. Would you like me to talk about that and why it has an implication for what we are saying?

Gavin Brown: Possibly, yes. The point that I am driving at is that, if the £333 becomes £609, that in effect will double the cost of the bill. I am just trying to work out whether there is any risk of that happening and, if so, how big a risk it is. As a Finance Committee, we are trying to establish what the parameters might be.

Moira Oliphant: The type of support to carers will vary. It has to be said that, because the £333 figure excludes information and advice, it is a fair amount per carer whose needs are eligible and who is being supported in this way. It could be less than £333 and it could be more.

I do not want to put words into the mouths of the carers organisations, but one of their views is that they want more person-centred types of support. I refer in particular to short breaks. There can be a variety of short breaks, including some that are not traditional. Although some traditional forms of respite are very much relevant, we can try to get in an element of innovation regarding the type of holiday break. Even purchasing a greenhouse is quoted as providing a break for some people, and although that is not seen as traditional respite, we know from feedback that there are carers who would say that with that sort of facility they can do what they want and get time out from caring. That is what they want. Respite does not have to mean that the cared-for person is in a care home.

Your point is valid, as there is a range of costs. However, it would not be appropriate to say that, in all cases, the unit cost will be over £600. That will not be the case. It is often said that carers do not want very much, but of course they want support, in the right way and at the right time to meet their needs and the needs of the person whom they are caring for.

12:45

John Mason: We have been going over the same ground a bit and I will do so as well—we seem to be focused on some of the issues.

I am from Glasgow and therefore I am looking at Glasgow City Council’s submission. I do not quite understand. You suggested that, although you received estimated costs from different organisations and you took an average, you did not have a specific figure from every local authority. Glasgow City Council said that it estimated that a carer assessment in Glasgow costs around £280 and that, for young carers, it submitted an estimated unit cost of £394.

The financial memorandum assumes costs ranging from £72 to £176. Are those two things different, or are they like for like? How do the figures compare?

Moira Oliphant: With regard to adult carers, it is as we have discussed. The response from Glasgow City Council set out the unit cost of £280, and two of the other responses that we received from local authorities gave costs for adults of over £300. Glasgow was one of the 10 authorities that presented costs of between £101 and £299. The cost that was presented by Glasgow was taken into account in working out the figure of £176.

John Mason: In your answer to Mr Brown, you agreed that, because Glasgow is bigger, that would have pulled the average up a bit.

Moira Oliphant: I think so, yes.

John Mason: Therefore, Glasgow City Council cannot currently do the assessment for £176. Are you saying that it is overdoing matters, perhaps by sending two people along when it should send only one and that there is too much management cost and that kind of thing?

Moira Oliphant: I would not say that. All the authorities were given a brief outline of what would be included in a unit cost, such as the staffing costs and so on. I would not want to comment in that negative way on Glasgow’s costs. As I have said, Glasgow did not present the highest cost.

It was challenging to look at the issue, because we were presented with such a wide range of unit costs. I know that Glasgow’s assessments tend to concentrate on carers with very intensive caring situations and in very difficult situations. As far as I am aware, those assessments are carried out by the social work department. Other carers in Glasgow go through a self-assessment process,
which is carried out either wholly or partly by the voluntary sector, and the cost of that will not be as high. If the voluntary sector picks up cases that should be referred to the social work department, the cases will be referred.

That is my very broad-brush understanding of how Glasgow operates. I would not want to say that Glasgow is providing too many social workers, but we know that a lot of the costs are taken up by staffing. There should be a critical look at the efficiencies of the process.

Julie McKinney: As part of the further work that is to be undertaken, it would be helpful to look at the average costs that were submitted by the authorities and to share good practice to enable authorities to drive down their costs. We want to make the assessments as efficient as possible and to learn from good practice.

John Mason: My perspective is that Glasgow City Council can be top heavy at times and that it does not use the third sector very well. On the other hand, talk of efficiency makes me think of Atos. That may be efficient—churning people through and telling them that they are all fit for work—but I do not know whether that kind of efficiency gives the best assessment. I have concerns in that area.

My other concern is about the £333 figure, which we have also talked about quite a lot. In case I have not understood it, could you please explain this to me? If there is a young person caring for a parent or another adult, the £333 will pay for the young person to go to scouting camp or guide camp or something like that for a week. What happens to the older person?

Moira Oliphant: There is a wider issue regarding who cares for the cared-for person when, in this instance, the young carer is away.

The young carer statement will consider the personal outcomes for the young carer. If it is deemed that the young carer would benefit from the type of scout camp intervention that you mention, that would happen. That is seen as bespoke support. Providing that the needs have been determined to be eligible before that process, that would be funded.

With the person who the carer is caring for, there could be a number of situations. Another family member could stand in or a carer centre could work with the local authority to agree on an intervention, as we understand happens.

The young carers festival takes place each year in East Linton. I do not know if any committee members have been to it, but it is great fun. Six hundred young carers go there every year. In some cases, they are away from the parent or sibling for whom they care for the two days’ duration. The parent can be without the young carer, and they manage their support in other ways. We know that, in some cases, the carers centre will provide support or will negotiate with the local authority.

Replacement care is certainly an issue with the broad policy. For carers to get away from the caring situation or to get a life of their own, replacement care needs to be provided in some instances. That does not apply in all cases, however.

John Mason: Is there any financial provision for that replacement care?

Moira Oliphant: It comes back to the issue around the waiving of charges, to which I have alluded on a few occasions. I ask you to bear with me while I outline a bit of the history, because it leads up to where I am getting to. The previous Minister for Public Health gave a commitment when the Social Care (Self-directed Support) (Scotland) Bill was going through Parliament. That bill—now the Social Care (Self-directed Support) (Scotland) Act 2013—contains a power to support carers, and the minister gave a commitment that, if the power is used, charges will be waived for the support that the carer receives, because carers are providers of services and should not be charged for the services that they provide.

The Scottish Government developed regulations and guidance around that waiving of charges, and it was stated that, if local authorities use that power under section 3 of the 2013 act, after going through the carer’s assessment and so on, the charges will be waived.

John Mason: Waived by whom? In my scenario, the person who is being cared for goes into the Four Seasons care home in Balilieston, and the charge is £600. Bupa or the Four Seasons is not going to waive such charges.

Moira Oliphant: That would be done by the local authority. It could be that the charge for a direct short break such as a holiday would be waived, but—

John Mason: Sorry, but waived by whom? By the Four Seasons?

Moira Oliphant: By the local authority.

John Mason: But the person is not in a local authority home; they are in a private home.

Moira Oliphant: Okay. I do not know about that.

John Mason: We have virtually no local authority homes.

Moira Oliphant: I do not know about that.

Referring to support under section 3 of the 2013 act, the issue and the challenge that have arisen...
are around replacement care. COSLA and some local authorities have told us that it is unfortunately not possible to say whether replacement care benefits the carer or the cared-for person. If it benefits the carer, the charges would be waived. If it benefits the cared-for person, normal charging would apply. Charging would be waived where it supports the carer.

People understand the issue and concede that it is sometimes difficult to judge whether replacement care benefits the carer or the cared-for person or both. In some instances, it might be straightforward. If the replacement care is provided by a day care centre and the cared-for person is going there to promote their independence and to have something good to do there, we can say that that is supporting the cared-for person, in which case normal charging would apply. It is challenging and difficult to know whether replacement care is for the—

**John Mason:** Yes, I take that distinction about replacement care, but my fundamental point is that somebody is going to incur a cost. If the person stays at home and just gets a few hours of extra visits, it will be Cordia, in Glasgow’s case, that will pay for somebody to provide that. Somebody has got to pay the wage. If the replacement care is at a proper care home, that means £600 going to the private company or whatever it is. I am struggling to understand who will pay that bill.

**Moira Oliphant:** If it is provided within the local authority, it would be the local authority that would waive the charges. We will come back to you on the question that you raise about private care homes.

Leading up to the challenge that we have, we had a number of discussions with COSLA, a few local authorities and the national carers organisations to try to deal with the issues that have arisen around the waiving of charges. We do not yet know what we will do—ministers need to take a final decision on that.

On the matter of how to resolve the impasse, I point out that not many authorities are using the power to support carers under the 2013 act. That might be because of the uncertainty around the charging issue or it might be because the act is relatively new legislation—there could be a whole host of reasons. The issue certainly needs to be examined, and we are doing so.

**John Mason:** I appreciate your answer, but I remain convinced that there are costs that I am not seeing in the financial memorandum.

**Malcolm Chisholm:** I was going to ask about something else, but I would like to pick up on this issue first. You are going to come back to us on the £600 care home charge. Are you assuming that there is an issue there, in that that would be seen as support for a carer, as opposed to support for a cared-for person? If it relates to support for a cared-for person, there is no issue—the £600 just has to be paid.

**Moira Oliphant:** That is right. That is the challenge. Some local authorities say that they cannot implement the waiving of charges regulations because they simply cannot say whether the support is primarily for the carer or for the cared-for person. If that is the case, as some local authorities say it is, that is a challenge. Arguably, if the support is directed through the carer’s assessment, it is support for the carer, but some local authorities have said that there might be pressure on practitioners to say that the support is for the cared-for person, so that charges can be applied. There might also be pressure from carers to say that the support is definitely for the carer, so that they can get the support without paying a charge for it.

We understand the complexities and difficulties around the matter. As I said, we have had a number of meetings with COSLA, local authorities and the national carers organisations to try and find a way forward. Because the situation is unresolved at the moment, the financial memorandum does not capture any costs around replacement care.

**Malcolm Chisholm:** Will there be new regulations under the bill, or will there simply be new regulations to replace those under the Social Care (Self-directed Support) (Scotland) Act 2013?

**Moira Oliphant:** A decision has not been made about that. COSLA has said that it would like the current regulations to be changed, but we are unable to do that because we have not agreed a way forward. It may be that the current regulations will stay in place until the provisions in the bill are commenced, when different regulations will come in, depending on what is agreed. A decision has not been reached yet.

Local authorities are working with the existing regulations, and a handful of them are saying that they want to support carers in that way and will work with the power in the Social Care (Self-directed Support) (Scotland) Act 2013 and with the regulations—that they will waive the charge for carers and will support them. Some local authorities are saying that it is just too difficult, and other local authorities are saying that they do not need to use the regulations at all because they are supporting carers through carer centres in their locality and that that system is working well. It is a complex picture.

**Malcolm Chisholm:** Do you envisage issuing a supplementary financial memorandum to the bill,
or will the matter not be resolved within that timeframe?

Moira Oliphant: It will need to be resolved. We envisage issuing a supplementary memorandum to take account of the issues.

Malcolm Chisholm: You will have to resolve it with COSLA within the next few weeks or months.

Moira Oliphant: Yes.

Malcolm Chisholm: The matter is connected to my main question. The overwhelming bulk of the costs arise from the adult carer support plans and—even more—from direct support to carers. COSLA highlights the tension between them, saying:

“Within the context of a finite resource being made available under the Carers Bill, there is the concern therefore that resources which could have been available for direct support are instead required to be diverted to assessment.”

I imagine that that last bit relates to COSLA’s scepticism about the 34 per cent peak. Assessment will be demand led, so if the percentage proves to be higher, local authorities will have to respond to that. This is where I do not know the detail of the bill well enough. Is there a lot of flexibility around the support that must be provided? In other words, are there national criteria, or are there just local criteria, which could vary quite a lot between different local authorities? If local authorities had to spend more on assessments, could they, under the bill, just take the money from the resources that they had set aside for direct support?

Moira Oliphant: We would hope that sufficient resources would be provided for assessment, for the adult carer support plan, for the young carer statement, and for supporting carers who meet the local eligibility criteria that will be determined. The point that COSLA and a few others are making is that they feel that there is a disproportionate emphasis on assessment as opposed to support. The scenario that is envisaged is of assessment consuming resources without any good outcome.

The adult carer support plan and the young carer statement will be available to all carers, and that was seen as the way forward. However, that does not mean that resources will be spent in the wrong way, if I can put it that way. There is research evidence. I refer the committee to research carried out by Midlothian Council and the Voice of Carers Across Lothian, which found that assessment is extremely valuable if it is carried out properly and that carers feel supported through an empathetic and outcome-based assessment. The research points to the conclusion that a carer who has not been listened to previously values the assessment in the first instance.

The financial memorandum sets out financial estimates for the adult carer support plan and the young carer statement and then for information and advice. There are provisions in the bill that allow authorities to look at whether, through the adult carer support plan, the carer’s eligible needs could be met by information and advice services—we know that carers value information and advice—or by general services in the community. If their needs cannot be met in those ways, the authority would move on to the duty to support and would look at bespoke, targeted support, in accordance with the eligibility criteria.

On 34 per cent of carers having an adult carer support plan, there has been a steady build-up to reach that figure from quite a low base, and the estimates were made on that basis. Fee Hodgkiss may be able to comment on the health and social care experience survey, the number of carers who feel supported at the moment and so on.

Malcolm Chisholm: My general point is that, with some legislation, if the figures in the financial memorandum are underestimated, the money will just have to be found from somewhere. However, if this financial memorandum is wrong, will it be just the carers who suffer? There is so much flexibility around the criteria for support that there are no implications for public expenditure; it will just mean that carers might not get the support that you would like them to have.

Moira Oliphant: The financial envelope is important here. In drawing up their local eligibility criteria, local authorities will have regard to the amount of resources that they have. It will be incumbent on them to do that. However, it is normal for them to take account of the resources that they have. It would not be a matter of putting a carer through the process for an adult carer support plan or a young carer statement and then leaving them hanging. Resources are going into information and advice services, and there are also resources for the duty to support. Nevertheless, local authorities will have to take account of the resources that they have available and look at the thresholds for support.

Malcolm Chisholm: I suppose that, under the legislation, they could give them, crudely, £100 rather than £300—that would not be breaking the law.

Moira Oliphant: The local eligibility criteria must be drawn up in a transparent way and must be published, and carers and young carers must be involved in drawing them up. It has to be a transparent, open process, and there has to be local democratic accountability. However, if what you describe happened, I do not think that the authority would be breaking the law.
Although there might not be a duty, it is only fair to assess that support for individuals. Assessments will identify short breaks or respite to factor in an assumption that a number of such duties in the bill, but at the same time you have to think that the data covers the cost of providing respite weeks. Again, that issue is certainly worthy of further exploration. The financial memorandum also refers to potential savings being made through carers remaining in, rather than giving up, employment. Again, that is based on some research that was done down south and some estimates that the financial memorandum acknowledges as being broad brush.

It is acknowledged across the piece that early intervention and preventative work needs to be done. Certainly, there is a lot of anecdotal evidence that, if carers are supported in the right way, that will prevent the care-for person from being admitted to hospital or other institutional care and will prevent carer breakdown. There will be savings, but the area is ripe for further evaluation and research. It strikes me that local authorities ought to maintain a list of people or organisations that provide respite and short breaks for carers, and should know how much such provision costs. I struggle with the idea that no data is available on how much it costs a local authority to provide respite and short breaks. Did you attempt to get that information directly from local authorities, rather than rely on the Carers Trust research that you mentioned?

Moira Oliphant: The direct answer is no. The £333 covers all types of support. There is no duty in the bill to provide short breaks, so we looked at different types of support in the round. I do not know whether local authorities have the information that you would like to see. They certainly have information about respite weeks, because the Scottish Government collects data annually from local authorities on respite weeks and publishes it in the autumn. However, I do not think that the data covers the cost of providing respite weeks. Again, that issue is certainly worthy of further exploration.

Mark McDonald: I appreciate that there is no such duty in the bill, but at the same time you have to factor in an assumption that a number of assessments will identify short breaks or respite as being appropriate support for individuals. Although there might not be a duty, it is only fair to assume that that will arise, and therefore it would be good to have an idea of the likely costs and whether the assumptions in the financial memorandum are sufficient. One of the concerns raised by the national carers organisations is that if the financial memorandum’s numbers are insufficient, we will see amendments to local eligibility criteria that will raise the threshold for receipt of support, potentially excluding a large number of carers from that support because the available funding will not cover provision. Do you recognise that concern?

Moira Oliphant: Yes. The national carers organisations and Shared Care Scotland have made the point that the resources for the duty to support are heavier for the later years that are referred to in the financial memorandum than they are for the earlier years, and that there might be an issue around short breaks in the earlier years, although there is not so much of an issue in the later years. That is certainly a valid point, and the finance group that is being set up will look at it.

Your comment that local authorities will surely have information about the costs of respite and short breaks is valid, and we want to look at that further. I know that there is a concern that the provision of respite weeks has reduced. The national carers organisations are concerned that at least some local authorities are not providing adequate respite weeks to meet need—that certainly is an issue.

The voluntary sector short breaks fund is a modest sum of £3 million, which is not factored into the financial memorandum. However, I think that ministers would want to look positively at the fund’s future. Replacement care is another relevant issue—it is sitting there at the moment because of the waiving of charges this year.

Perhaps it is also worth making the point—it is not directly relevant to short breaks, but it is relevant to the wider picture—that we do not have a figure for the resources that local authorities spend directly on supporting carers because we did not get 32 responses to the questionnaire and some of the responses did not set out the figures. However, the figures that we have from about 12 local authorities show that more than £5 million is being spent on direct support to carers, and that will include short breaks. The financial memorandum does not take that off, so there is existing funding in local authorities. Arguably, the Scottish Government is being generous in leaving that level of funding in place.

Another thing that is apparent from the questionnaire returns is the amount of funding that is spent on indirect support to carers, which can
include respite for the cared-for person, equipment and adaptations, and so on. We asked for that figure, and in the returns that we got the total came to £40 million. That is only for a certain number of local authorities and we would not want to say that all that money is for indirect support to carers, but a proportion of it will be. That money is in the system as well—it carries on, as does the integrated care fund.

As far as we know, the last year of the integrated care fund will coincide roughly with the commencement of the provisions in the Carers (Scotland) Bill. Again, although there is no ring fencing for that fund, we know from partnerships’ submissions to the Scottish Government that almost all local authorities will spend resources on carers because they value the support that carers provide.

That overall resourcing is the wider picture and context. However, your point about eligibility for short breaks and downwards pressure is valid and it is one that we would want to consider more widely within that wider context of all the funding.

Mark McDonald: Okay. Social Work Scotland has raised concern about the use of the £176 average as the top-level number in the financial memorandum. Obviously, if it is the average, it is not the top, so why did you use it as the top level? The deputy convener highlighted Glasgow City Council’s comments, and other local authorities have given unit costs that are well over £176.

Moira Oliphant: It was a minority of local authorities that gave unit costs of more than £176. The reason why the unit cost for the adult carer support plan was set out in that way was to give the Finance Committee an indication that assessments can be carried out in different ways. I mentioned telephone assessments and so on. The lowest figure, which is £72, was not originally the lowest. We took out of the equation the lowest and the highest figures, because they were at the extremities.

The £176 figure is presented as the average across a good number of local authorities. There are ones at the higher end, so I understand Social Work Scotland saying, “You haven’t presented the higher ones.” That is the case, but there would appear to be a good reason for that, especially given what we know about the costs of assessment down south. However, it is something that will be looked at and considered further.

Mark McDonald: In its submission, Glasgow City Council raised concerns about the period of three years being used as the length of time that people normally care for, pointing out that someone whose child has complex needs will be a carer for more than three years. Where does the three-year figure come from? What is it based on?

Moira Oliphant: I think that it relates to the work that was done to arrive at the figure of £333, based on a three-year episode of caring. We recognise that carers can care for much longer than that.

Mark McDonald: Is it merely a case of something being lost in translation by Glasgow City Council?

Moira Oliphant: Yes. It does not mean that carers care for three years and that is it. Some would, but that is clearly not the case for all. The £333 is the unit cost every year.

Richard Baker: I will try to be brief. I want to reflect on the concerns that other members have raised about the allocation of costs for replacement care. Is it not the case that if a carer is allocated that £333 for support, but a replacement care package is not in place because of the problem of waiving charges, that renders the effect of the duty to support either meaningless or at least severely impaired?

Moira Oliphant: That is why the issue needs to be resolved in time for stage 2. It is very likely that a stage 2 amendment to the bill will be considered, as the waiving of charges is an outstanding issue.

Richard Baker: I want to get a sense of the issue’s extent and importance. Is the reality not that the cost of replacement care could be the major cost of the bill? It could have the major cost impact on Government and councils, and, as it stands, it is not in the financial memorandum.

Moira Oliphant: You are right—it is not in the financial memorandum, for the reasons that I have stated. The cost of replacement care could be in the region of £30 million across Scotland—that is at present prices. 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.

Richard Baker: If you have an estimate of £30 million, why was it not included in the financial memorandum, even alongside a statement that it was dependent on negotiations with COSLA?

Moira Oliphant: The figure was worked out fairly recently, after the financial memorandum was submitted. We did not mean not to be straightforward about it. Also, the waiving of charges issue is still outstanding. I think that it is fair to say that a further financial memorandum should be presented, but it probably would not have been appropriate to present a figure of £30 million, had it been known, because some replacement care could certainly be of prime benefit to the cared-for person rather than the carer.
Richard Baker: I will leave it at that just now, convener. I think that there are huge questions about some of that.

The Convener: I thank committee members. I also thank the witnesses for their responses, although I think that we need clarification from the minister on some of the issues that have been raised today. I will write to the minister this afternoon, seeking a response before we consider our report, which is due to go to the lead committee on 27 May. I think that there are still a lot of questions that my colleagues want answers to. We might have to revisit the matter at some point in the near future.

Meeting closed at 13:24.
Present:

Richard Baker    Gavin Brown
Malcolm Chisholm    Kenneth Gibson (Convener)
John Mason (Deputy Convener)    Mark McDonald
Jean Urquhart

Carers (Scotland) Bill: The Committee took evidence on the Financial Memorandum from—

Jamie Hepburn, Minister for Sport, Health Improvement and Mental Health, and Dr Maureen Bruce, Deputy Director; Care, Support and Rights Division; Population Health Improvement Directorate, Scottish Government.
Carers (Scotland) Bill: Financial Memorandum

The Convener: Our next item of business is to take evidence on the financial memorandum to the Carers (Scotland) Bill from the Minister for Sport, Health Improvement and Mental Health. Mr Hepburn is joined today by Dr Maureen Bruce of the Scottish Government. I welcome our witnesses to the meeting and invite Mr Hepburn to make an opening statement.

The Minister for Sport, Health Improvement and Mental Health (Jamie Hepburn): Thank you, convener. I am delighted to be back at the Finance Committee. I am also grateful for the opportunity to appear before you today to speak about the financial memorandum to the Carers (Scotland) Bill. As you say, I am joined by Dr Maureen Bruce.

As you know, the aim of the bill is for adult and young carers to be better supported on a more consistent basis, so that, if they wish to continue to care, they can do so in good health. I am sure that we all share that ambition for Scotland’s carers. They should have a life alongside caring. We intend to achieve that by extending the rights of carers and young carers in law. We also want to accelerate the pace of change.

In order to achieve our aims, we need to resource the bill’s provisions and, in particular, to ensure that local authorities are adequately resourced. I hope today to provide you with the necessary assurances that the Government’s financial assessments are as good as they can be, although, as we concede in the financial memorandum, there are challenges in making the estimates.

The challenges primarily arise because the uptake of the new rights will be demand led. Predicting how quickly carers will take up their new rights and the numbers of carers involved presents a particular challenge. A reasonable starting point must be the extent to which carers presently take up their rights. It is fair to say that the existing position or baseline is very low. We believe that the introduction of new rights would not mean a sudden reversal of that but rather a build-up in uptake over several years.

Another important cost factor is the average unit cost of the new adult carer support plan, the young carer statement and support to be provided to carers. My reply to your request for further information sets out the methodology and assumptions that were used to determine the average unit costs.

In recognition of the challenges in estimating demand and unit costs, 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 the Convention of Scottish Local Authorities 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.

The group will build on the considerable level of engagement with local authorities and national health service boards that was established when they were all invited to complete a detailed questionnaire to help inform the financial memorandum. As I undertook to do in my letter to you, convener, I will keep the committee apprised of the group’s work.

Another factor may have an impact on the potential cost of implementing the bill. It relates to regulations that set out the circumstances in which charges are waived for support to carers. Some local authorities say that they are having issues with the operation of the current regulations. We are working with key stakeholders, including COSLA and the national carers organisations, to find a solution. 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. That point was set out in the original financial memorandum, and I was able to re-emphasise it in my letter to you, convener.

I know that my officials brought in COSLA to the thinking on the cost estimates. Of course, there are challenges in building up the estimates, but I think that COSLA could have presented its own estimates to us—it was certainly given the opportunity to do so. Indeed, that opportunity remains, and perhaps it can be best taken forward through the group that I have referred to.

An important point is that the existing funding through local authorities and NHS boards will remain in place. Local authorities are using those resources now to support carers and should continue to do so. If, however, a significant difference between the estimates and the costs arises as the bill is implemented, we will need to look at the issues again in light of the overall Scottish Government financial settlement. We will also need to look at the options available to us at that time alongside other commitments, just as we would in the setting of any budget process.

That is all that I have to say at this stage, convener. I am happy to deal with any questions that the committee has.
The Convener: Thank you. As you know, I will start with some opening questions, and I will then open the session to committee colleagues. First, I thank you for the correspondence that you have engaged in with the committee.

When the bill team was asked whether the cost of replacement care would be a major cost of the bill, it responded:

"I think that it is fair to say that a further financial memorandum should be presented".—[Official Report, Finance Committee, 13 May 2015; c 68.] Is there any intention to present a further financial memorandum at this stage?

Jamie Hepburn: This is a critical part of the process. In the financial memorandum that was presented, we set out the issue that had arisen, and I have set that out in my opening statement.

We are exploring the issue further, and it could be that we seek to make some changes at stage 2. We have let the Parliament and the Finance Committee know at the outset that that is a possibility. If that involved substantial change to the terms of the original financial memorandum, we would of course—as we have set out in the financial memorandum—present a supplementary financial memorandum. As a former member of this committee, I recognise that it is critical for the committee to assess the financial implications of legislative provisions rigorously.

That was a long way of saying, yes, there would be such an intention.

The Convener: Thank you for that. We are well aware that, when the Government produces a financial memorandum, it cannot always be absolutely spot-on: we consider best estimates. The concerns that have been brought to the committee’s attention are that, for many stakeholders, they are not the best estimates. For example, you will be aware that Social Work Scotland commented in relation to the unit costs in the financial memorandum that "the selection of the lowest and highest options is biased."

The organisation went on to complain about the average of £176 being a high-end estimate. Therefore, the overall costs themselves are lower than what Social Work Scotland believes to be the case in reality.

COSLA wrote:

"Given that the FM itself describes the £176 as the average unit cost, it is COSLA’s view that, in presenting a range of unit costs in the FM with £176 at the top of the range, this is misleading."

Jamie Hepburn: I certainly would not accept that we were seeking to mislead anyone or that we have presented biased information. The process of gathering the information has essentially been led by COSLA, which has been intimately involved in the gathering of the available data that we have had to work with. That was set out in the annex that came with my letter to you. We can only work with the available information that was gathered and presented to us. There is no attempt to present the costs in a biased form or to present them in any way other than the clearest possible fashion.

I think that I am right in recollecting that we conceded that there are some other average costs that we did not include in our consideration because they seemed to us to be outliers. It was not only the higher figures that we did not include when we came to our estimate; we also discounted some of the lower estimates. If we had included one group of figures rather than the other, we could have been open to accusations of bias.

I understand that there are concerns, and I suppose that that is why we have stated our willingness to establish the finance-led group. Paragraph 7 of the financial memorandum makes it clear that we are willing to have more information. We are aware that COSLA has concerns.

I note that I have met the COSLA spokesperson for health and wellbeing, and I made the offer to him and his colleagues that, if COSLA has alternative estimates and an alternative methodology, we are very willing to see them. Thus far, COSLA has not sent anything to us. I reiterated that offer in a letter to the spokesman, but we have not had anything thus far. We are doing what we can to engage with COSLA, speaking with its representatives about any concerns that they have. We have invited COSLA to take part in the finance-led group, too. We have not had a reply thus far, but I am sure we will have one soon.

The Convener: When did you contact COSLA?

Jamie Hepburn: We contacted it about the finance group last week, I think.

The Convener: It is probably a wee bit early for it to get back to you.

Jamie Hepburn: Potentially. I should add that others who have been invited have got back to us. That is not a criticism of COSLA per se; I am just making the point that the offer is there and that the organisation is yet to get back to us.

The Convener: It will probably have to consult its members.

The issue is not just the amount of money but the scale. The financial memorandum suggests a 16 per cent increase in adult carer support plans over five years, but North Ayrshire Council has said that it is estimated to be at
“53% in the first year not as stated in the bill ‘when carers come forward’.

There is also an issue about people having their annual carers plan reviewed, as that would increase the uptake of these resources.

Therefore, the question is not just about the amount but the scale. It seems to me and, I believe, to other members of the committee that there is a wide divergence. The problem is not that there is a divergence—we expect that in all bills, as you will know, minister, having discussed many bills when you were a committee member—but this bill seems to contain a tremendous differential in the range of uptake that local authorities anticipate compared with the Scottish Government’s estimates.

Jamie Hepburn: I think that we all accept that the provision will be demand led, and it is difficult to forecast what that demand might look like. However, I was a former member of the Finance Committee, and I know that it expects us to say more than that, so we have attempted to present our best estimate.

The forecast that we have set out is not unreasonable for a variety of reasons. My first point is that there is currently a low baseline of an estimated 12,000 adult carers who are receiving a carer’s assessment, so that must be our starting position.

The removal of the regular and substantial test for someone to be eligible for the assessment process will not in itself result in a large increase in the number of carers requesting an assessment because, as we know, the majority of councils do not use that test. Indeed, we have supportive quotes from local authorities about the removal of that barrier to assessment. Aberdeenshire Council told us that it will improve equity and consistency.

Not all those who decline a carer’s assessment will want to go through the new process. Some might—perhaps those who feel that the current assessment is stigmatising—but others will decline it because they are content to be involved in other procedures such as the community care assessment of the cared-for person. We want to challenge this view but some people do not perceive themselves to be carers; furthermore, some already feel supported—that is clear from the questionnaire returns. A number of those people will probably not request an assessment.

There was also a suggestion that the provision should be compared to free personal care, but that is not a fair or direct comparison. It is reasonable to expect that the take-up of free personal care is higher than the take-up of the new rights in this bill, certainly initially. That is primarily because those entitled to free personal care already receive local authority services—in many cases, in a care home. That makes it much easier to raise awareness of the new rights, and it means that the cohort of people who are targeted by the provisions are already in contact with the state.

We have done our best to come up with what we think is a reasonable estimate. I accept that it is an estimate, but this is a demand-led process and the committee will want as much information as possible. It is right for the committee to seek that through any financial memorandum presented, and that is what we have tried to do.

The Convener: I want to move on to a couple of areas and then I will round things up before I open up the debate—I know that colleagues want to ask about some specific areas that I have been deliberately avoiding.

In their submission, the national carers organisations note that

“the costing for the duty in relation to the provision of Adult Carer Support Plans appears to be based on the model of a one-off intervention”

but that

“an outcome based support plan is a process, rather than a single event.”

The national carers organisations also state:

“it is important that all staff who carry out this task have the correct skills to do so and are experienced in working directly with carers ... additional training and learning may be required and will have associated costs.”

They say that because they are concerned that there might be cost reductions for ACSPs due to changes to the mix of staff grades and skills. In other words, they are afraid that the people who carry out those assessments will not be as qualified as perhaps they need to be. Can you address those two issues?

12:00

Jamie Hepburn: I will deal with the second one first.

I understand where the perception might come from. The point that we are trying to make is that, although we are implementing provisions that ensure that people have certain rights, we are not being entirely specific about how that might be delivered on the ground in each local authority area. It is for the local authority to determine how it implements the assessment process. That could involve, for example, working with third sector organisations, which we know happens in some areas in terms of carers’ assessments—there are some good examples of that happening on an extremely cost-effective basis. There is a range of options for the delivery of the assessment process.
On the concerns that have been expressed by the national carers organisations about unit costs, am I right in thinking that you are talking more about the cost of support than the cost of assessment?

**The Convener:** Basically, the national carers organisations are saying that, although the costs have been assessed on the basis that there is a one-off intervention, we are actually talking about an outcome-based support plan. That means that the costs have been underestimated, because there are additional costs to what has been considered by the Scottish Government.

**Jamie Hepburn:** Again, all that we can do is work on basis of the best information that we have. The unit cost of support is based on research. Interestingly, given that the concerns are being expressed by carers organisations, that research was done by a carers organisation—once known as the Princess Royal Trust for Carers but now known as the Carers Trust. The estimates work for the provision of direct bespoke support, excluding information and advice, which is costed separately. Of course, one of the essential provisions of the bill is that there should be an information and advice service in each local authority area.

The unit cost that we have presented comes from a carers organisation. Again, we can only go on the information that we have available to us.

**The Convener:** I appreciate that, but we all want the legislation to be successfully implemented. I will make one final point before I open up the discussion to colleagues.

There seems to be a distinct pattern throughout the financial memorandum. In terms of the unit costs, the average that the Scottish Government has assessed seems to be lower than the stakeholders suggest that it is. Similarly, in terms of the scale—the number of people who would have to be assessed—the Scottish Government’s estimate seems to be lower than the stakeholders’ estimate. In terms of the model, the Scottish Government does not seem to have assessed the full cost in terms of the on-going support that is required. Finally, in terms of training and staff needs, there seems to be an underestimate based on the fact that the people expected to do the work are less qualified than those who might actually do it.

There seems to be a pattern across the board—this touches on things that John Mason and others want to talk about. Stakeholders usually look at a financial memorandum and say that they expect things will cost a bit more or a bit less, but the problem with this financial memorandum is that, according to stakeholders, the cost underestimates seem to be pretty consistent. When all of those underestimates are put into one package, we are talking about quite a significant sum of money. That is a major concern that I have about the legislation.

**Jamie Hepburn:** I can understand that concern. With good will, I would make the point that we have presented a methodology and presented where our estimates have derived from. However, in these critiques, I am not hearing people saying what they think that the costs will be and stating how they have arrived at that position. That is particularly the case in relation to COSLA’s criticism of the unit cost of the assessment process.

We will be reasonable. We are more than willing to engage in continuing dialogue with the stakeholders to hear the concerns that they have. We have done that thus far, and we will continue to do so. Of course, at some stage, they will have to provide some information so that we can assess what their perspective might be and see what the best estimate might be. I have not heard any of that so far.

**The Convener:** Thank you for that. I will open up the session now. The first person to ask a question will be the deputy convener.

**John Mason:** As you probably realise, minister, we met the bill team at our previous meeting on this bill and spent a bit of time talking about replacement care, and that is the area that I am interested in. The bill team said:

> “COSLA and some local authorities have told us that it is unfortunately not possible to say whether replacement care benefits the carer or the cared-for person. If it benefits the carer, the charges would be waived. If it benefits the cared-for person, normal charging would apply.”—[Official Report, Finance Committee, 13 May 2015; c 61.]

I understand that, but I feel that an ordinary person reading or hearing it would find it frustrating and a little bit odd that we are getting bogged down in such discussions. Let us suppose that a carer goes away for a week. If it is a young person going to a camp or on some kind of holiday, that is great. While the carer is away, the person who is being cared for probably need to go into a care home, although there might be other ways of dealing with their care needs. Can we not break through the question of who benefits? I think that it is primarily the carer who is benefiting, but maybe the cared-for person also gets a bit of benefit. Must we get bogged down in that?

**Jamie Hepburn:** I hope that we do not get bogged down in it, but you are certainly getting to the nub of the issue at hand. We are presently discussing that with COSLA and with the carers organisations to establish the best way forward.

There are regulations out there. What we are responding to is a concern from certain local
authorities that say that they are having difficulty in interpreting those regulations. I am pushing my officials to make sure that I am getting the best possible evidence to see what the picture is on the ground, but we will continue to have dialogue with those stakeholders, with COSLA, with local authorities and with the carers organisations. To return to the convener's opening question, that could result in us presenting fairly substantial amendments to the bill at stage 2, which could require a supplementary financial memorandum, which I know the committee would take an interest in at that stage.

**John Mason:** The convener has already thanked you for the correspondence, and I appreciate it as well because it has clarified one of the points that I was raising. When we talked about waiving charges, I was not sure whether that meant only the local authority’s charges or whether it could include a third party's charges. Your correspondence has confirmed that it would include a third party’s charges, because if a charge was waived, it would mean that the local authority would take it on and would not pass it to the service user.

**Jamie Hepburn:** That is correct. I hope that I have understood Mr Mason’s example; you can correct me if I am wrong. It is my understanding that the only interaction with the private sector in the process would be that a private sector provider might be commissioned by a commissioning authority—a local authority, most likely—to provide some element of care. I am not even convinced that the Parliament is empowered to demand that private organisations waive their charges, so it would be the commissioning body—that is, the local authority—that would waive the charges.

**John Mason:** My fear was not that we would force anyone to waive the charges but that it would stop the cared-for person getting the care, and therefore stop the carer going away, so it would block the whole process. I am reassured to hear that that is an option.

It seems to me that, if the cared-for person has to go into a care home, and if their carer is a young person—presumably because there are no other family or friends available to care for them—the options will be either to bring in enough daycare to keep the person at home or to have the person go into a care home. My assumption is that, if the cared-for person has to go into a care home, and if their carer is a young person—presumably because there are no other family or friends available to care for them—the options will be either to bring in enough daycare to keep the person at home or to have the person go into a care home. My assumption is that, in some circumstances, alternative family members are able to provide some short-term care, although they cannot provide the long-term care that the primary carer who has gone through the assessment process can provide. There could be different options available.

**John Mason:** Presumably, we could at least make an estimate. We could say, for example, that 50 per cent could be cared for at home and 50 per cent would need to go into a care home, or that it would be 75 per cent and 25 per cent.

**Jamie Hepburn:** Potentially, I suppose. We are starting to get into the realms of second-guessing where the process of dialogue with the stakeholders might take us.

**John Mason:** But surely that would be more of a needs issue. We could discuss with COSLA and local government who would pay, but what if the person needs to go into a home because there are no other family members?

**Jamie Hepburn:** I suppose that an estimate could be made, but I should point out that the whole point of this bill process is to ensure that the system is very person centred and very much driven by individual carers’ needs. It is also quite hard to make an estimate because we presumably do not have all the available data, and people who are not yet in the system are going to be involved.

**John Mason:** But we know, broadly speaking, what it costs to put someone in a care home.

**Jamie Hepburn:** But that takes us into the realm of having to look at where such care becomes replacement care and where we get into the waiving of charges. I am loth to start putting down estimates that could be of no relevance to the committee and this process.

**John Mason:** It strikes me that we would know, say, the £500 cost for the care home, but we would still not know how that would get split up between the Scottish Government, local government and the family. We would know the total cost, but we would have to negotiate how it was split up.

**Jamie Hepburn:** Potentially, but I am not quite clear where your question is taking us.

**John Mason:** Basically, my point is that we would know or could estimate some of the costs, but a separate question is who pays for them.

**Jamie Hepburn:** Okay. Your question touches on two areas. Some of this could come out in the assessment and what the person is entitled to, and we have set out the average unit cost for that where it touches on the waiving of charges. I suppose that the point that I was trying to make in seeking to be helpful to the committee was that if, at this stage, we tried to estimate the potential cost of any particular provision, it might not be all that
helpful, because we have not yet worked out what the provisions will look like. That is why I think it more appropriate to provide that information in a supplementary financial memorandum.

**John Mason:** Thank you.

**Gavin Brown:** Fairly late in the day at the previous evidence-taking session on the financial memorandum, Scottish Government officials said:

“The cost of replacement care could be in the region of £30 million across Scotland—that is at present prices.”—[Official Report, Finance Committee, 13 May 2015; c 68.]

Does that mean £30 million per annum?

**Jamie Hepburn:** I would need to clarify that absolutely, but I suspect that that would be the case.

I know that we are talking about £30 million, and I know from my experience on the committee that Mr Brown is always concerned about large sums of money for any specific provisions that we take forward, so I caveat my comments on that basis. However, I urge the committee not to get hung up on the £30 million as it relates to the area that we have just been discussing, because it encompasses a whole range of expenditure. Indeed, some of that expenditure is happening at this very moment. The £30 million is therefore a fairly broad-brush figure and is, perhaps, a starting point for us to analyse how we take forward the waiving of charges.

**Gavin Brown:** Okay, but my question was whether the £30 million is an annual figure.

**Jamie Hepburn:** I am sorry—I thought that I had answered that. Maureen Bruce will correct me if I am wrong, but my expectation is that you are correct.

**Dr Maureen Bruce (Scottish Government):** I am fairly certain that that is the case, but we can confirm that absolutely.

**Gavin Brown:** If you could, that would be great. The financial memorandum makes a range of assumptions, but you must have done some work to be confident enough to state that £30 million figure publicly. Are you able to share with us either today or, again, in writing how that £30 million is built up?

**Jamie Hepburn:** Of course. Having committed to come back to you in writing to clearly establish whether the £30 million is an annual figure, I will commit to providing a further breakdown of what it relates to, if the committee will find that useful.

**Gavin Brown:** Definitely. The reason why it is so important is that, given that the maximum annual cost of the bill as a whole is somewhere in the region of £80 million, the £30 million is potentially the biggest single slice of that.

**Jamie Hepburn:** Absolutely, but I suppose that the point that I am trying to make is that the figure is not likely to be £30 million, because, as I understand it, that figure covers money that is already being spent just now. It encompasses a wider range than would be covered by the waiving of charges for replacement care, if that makes sense.

**Gavin Brown:** It does, and I am sure that your letter will clarify the position exactly. The committee is interested in what additional expenditure there will be as a consequence of the bill. If some of that money is already being spent, that is not expenditure that is being driven by the bill. I am keen to find out what the additional expenditure is.

12:15

**Jamie Hepburn:** That comes back to my point that we have not quite established the provisions that we want to put in place. It is contingent on us agreeing that we will take forward specific provisions on the waiving of charges. There are regulations in place at the moment, but we are responding to concerns that have been raised by local authorities. If we put in other provisions that require additional Government expenditure, we would provide that in advance of stage 2, in the form of a supplementary financial memorandum.

However, I take on board your point and I understand the need for the committee to have as much information as possible. We will try to break down that £30 million figure for the committee and we will clarify whether our view that it will be an annual figure is absolutely correct.

**Gavin Brown:** I take you to the table between paragraphs 79 and 80 of the financial memorandum—it does not have a number. The issue raised by the Scottish Government and others is that there is some dubiety in certain cases as to whether the key beneficiary is the carer or the cared-for person. If the beneficiary is the carer, charges can be waived, but if it is the cared-for person, they are generally not waived. I understand that distinction. In the table, you have estimated the number of adult carers who you think are likely to receive support in each of those financial years. My question is this: if those adult carers have been formally assessed under the system set up by the bill and the decision taken by the assessors is that those adult carers are entitled to some form of help and support, will it not be the carer who is the beneficiary in almost all cases, because that is the assessment of the professionals undertaking the work?

**Jamie Hepburn:** Yes, but the table relates more directly to the current provisions in the bill. The issue of whether replacement care benefits the
carer or the cared-for person more is tied up with the whole issue of waiving of charges, which is not covered in the table that you refer to.

**Gavin Brown:** Perhaps I am missing something here, but if the adult carer has been assessed professionally as being deserving of and requiring a break or some other form of respite, surely the beneficiary is the carer. It is not as though someone has gone into care for a week and the carer has said, “Oh right, well I’m just going to take a holiday.” It is a formal assessment that the carer is entitled and so the key beneficiary is the carer.

**Jamie Hepburn:** If the short break was determined as part of that assessment, we cannot get away from the fact that the carer would be the primary beneficiary.

**Gavin Brown:** Is it a safe assumption that almost all the carers in the table—153,811 in 2021-22—will be the beneficiaries?

**Jamie Hepburn:** Not all those people will necessarily get a short break identified as part of their carer’s assessment. We are perhaps talking at cross-purposes. The issue is not so much the short break that they are entitled to but whether the replacement care that would be necessitated as a result—and this is what local authorities say they are having difficulty assessing under the current provisions—is of primary benefit to the carer or the cared-for person. That is what we are trying to bottom out. That is what we are talking to COSLA and local authorities about. We cannot escape the fact that a short break, which may necessitate the replacement care, is of benefit to the carer if that break has been identified as part of that carer’s assessment.

**Gavin Brown:** I accept that not all the carers get a break and there are various assessments. However, based on the current position, could you not make a working assumption on what percentage of people are likely to be assessed as requiring a short break, rather than some other form of respite, and could you not then use the same assumption, to work out what percentage of carers sent on short breaks qualify for the respite care to be paid for or the charges to be waived? There must be some data that you could use to at least estimate the figure.

**Jamie Hepburn:** We said in the financial memorandum that there will be an extra £2.36 million for short breaks, which comes from an assessment of the additional number of carers that we believe will be entitled to short breaks through the new process. We have therefore undertaken that assessment, Mr Brown, and that information is in the financial memorandum.

**Gavin Brown:** You have a figure for the number of carers entitled to short breaks, based on the current figures. For every 100 carers who go on a short break currently, you must have some idea of how many of the people for whom they care are entitled to the charges being waived and how many are not. That information must be available.

**Jamie Hepburn:** Yes. Ultimately—again, Maureen Bruce can correct me if I am wrong—it is local authorities that will hold that information, and part of our engagement with local authorities is to try to establish exactly what the picture is. Indeed, it is primarily for me, as the minister with responsibility for the bill, to try to establish what exactly is the nature of the problems and concerns that have been identified by the local authorities in interpreting whether replacement care is of benefit to one party or another.

**Gavin Brown:** Let us consider the table on page 46 of the financial memorandum, but on a slightly different issue. I have been discussing replacement care cover, but I will move on to a different issue. Some people have suggested that you have underestimated the overall number of people who are likely to be entitled to receive support. If we look at the figure in the table for adult carers for 2017-18, we see that your assumption is that 11,175 people will be entitled to support of some description, which is 2 per cent of the carer population.

**Jamie Hepburn:** Just to clarify, it is not so much about who is entitled to come forward to seek support.

**Gavin Brown:** You have said that it is those who are likely to receive support.

**Jamie Hepburn:** Yes.

**Gavin Brown:** So the figure in the table is not for people who come forward for support: it is your estimate of the number of people who will receive it.

**Jamie Hepburn:** Yes. It is an estimate of how many of those who come forward will be entitled to support.

**Gavin Brown:** No. You say in the table that the figure is 2 per cent of the carer population.

**Jamie Hepburn:** Yes. That is correct.

**Gavin Brown:** Right. You are saying that 2 per cent of the carer population will receive support in 2017-18, but in paragraph 81 of the financial memorandum you say that the surveys that you have read “show that ... 4 per cent of carers ... said they receive short breaks or respite care”.

If your previous surveys show that 4 per cent of carers get that, why are you suggesting that the figure will be 2 per cent in 2017-18, at a time when a lot of advertising on the issue has been done? I would have thought that the percentage in...
2017-18 will be higher than the current 4 per cent if you are advertising the support and telling people that they are entitled to it.

**Dr Bruce:** The nature of the support is important, because what is being referred to is a bespoke form of support. We estimate that, at the moment, less than 2 per cent of carers have the carer’s assessment, so we are starting from a very low baseline. Even from that starting point, if 2 per cent of those who are currently assessed come forward for the new support plan or for a review for the new support plan, a range of general support is available to them, such as advice and information services. We know from pretty robust research that that is tremendously beneficial and that, from our understanding of what carers want, it is the second priority for them.

The first thing that carers want is that the services for their cared-for person are right and that the person is being properly cared for through their health and social care. When carers begin to think about their own needs, the second thing that they want is information and advice. That is why there is a commitment to continue to provide that through the NHS and through local authorities commissioning services from the voluntary sector, which has real skills in the area, with the local authority having a role in co-ordinating advice and information. That commitment is important for us. There is also the option of accessing local community services that are available to anyone in any community who needs particular support.

There are also financial estimates for the provision of bespoke support when the options that I described are exhausted. That can include things such as short breaks and advocacy that carers need and want but which cannot be provided in other ways.

**Gavin Brown:** You state that, in 2017-18, 11,175 carers will receive support; that is your projection. What is the raw number of carers receiving support in the current or previous financial year? If you do not have those figures to hand—

**Jamie Hepburn:** I do not know whether we have that information to hand—we might need to come back with it.

**Gavin Brown:** That would be useful; I just want to ensure that I am comparing the right things. It strikes me that, on the face of it, the numbers appear to be going down slightly, but you are spending £3 million a year on giving information and advice.

**Jamie Hepburn:** It is probably best if we try to clarify that in writing.

**Gavin Brown:** Okay. My last question is on what happens if the charges have to be waived and local authorities have to carry the cost, as it were. You are going to bring another financial memorandum to the committee. In advance of that, do we have a broad commitment from the Scottish Government that it will underwrite the cost?

**Jamie Hepburn:** We need to agree, and we are in dialogue with local authorities. If anything arises from that process and we decide to take it forward, the answer will likely be yes, but we are currently engaged in trying to work out what that may be. The process involves dialogue with local authorities, and part of that is about how we pay for the provisions for whatever is put in place.

**Gavin Brown:** Thank you.

**Richard Baker:** I have one question, as Mr Brown has covered some of the areas that I was going to cover. That last point is crucial, because replacement care could end up being the biggest cost of the legislation, and it is not in the financial memorandum as it stands. I appreciate that the minister said that there will be a further financial memorandum to come. Could the issue of who would be entitled to replacement care funding be resolved in the legislation at stage 2 to provide clarity in that area?

**Jamie Hepburn:** Yes, I think that it could be. That is at the nub of the whole thing, and that is what we are seeking to do.

**Richard Baker:** So you will bring forward a financial memorandum but, in addition, you may lodge amendments to the bill to provide clarity on the legal status.

**Jamie Hepburn:** Sorry, I should make it clear that we will present a further financial memorandum only if we lodge amendments at stage 2. I think that we would be required to do so under the standing orders of the Parliament if we substantially altered the financial commitment that would fall on Government—or indeed on any other party—as a result of the legislation. We would produce a further financial memorandum on the basis that we were seeking to amend the bill.

**Richard Baker:** Just to be clear, are you seeking to amend the bill?

**Jamie Hepburn:** That is the working assumption, but we are engaged in dialogue on the matter just now. There are regulations at present that should cover these matters, but local authorities have made the point that they have difficulties with the provisions, and we are indicating our willingness to engage in dialogue with them.

**Richard Baker:** Absolutely, minister, but we want to ensure that, if Parliament is to proceed with the bill, the funding is there to make that part of the bill relevant and to enable it to work in a
meaningful way so that young carers can get the respite that they need.

Jamie Hepburn: Of course.

Richard Baker: It is important for us, whatever the circumstances, to have an indication of what the cost will be now and in the future.

Jamie Hepburn: Of course.

Malcolm Chisholm: Will the Government’s amendments be intended to clarify the regulations?

My other question is about what happens if you do not reach an agreement with COSLA. Will you just have to impose something, because you accept that the bill requires that?

Jamie Hepburn: It is not so much about imposition; I am trying to make the point that regulations and guidance exist at present. We are responding to a concern that local authorities have expressed to us, and we are reasonable people so we want to engage in dialogue with them. Ultimately, if that requires us to amend the bill to clarify matters further, and if that results in additional financial commitments from the Administration, we will not only lodge the amendments but present the supplementary financial memorandum. I cannot give much detail on what the amendments will look like, because we are engaged in an open process with those who have raised the concerns. In addition, it is crucial that we talk to the carers organisations about the issue.

Malcolm Chisholm: Would it be fair to say that the Government itself has a clear view of its interpretation of the regulations? Although you are describing all this in terms of dialogue with COSLA, do you have a view on how the regulations should be interpreted?

12:30

Jamie Hepburn: That is why I am not only seeking further information from my officials but trying to get the perspective of local authorities. I am clear that there are regulations; I am less clear on their efficacy and how they are working on the ground. I want to establish the picture.

Again, I am happy to keep the committee apprised of where we are taking the work, although it might be the Health and Sport Committee that takes a greater interest in the specific policy provisions.

Malcolm Chisholm: What is the likely timescale for all that? When do we expect stage 2 of the bill?

Jamie Hepburn: Let us try to get through stage 1 first.
Written submissions to the Finance Committee

Argyll and Bute Council
City of Edinburgh Council
COSLA
Dumfries and Galloway Council
Fife Council
Glasgow City Council
Inverclyde Council
Supplementary submission from Inverclyde Council
National Carers Organisations
North Ayrshire Council
Richard (Individual submission)
Royal College of General Practitioners
Scottish Council of Independent Schools
Shared Care Scotland
Social Work Scotland
South Ayrshire Council
West Lothian Council
Additional submission from COSLA
CARERS (SCOTLAND) BILL
WRITTEN SUBMISSION FROM ARGYLL AND BUTE COUNCIL

I refer to your e mail of 19 March 2015 with a call for evidence from the Scottish Parliament’s Finance Committee seeking views to a number of questions relating to the Carers (Scotland) Bill. Please see undernoted response submitted on behalf of Argyll and Bute Council which should be read in conjunction with the more detailed response from COSLA to which the council also contributed.

1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

Yes through COSLA’ approach to Local Authorities

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?

It is difficult to trail submissions to COSLA through to the financial assumptions made in the Financial Memorandum. We appreciate the complexity of the financial modelling work that has been undertaken to arrive at the Financial Memorandum.

3. Did you have sufficient time to contribute to the consultation exercise?

Time available to route the response to COSLA was limited, especially given the Festive holiday period.

Costs

4. If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

We will align ourselves to the COSLA position on this matter. We believe that there has been a significant underestimate of the increase in demand which will emanate from the introduction of adult carer support plans (ACSPs). It is important that Local Authorities are able in a transparent way to see that with the additional burden of these new responsibilities, there are sufficient and growing resources made available to adequately discharge them. The potential worst case scenario is arriving at a position where the role of local authorities in targeting limited resources to those of greatest need is displaced by a demand driven by a formal assessment of all carers irrespective of need.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

We are comfortable with the general approach adopted in arriving at the estimated costs but have central concerns that this is a significant underestimate of the likely increase in demand. This concern has a direct bearing on question 6 below.
6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

Again we will align our position to that of COSLA, that the Financial Memorandum through the change in definition of a carer will lead to a significant increase in demand that is not addressed in the FM.

7. Does the FM accurately reflect the margins of uncertainty associated with the Bill’s estimated costs and with the timescales over which they would be expected to arise?

We acknowledge and appreciate the approach adopted in setting out minimum-maximum estimates over the stated timescales. Our concerns is that the approach does not take on board the likely and significant demand-led growth that will be generated. The approach also does not take into account the significantly higher costs of assessment and service provision in rural and island locations.

Wider Issues

8. Do you believe that the FM reasonably captures any costs associated with the Bill? If not, which other costs might be incurred and by whom?

As the FM itself acknowledges, the impact of the waiving of charges on local authorities remains a matter of ongoing discussion between the Scottish Government and COSLA. This is a core matter that requires resolution and associated full acknowledgement of the financial loss to local authorities. There is a case for a means tested approach to charging as with many areas of social care services and delegated decision making for charging that reflects the additional costs in rural and island locations.

9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

We believe that on completion of this consultation on the FM, the issue of real and future costs remain a matter of ongoing engagement between COSLA and the Scottish Government with an agreed formal review date embedded to take account of the actual impact of the legislation in relation to carer outcomes, the volume of assessment and planning work and the commensurate associated costs.

I trust the above is of assistance however if I can offer any clarification please do not hesitate to contact me.
CARERS (SCOTLAND) BILL
WRITTEN SUBMISSION FROM THE CITY OF EDINBURGH COUNCIL

The City of Edinburgh Council welcomes the opportunity to respond to the Committee’s call for views and evidence on the Financial Memorandum to the Carers Bill.

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

However, the Council is not convinced that the significant sums included in the Finance Memorandum are really sufficient to fully fund the Carers Bill provisions. Our concerns are the same as those expressed in the submission from Social Work Scotland, the drafting of which we assisted:

(1) The additional carer assessments required is likely to be under-estimated.

The Bill’s provisions create a right to a carer’s assessment on demand. According to the Finance Memorandum (FM) there are 745,000 carers in Scotland and currently around 12,000 adult carer’s assessments of all types each year. This means that only 1.6% of carers are currently assessed annually. While we agree that many, perhaps most, carers will not request an assessment, the right to an assessment on request is likely to increase demand very significantly. Current legislation restricts assessment to carers who provide “substantial and regular care”; the abolition of this condition via the Bill’s revised definition of a carer removes the ability of local authorities to focus assessment resources on carers who are likely to require support. There is a real risk that assessment on demand will consume resources that would be better spent on providing carer support. The FM assumptions about the numbers of additional assessments required each year are not well-connected to the survey data said to inform these judgements.

(2) The numbers of carers assessed as requiring support is also likely to be under-estimated.

The FM calculations are highly sensitive to the assumptions used. The key assumption that 60% of adults with a Adult Care Support Plan and 69% of young carers with a Young Carers Statement will require support is not well-supported by the evidence that 70% of carers receive no support, and only 4% receive respite care. There also appears to be an error of £11.5m in the calculation of the cost of support for adult carers in 2020-21.

(3) The unit costs used to cost assessment and support are too low.

The Adult Care Support Plan assessment costs should be modelled on the average costs reported by councils in the questionnaire survey (£176 per assessment). Instead this average is presented in the FM as the high-end cost, and a lower English figure from Surrey is used as the average. Average costs for Young Carers Statements appear to be lower for reasons that are not clear. The unit costs for support are

¹ Carers Bill Policy memorandum, paragraph 2
also unrealistic, particularly for respite care (£300 per year) which would only buy two days of respite care per year.

(4) The rate at which additional demand will build up will be quicker than estimated. Previous social care legislation, eg Free Personal Care, created new demand more quickly than the 4-5 years assumed in the FM for the Carers Bill. Work in England on similar new legal rights for carers also assumed a faster build-up of new demand. We have also analysed the specific arguments in the FM for a slower build-up but they are not convincing.

(5) The ongoing increase in demand in future years is unlikely to flat-line after the initial build-up of new demand for assessment and support from carers, for reasons that the Scottish Government already have acknowledged in the Policy Memorandum (para 20): the number of carers is likely to increase, albeit at a slower rate than the increase expected in the future numbers of people with health and social care needs. This will mean funding pressures as a result of the Bill that are higher than those shown in the steady state period after the initial build-up of new demand.

More detailed support for these concerns in contained in the submission from Social Work Scotland, as well as responses to the nine questions contained in the Committee’s invitation seeking comments and evidence on the Financial Memorandum.

1 May 2015

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CARERS (SCOTLAND) BILL

WRITTEN SUBMISSION FROM COSLA

Introduction
1. COSLA welcomes the opportunity to provide written evidence to the Finance Committee on the Carers (Scotland) Bill Financial Memorandum. COSLA’s submission does not follow specifically the questionnaire attached to the Committee’s call for evidence, but instead focuses on a number of key concerns which need to be drawn to the Committee’s attention. The submission explains why these concerns are critical for local government and why they should be a key focus of the Committee’s interrogation. However in presenting these concerns the Committee will hopefully be satisfied that COSLA has also sought to cover the areas of interest set out in the call for evidence.

Key messages
- COSLA remains unconvinced as to the need for legislation on supporting carers, however we will work constructively to influence the shape of the new Bill.
- COSLA has doubts about the assumptions made in the Financial Memorandum over the cost and demand over time for the new carer duties, though we acknowledge that this is new territory and estimating costs and demand is difficult.
- The risk however is that the costs may be significantly underestimated and the demand wrongly profiled which, in turn, will mean that inadequate funding will be provided to councils to deliver the new duties.
- COSLA is concerned over the financial risk which may then result for councils and carers, if the assumptions on cost and demand differ widely from actual experience.
- COSLA is therefore calling for meaningful agreement on risk-sharing to be put in place with the Scottish Government.
- Critically COSLA is calling for proper recognition to be given to jointly monitoring the actual financial impact of the new duties on councils, which will ensure that the levels of funding are re-visited in light of the actual position.

The Carers Bill
2. Before drawing the key concerns which COSLA has with the Financial Memorandum, it is worth saying a little bit about COSLA’s position in regard to the Carers Bill itself. This will be further drawn out in COSLA’s submission to the Health and Sport Committee as the lead Committee, however COSLA is keen that the Finance Committee also has a feel for where local government is positioned on this.

3. The Committee will be aware that the Scottish Government consulted on proposals for a Carers Bill during the summer of 2014. At that time COSLA was concerned that many of the Scottish Government’s legislative proposals were
impractical and would make it more difficult to support carers flexibly into the future. In particular it was felt that this went against a policy drive by local government and community planning partners to focus more on innovation, capacity-building and co-production across the care sector.

4. COSLA was of the view that a sufficient enough case for moving to legislation had not been made and that this was not the preferred direction of travel. However it was clear that Scottish Government remained committed to moving to legislation and, under these circumstances, COSLA should work constructively through the parliamentary process to influence the shape of any new Bill.

The Financial Memorandum

5. In providing comment on the Financial Memorandum, the Committee should be aware that COSLA sought to work with the Scottish Government to understand their approach to costing the provisions to be contained in the Bill. COSLA remains concerned however that assumptions made in the FM are not substantiated. In particular COSLA would question the assumption on uptake that, as 44% of carers feel supported, the logic of this is that growth will be low and slow. This is critical as assumptions about carer behaviour will determine the levels of cost and hence funding which the Scottish Government is willing to provide to local government in the early years of the new duties being in place.

6. There are a number of provisions with financial implications contained in the FM which affect local government. There are however two key cost areas which COSLA would specifically like to draw the Committee’s attention to in the Financial Memorandum, these being the duty to prepare Adult Carer Support Plans and the duty to support carers. These are significant new duties on local government and are considered first, in the order of concern for local government.

Adult Carer Support Plans

7. The duty to prepare the adult and carer support plan (ACSP) for adult carers is a significant new duty for local government. To a lesser extent the same applies for the young carer statement (YCS), however in terms of cost it is the assumptions in the FM around ACSPs which are most concerning. There are three areas of concern to be considered:
   i. Unit cost of assessment.
   ii. Speed at which carers will come forward for assessment.
   iii. Total number of carers that will come forward for assessment.

Unit cost of assessment

8. The FM profiles three options for the unit cost of assessment, Unit Costs of £72, £110 and £176, giving total costs (by 2021-22) of £7.7m, £11.8m or £18.9m (FM pg 40, Table 1). It makes no clear recommendation however about which unit cost is thought to be the most accurate. COSLA has concerns about the representation of these unit costs as alternative options as these could lead to a presumption that the lower unit costs are realistic. Given that the FM itself describes the £176 as the average unit cost, it is COSLA’s view that, in presenting a range of unit costs in the FM with £176 at the top of the range, this is misleading. Whilst more than one interpretation of the evidence is
understandable, COSLA nonetheless believes that £176 best represents the evidence on the cost to local authorities and that no alternative to this should be presented in the FM.

9. COSLA therefore urges the Committee to press the Scottish Government to recognise, on the basis of evidence from Scottish councils, the unacceptability of placing an average unit cost (£176) at the top level of its estimates. Furthermore COSLA urges the Committee to press the case that resources should be provided at a realistic level that recognises councils’ capacity to deliver the new duties.

Speed at which carers come forward

10. The uptake of Adult Carer Support Plans (ACSPs) is profiled in the FM as being low and slow, taking a period of 6 years to build from the current estimated level of 3% of Scotland’s 745,000 carers to 34% by year 5 (FM para 56). It is COSLA’s view that there is no evidence presented to support the year-on-year increases profiled in Table 1 regarding the speed at which carers will come forward for assessment (FM paras 55-56). Instead broad assumptions are made about carer behaviour based on the Scottish Health Care Experience Survey, such as that 44% of carers currently feel supported and that many carers will continue to be assessed through other routes (community care assessment/disabled child’s assessment). With regard to those carers feeling supported for example, COSLA would argue that, firstly people’s needs change, both carer and cared for, over time and, secondly, an improved offer of new entitlements may encourage many of those who currently feel supported to seek further support.

11. Whilst councils have indicated that further consultation is needed locally to estimate likely patterns of demand, the broad view from councils is that the duty to provide the ACSP, along with the removal of the ‘regular and substantial test’, will lead to an increase in uptake well above the estimates provided in the FM. One council at least has indicated that 53% of their carer population will come forward and that this will happen far more quickly than the FM is presuming. The FM seems to back this up at para 39 when, from the results of the local authority survey, it states that 10 councils thought that demand would increase immediately whilst 6 felt this would happen at a later date. In other words 16 of 17 councils believe that demand will increase, with 10 believing that this will happen immediately after the Bill is enacted.

12. The slow uptake estimated in the FM would also seem to run counter to previous experience of uptake rates for new universal entitlements. With take up of Free Personal Care, for instance, growth was closer to 30% of the eligible population over the first 3 years of the new policy coming into place, compared with 16% over 5 years for take up of ACSPs estimated in the FM. The impact of getting these estimates wrong are that the costs will be significantly higher and, without sufficient funding, councils will struggle to meet demand with the outcome being either that we see waiting times for assessment worsening, or councils having to tighten eligibility thresholds and withdraw support from other client groups in order to meet this new duty.
13. With regard to the total number of carers that will come forward for assessment (FM para 56), the FM argues that demand will peak at 34% of the caring population by 2021-22, taking into account turnover and renewals, basing this on the fact that 44% of carers report they currently feel supported. However, there is no evidence presented to support the assumption that few of those carers will come forward for support as a result of the new universal entitlement to an ACSP. In particular there seems to be little recognition of the impact on demand arising from the associated perception of an improved offer that could result from awareness-raising activity accompanying the Bill. The legislative intention has been very positively received by carer’s organisations and is being well publicised. As indicated above at least one council is estimating a 53% uptake from their carer population.

14. As an example of the lack of evidence, COSLA would question the presumption in the FM at para 41 that the removal of the regular and substantial test will not lead to large numbers of carers requesting an ACSP. The presumption is that, as half of the councils who responded in the survey said that they were not using the test, then its removal will not lead to a large increase in demand. It is illogical to state that because a number is unknown (the number of carers who did not meet the test), then this suggests the number is small.

15. COSLA would also counter the presumption in the FM that, as some carers have previously declined the offer of a carer’s assessment, then only a few of these carers would come forward for an ACSP. The whole intention of the Bill is to remove any perception of stigma or other factors which prevent carers coming forward and, together with the workforce development measures proposed at paras 107-110 in the FM, this would suggest that those who have not come forward before may feel encouraged to do so now.

16. Additionally demographic change is increasing the carer population, with the complexity of needs changing, meaning there will be more carers in future years, undertaking more hours of care, making it likely that a greater number of carers than estimated will come forward in the future. For example, census data from 2001 and 2011 show an increase in the number of hours carers are having to care for, particularly those caring for 35-50hrs per week and 50hrs+ per week. The estimates presented in the financial memorandum are not adjusted for this projected growth in the population and caring burden and therefore represent an underestimate of demand.

Duty to support carers

17. The FM assumes that the proportion of carers assessed who are also eligible for support will be 60% for adults (and 69% for young people) by 2021-22 (FM para 79). It uses a figure of £333 per carer, per annum, to arrive at a total cost for improving support to carers of £51.2m (adult carers) and £6.5m (young carers) respectively by 2021-22. There are two main issues with the assumptions in the FM in relation to the duty to support carers: firstly, in relation to the proportion of the caring population who are estimated as being eligible for support; and secondly, in relation to the overall resource identified and expectations about the support this can be expected to secure.
18. With regard to the proportion of carers requiring support, little in the way of justification is given in the FM for the estimate of 21% of adult carers and 40% of young carers being eligible for targeted or bespoke support. It is unclear, for instance, from the FM whether 40% and 21% are the percentages of those carers who come forward for assessment or of the total carer population? If it’s the former, then the actual number of people will be higher than indicated in the FM and the budget won’t ‘stretch’ as far as £333 per head. Depending on where councils set their eligibility criteria it could be higher or lower. If it is higher, again the ‘budget’ won’t stretch as far and councils will be forced to tighten eligibility criteria even further, whilst having to deal with carers who have an expectation of an improved offer of support at the level estimated in the FM.

19. With regard to resource, the figure of £333, which only amounts to a few days support each year, should only be viewed as a component used to arrive at an overall costing. This cannot be seen as an actual entitlement as the actual cost will vary depending on the nature of support provided, which is entirely driven by the eligibility criteria determined locally. There is a very real risk that carers will nonetheless perceive this as an entitlement. The FM indicates that the eligibility criteria will be locally determined but that local authorities must have regard to overlaying regulations. Given the increased awareness, should carers come forward more quickly or in greater numbers than anticipated, the total budget would not support allocations at that level and councils would not be able to meet these increased expectations.

20. It is worth also stating that there is a tension between the two duties insofar as the Bill will establish a universal entitlement to assessment through the provision of ACSPs, whilst at the same time councils will need to manage demand for direct support to carers in light of the funding available for this. Within the context of a finite resource being made available under the Carers Bill, there is the concern therefore that resources which could have been available for direct support are instead required to be diverted to assessment.

21. The risk is that, with expectations ramped up on an improved offer of support, councils could find themselves pressurized by regulation to meet these expectations, especially if there is a significant diversion of resources to meet demand for ACSPs. With councils’ ability to tighten eligibility criteria for direct support becoming increasingly constrained, this could in turn put pressure on council budgets if the demand is significantly greater than forecast.

Conclusion on the key cost and demand areas included in the FM

22. COSLA recognises that estimating demand and the associated costs of a new policy which is largely entering unknown territory is difficult. COSLA’s concern with the FM is that many of the assumptions are untested and un-evidenced. Ideally the Scottish Government could have allowed more time to bring forward the Carers Bill and the associated financial memorandum. The risk is that, as things stand with the FM, this gives a potentially false impression of the likely trajectory once the Bill is enacted and the carer community becomes more aware of the provisions. This has implications for councils in planning for the new duties
and also risks creating a credibility gap at the outset of the introduction of significant new duties.

23. COSLA therefore calls on the Scottish Government to work jointly to develop a better understanding of the likely cost and demand implications of the provisions contained in the FM. With a better understanding in place, COSLA seeks a commitment from the Scottish Government for a meaningful agreement on risk-sharing to be put in place which identifies realistic funding for councils to provide the new duties from the outset. The Government and COSLA should then jointly work to actively monitor the actual pattern of demand and scale of costs to councils, with a commitment to increasing the levels of funding during the course of each of year following the commencement of the new duties.

Other provisions in the Bill with financial implications

24. The first part of COSLA’s submission has focussed on two key cost and demand areas contained in the carers Bill FM. There are a number of other areas in the FM, where there are financial implications for local government albeit to a lesser degree. The one area on which COSLA would like to comment is with regard to the costings for local carer strategies. The FM includes £0.32m set up costs and £0.16m recurring costs for preparation of local carer strategies. This presumes that the preparation of strategies is an extension of existing local strategies and hence will be covered by existing staff.

25. In order to develop robust strategies, with proper consultation, COSLA argues that more resource is required. A number of councils have indicated that they would require at least an additional staffing resource to prepare local carer strategies, citing the fact that these are more formalised and require far more extensive consultation with the caring community.

COSLA
April 2015
CARERS (SCOTLAND) BILL
WRITTEN SUBMISSION FROM DUMFRIES AND GALLOWAY COUNCIL

Consultation

1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

The Carers (Scotland) Bill is warmly welcomed by this council as a formal recognition of the important role Cares have in the current and future delivery of care – this is further emphasised when the fact that we all may be a Carer is taken on board – that this involves all of us: colleagues, employees, friends and other family members. We fully understand and support the thinking behind the concepts of preventative and early intervention provision to support Carers in their caring role.

We find ourselves in a difficult position, however, when the detail and potential cost of implementing the provisions within the Bill became clearer to us.

Initially, concerns were raised about the costs of the Waiving of Charges for Carers’ which sat in both the SDS Act and the Carers (Scotland) Bill. In the initial consultation we were largely in favour of the proposals, however, had not perhaps envisaged the Bill being so detailed, nor fully assessed the resource impact of the Bill as it was presented to Parliament.

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?

We responded to CoSLAs questionnaire in early January when it became apparent that there were so many unknowns in the proposed work around, for example, undertaking the co-production of the Adult Carers Support Plan (ACSP). If this is simply another name for an assessment, then clearly this is what should have been delivered in any case and there could be no complaint about the cost, however, if this is to be a meaningful and helpful support to Carers, then this will be an iterative process involving a number of conversations in order to deliver the right support to the Carer at the right time – which surely should be the intention of the ACSP? We cannot calculate how long this work will take; how many Carers will take up the offer, how many Carers will return for reviews and what the impact of the remote/rural nature of this region will be in meeting with Carers. Until this has been put into practice all estimates of take up are simply guesses, albeit, hopefully, intelligent ones.

Opening the criteria for all Carers was unexpected and this could easily add increased demand and pressure on resources, particularly the inclusion of Kinship Carers who, up to now, have not been considered with our Carers Strategy as they are considered, like Foster Carers, as paid carers.

3. Did you have sufficient time to contribute to the consultation exercise?

The consultation over the Easter break was too short given the holiday period and even the time frame for this consultation has been challenging given that other key priorities around Integration and other key workloads.
Costs

4. If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

As far as it is possible to tell the costs to the Council may align with the financial implications within the FM, particularly in the early years following the Bill becoming legislation. However, we feel there should be a review within five years of implementation to check how this is working and what the financial implications are for councils.

There are a number of issues that are challenging:

- We do not know how many Carers there are in this region on which to base calculations in % uptake of Carers. The census provides one figure who self-identify and the Scottish Household Survey provides another, larger figure based on face to face interviews which are then extrapolated up (which is understood as being more accurate).
- The remote/rural nature of this region will mean significant travel and time costs of staff to meet with those Carers unable to meet within a main centre. It was noted that telephone calls in one area were deemed satisfactory and we would hope that other means of communication would be acceptable to some Carers, however, we know from experience, to expect that many Carers will wish for a face to face meeting.
- In regard to the Waiving of Charges for Carers within the SDS bill and repeated in the Carers (Scotland) Bill, a key concern remains: how to agree who is the ‘main beneficiary’ of a service. The best example is around the cost of a short break. All Carers feel the need for a break from their caring role and given there is an increase in the numbers of Carers caring for 50 hours / week or more (2001 and 2011 Census), the need for a break will continue to increase. Where the cared-for is provided with a service to cover the Carer not being available for a short time, both may benefit and how would the calculation work out on the division of that? Similarly, where the cared-for does not react well to different care (for example, when provided a respite bed within a care home) how can that be seen as a benefit to the cared-for person (and the Carer where increased demands are a result of the cared-for person unhappiness)?
- The introduction of the Adult Carers Support Plan (ACSP) aligned with transfer of this work to a Third Sector organisation in this council, which itself is being run as a pilot to test feasibility and practicality. This work now feels under further pressure and scrutiny, both from a financial and a delivery point of view.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

As far as it is possible to tell the costs to the Council may align with the financial implications within the FM, particularly in the early years following the Bill becoming legislation. However, we feel there should be a review within five years of
implementation to check how this is working and what the financial implications are for councils.

6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

This all comes in at a time of huge fiscal challenges for all councils and this council is no exception, if the FM has not been calculated accurately (and at the moment it appears a range of costs are being presented), this council may have to consider what services delivered directly to the cared-for would have to be reduced in order to make up any shortfall in funding. This would mean either further reductions across social work staff or services and may put some of the more ‘Cinderella’ services such as mental health and learning disability services at risk. To put this into further context this is all at a time when as a council we would wish to see a living wage implemented across all care providers and when the need for home care provision is increasing. In other words – this is a time of severe fiscal pressure for this council.

7. Does the FM accurately reflect the margins of uncertainty associated with the Bill’s estimated costs and with the timescales over which they would be expected to arise?

Probably, given that a range of costs and uptake is provided, but if ACSP is becoming a universal service and the waiving of charges is fully implemented, the uptake may be much greater than predicted. Going by the gradual uptake of Carer Assessments within Third Sector organisations as recently presented at the Carers Learning and Sharing event is a different ‘kettle of fish’ to the expected changes around what will be a highly publicised offer of support for Carers.

Wider Issues

8. Do you believe that the FM reasonably captures any costs associated with the Bill? If not, which other costs might be incurred and by whom?

The FM appears to cover all areas of work implicated by the Bill.

9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

There may well be further costs associated with the Bill, for example, it is impossible to estimate cross-authority costs, uptake of the ACSP through the increased accessibility and inclusion of Carers not previously served by the local Carers Strategy and the increased numbers of Carers of people with dementia, an increased number of Carers struggling with their own health problems, Carers caring for more than one person and Carers of children and adults with increasingly complex health and social care problems.
CARERS (SCOTLAND) BILL
WRITTEN SUBMISSION FROM FIFE COUNCIL

This questionnaire is being sent to those organisations that have an interest in, or that may be affected by, the financial implications of the Carers (Scotland) Bill. Estimates of the Bill’s financial implications are set out in its accompanying Financial Memorandum (FM), which can be found at page 23 of the Explanatory Notes. In addition to the questions below, please add any other comments you may have which would assist the Finance Committee’s scrutiny of the FM.

Consultation
1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

No.

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?

Not Applicable.

3. Did you have sufficient time to contribute to the consultation exercise?

We did not feel we had sufficient time to complete the consultation, mainly due to the complexity of the exercise. It involved a complex blend of information from various sources within the organisation.

Costs
4. If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

The financial implications identified in the FM are appropriate.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

Our main concern is that the estimated percentage take-up seems on the low side, and the length of time taken to get to this level also seems slow. Estimated costs are therefore based on low and slow take-up of the new opportunities available. This means that any estimated costs could be on the low end of the scale.

6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

With current financial climate, we have no capacity to confirm this. The costs of any additional burden should be met by Scottish Government.
7. Does the FM accurately reflect the margins of uncertainty associated with the Bill’s estimated costs and with the timescales over which they would be expected to arise?

As indicated in Q5, we have some concern that the level and speed of take-up appear low and slow. We do appreciate there is a level of uncertainty however.

Wider Issues
8. Do you believe that the FM reasonably captures any costs associated with the Bill? If not, which other costs might be incurred and by whom?

Yes.

9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

Not sure – would depend on subordinate legislation – difficult to quantify any costs now.
CARERS (SCOTLAND) BILL
WRITTEN SUBMISSION FROM GLASGOW CITY COUNCIL

Finance committee questionnaire
This questionnaire is being sent to those organisations that have an interest in, or that may be affected by, the financial implications of the Carers (Scotland) Bill. Estimates of the Bill’s financial implications are set out in its accompanying Financial Memorandum (FM), which can be found at page 23 of the Explanatory Notes. In addition to the questions below, please add any other comments you may have which would assist the Finance Committee’s scrutiny of the FM.

Consultation
1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

Yes and yes as best we could within the timeframe available.

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?

No – we estimated that a carer assessment in Glasgow cost around £280 and FM is working on the assumption (section 54 p39) that unit cost for this ranges from £72 - £176.

For young carers we submitted an estimated unit cost of £394, and the FM has a unit cost of between £106 - £167.

3. Did you have sufficient time to contribute to the consultation exercise?

Not really as turnaround time was really tight and it was over the Christmas holiday period.

Costs
4. If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details

The Bill will have massive financial implications for local authorities and as stated at 2 we differ in unit cost for both young carers and adult carer assessment costs.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

No, see 2 & 4 above.

Additionally we do not agree that £333 per annum is a true reflection of the average cost of a support package for adult and young carers especially if this includes respite / short breaks. This would amount to approx. 2 nights per year in for example
a hotel for the carer and if the impact of caring is very demanding then this would be insufficient to maintain the caring role.

In respect of young carers then again £333 this works out at £6 per week.

We also disagree that 3 years is the average number of years that carers “care” if we consider the lifelong caring responsibilities for families supporting children with disabilities.

There are no infrastructure costs reflected in the FM.

6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

All additional costs associated with the Bill should be funded through the Scottish Government.

7. Does the FM accurately reflect the margins of uncertainty associated with the Bill’s estimated costs and with the timescales over which they would be expected to arise?

See above.

Wider Issues
8. Do you believe that the FM reasonably captures any costs associated with the Bill? If not, which other costs might be incurred and by whom?

The Carers Bill will raise expectations and aspirations of carers and as such this in itself casts uncertainty about the estimated costs associated with the Bill.

9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

There may be but we are unable to comment as we can’t predict what the subordinate legislation might look like.
Please could you provide answers to the following questions.

The information provided will help inform the Scottish Government’s consideration for its Financial Memorandum which will be one of the accompanying documents to the Carers Bill. The Scottish Government is gathering data and information from a number of different sources.

It is important that we have responses to as many of the questions as possible. However, if you can’t answer any, then please indicate, ‘not known.’

If you are unable to provide actual figures to answer the questions on the current system then please provide estimates if possible.

Annex A sets out an explanation of each section. Please read this to familiarise yourself with the Scottish Government’s thinking on the way forward.

A: The Carer’s Support Plan (for ADULT carers only)

Current numbers and costs for current system

1. How do you record the existence of adult carers in your area? Please set this out below.

GP practices in Inverclyde hold a carers register which they keep up to date on a good will basis – with no contractual obligation. Our local Carers Centre also holds a database of carers who are registered with them. There are in the region of 2,500 carers registered in Inverclyde, but we anticipate there to be around 8,000 based on 1 in 10 people being a carer.

2. Estimated current number of known/identified adult carers¹ in the local authority area, whether receiving support or not.

| Number: | 22,500 |

3. If known, estimated number of new adult carers each year – ie new to caring role.

| Estimated number: | not currently known in Inverclyde. |

¹ Adult carers are deemed to be aged 18 and over for the purpose of this questionnaire.
4. If known, estimated number of adult carers who leave the caring role each year.

Estimated number: not currently known in Inverclyde.

Comments on questions 1 to 4 (eg challenges with estimating the figures)

There are challenges with reaching and registering “hidden” carers and keeping any register of carers up to date given that caring is a fluid role that may change over time. A contractual obligation for GP practices to register all people who consider themselves to be a carer would be beneficial.

5. On average, how many carers assessments do you currently undertake in a year for adult carers? Please populate the table below.

<table>
<thead>
<tr>
<th>Assessment</th>
<th>Average number in a year</th>
<th>Any comment?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carers assessments²</td>
<td>Avg 10 per annum</td>
<td>We are currently undertaking work to improve our local recording of carers assessments.</td>
</tr>
<tr>
<td>Self-assessments</td>
<td>July 14 – Sept 14</td>
<td>We are currently undertaking work to improve our local recording of carers assessments.</td>
</tr>
<tr>
<td>Assessment for carer in conjunction with the community care assessment for an adult service user³</td>
<td>Currently unknown</td>
<td>We are currently undertaking work to improve our local recording of carers assessments.</td>
</tr>
<tr>
<td>Assessment for carer in conjunction with an assessment for a disabled child⁴</td>
<td>Currently unknown</td>
<td>We are currently undertaking work to improve our local recording of carers assessments.</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

² Sometimes called the carer’s journey or carer’s support plan (with inbuilt assessment) in some local authorities
³ Under section 12A of the Social Work (Scotland) Act 1968
⁴ Under section 22 of the Children (Scotland) Act 1995
6. Do you record where a carer declines a carers assessment?

Yes: 

No: X

Not Known: 

7. If the answer to question 6 is ‘yes’, how many adult carers refuse the carer’s assessment each year?

Number: N/A

8. What are the common reasons for refusal of the carer’s assessment – if you know from recording or if you know generally/anecdotally.

Reasons for refusal:

Carers often report that they feel any issues they have will be resolved by there being a reassessment or review of the needs of the cared for person and do not seek an assessment of their need in their own right. Some carers also express that they do not wish to be assessed or be considered a client.

9. What is your total spend in a year on carer’s assessments carried out, excluding the cost of any self-assessments and excluding spend on community care assessments and assessments for disabled children.  

Total spend:

This is not currently broken down like this, carers assessments are undertaken by core field work staff in social work so are delivered via core budgets. An allocation of circa £150k per annum from core budget and NHS Carers Information Strategy Funding, is made to our local Carers Centre - an element of which supports the provision of carers self-assessment.

10. What is your total spend in a year on carer’s assessments carried out, including the cost of any self-assessments but, as for question 9, excluding the spend on community care assessments and assessments for disabled children.

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5 Spend will cover, as appropriate for each individual LA, cost of staff time on initial contact, assessment, inputting data into the database, travel time, review, developing a support plan where LAs currently have an assessment as part of a carer’s support plan. The cost will depend too on whether the assessment is being carried out by a qualified social worker or not. Do not include the cost of any support provided.
NB: Some local authorities will offer self-assessments to carers. Some of the carers receiving a self-assessment will then receive a carer’s assessment.

Total spend:
See response to Q9

Only if you do not have the information for questions 9 and 10, please answer question 11 (a), (b) and (c). Otherwise, please move on to question 12.

11(a) What is your total spend on 100 community care assessments for adults?

Total spend:
Unable to report this detail.

11(b) Is the total spend on 100 carers assessments (excluding any self-assessment) likely to be lower or higher than the total spend for 100 community care assessments for adults and assessments for disabled children combined?

| Lower OR | Unknown |
| Higher: |

11(c) With reference to question 11(b), by how much is the total spend on 100 carers assessments (excluding any self-assessment) either lower or higher than the total spend on 100 community care assessments for adults and assessments for disabled children combined?

| Lower by £ | Unknown |
| Higher by £ |

12. Do you currently use the substantial and regular test\(^6\) for access to the carer’s assessment?

Yes: 

No: 

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\(^6\) Under section 12AA(1) of the Social Work (Scotland) Act 1968 and section 24(1) of the Children (Scotland) Act 1995, carers (of any age) who provide, or intend to provide, a substantial amount of care on a regular basis for an adult or for a disabled child may request a local authority to make an assessment (the carer’s assessment) of the carer’s ability to provide or continue to provide care for the adult/child.

Guidance issued in 2003 (Circular CCD 2/2003) on sections 8-12 of the Community Care and Health (Scotland) Act 2002 provides guidance on what is known as the regular and substantial test.

13. If you do use the substantial and regular test, then what is the estimate of the number/% of adult carers in your area requesting a carer’s assessment who do not meet the substantial and regular test criteria?

<table>
<thead>
<tr>
<th>Estimated number:</th>
<th>n/a</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimate % of adult carers requesting a carer’s assessment:</td>
<td></td>
</tr>
<tr>
<td>Not known:</td>
<td></td>
</tr>
<tr>
<td>Comment:</td>
<td></td>
</tr>
</tbody>
</table>

14. Do you commission the Third / Independent Sectors (eg a carer’s centre) to carry out the carer’s assessment now?  

| Yes: Our contractual arrangements with our local Carers Centre includes provision for the self assessment programme for adult carers. | |
| No: | |
| Partially (please specify): | |
| Not known: | |

15. What is the average number of carer’s assessments per annum that those commissioned organisations carry out?

| Average number per year: | |
| Between July 14 and September 14, there were 29 self assessments via the Carers Centre. | |

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7 Under section 4 of the 1968 Act, where a voluntary organisation or other person, including another local authority, is able to assist in the performance of [that function], the local authority may make arrangements with such an organisation or other person for the provision of such assistance.
Costs for future system (at today’s costs – the SG will build in uprating)

16. Which groups of staff do you anticipate will prepare the Carer’s Support Plan (CSP)\(^8\) (see Annex A)\(^9\)? You can tick more than one group. Please provide % and number estimates if possible.

<table>
<thead>
<tr>
<th>Group</th>
<th>%</th>
<th>Number</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Qualified social workers</td>
<td>35</td>
<td></td>
<td>These will part of a wider Assessment &amp; care management Role</td>
</tr>
<tr>
<td>Social care assistants in LAs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Third Sector/Independent providers (eg carers centres, condition-specific organisations)</td>
<td>15</td>
<td></td>
<td>Inverclyde Carers Centre will support carers in completing self assessment and subsequent CSP</td>
</tr>
<tr>
<td>Health personnel, eg occupational therapists</td>
<td>15</td>
<td></td>
<td>Inverclyde CHCP is an integrated partnership</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>35</td>
<td></td>
<td>These will part of a wider Assessment &amp; care management Role</td>
</tr>
</tbody>
</table>

17. Will the proposed legal changes (that all identified adult carers\(^9\) should have a CSP), in your view, result in an increased number of CSPs in your LA area?\(^10\) (As well as having regard to footnote 10 below, please consider, for example, the impact of removal of the substantial and regular test, whether or not staff can be recruited and trained to undertake the CSP directly after commencement of the Bill, the impact of the Bill itself in bringing forward carers for a CSP etc).

Yes, immediately: Yes

---

\(^8\) Do not include the cost of support.

\(^9\) Identified adult carers for the purposes of the CSP will not include carers who decline the offer of a CSP. However, in circumstances where adult carers want a CSP but where the assessment results in a decision of no assessed need for the meantime, the CSP (effectively the assessment) will lie dormant until it needs to be activated.

\(^10\) It is likely that the SG will include transitional arrangements from carer’s assessment to CSP in Regulations. Therefore, the policy on transitional arrangements has not been settled. However, for the purposes of the costings, please assume that all newly identified carers would be offered a CSP from the date of commencement of the Bill. With regard to existing carers who have a carer’s assessment, please assume that they would be offered a CSP when the carer’s assessment is to be reviewed. Please note though that this position could change.
Yes, from a later date:
No:
Not sure:

Please comment here as appropriate on your answer above including what you expect the numbers/% to be for an increase; when you would expect an increase to materialise; why you envisage no increase (immediately).

It is not possible to predict what the increase will be or when it will materialise. As a point of practice it is envisaged that CSP will be part of the assessment process where applicable.

The launch of the CSP will create a level of interest and expectation that will impact on the resources of the CHCP.

We currently have 2626 primary carers recorded for whom their cared for person has an active involvement. It is a fair assumption to make that this is the minimum number of CSP that will be required to be completed by CHCP staff once legislation is statute. This would require 2 additional staff to implement.

Given the prevalence of informal carers this could rise to 8,000 p.a. which could mean 6,800 CSP being required to be completed and 1,200 by the Carers Centre.

18. If the proposed legal changes will result, in your view, in an increased number of CSPs, then how many additional staff to your existing in-house complement will be required to prepare the CSPs and at what cost?

Number of additional LA staff: 2 FTE
Cost of additional staff in LA: £86,500

19. Would you be likely to commission the Carer’s Support Plan from the Third / Independent Sectors?

Yes, for all CSPs:
Yes, for some CSPs (please estimate %) 15%
No:
Not sure:
If yes, please estimate the aggregate cost per annum. It is part of our current arrangements which cost circa £150,000 p.a.

Aggregate cost per annum:

20. Any additional comments re capacity, resourcing, delivery in rural areas, delivery to equalities groups etc?

Refer this Section to John Duffy / Anne Glendinning

B: The Young Carer’s Statement (see Annex A)

Current Numbers and Costs for current system

1. How do you record the existence of young carers in your area? Please set this out below.

2. Estimated current number of known/identified young carers\(^{11}\) in your area whether receiving support or not?

   Number:

3. If known, estimated number of new young carers each year – ie new to caring role.

   Number:

4(a) If known, estimated number of young carers who leave the caring role each year ie who do not become adult carers.

   (a) Number:

4(b) If known, estimated number of young carers who become adult carers each year.

   (b) Number:

Comments on questions 1 to 4 (eg challenges with estimating the figures)

---

\(^{11}\) Young carers are deemed to be under 18 for the purpose of this questionnaire.
5. Do you currently offer the carer’s assessment to young carers?

<table>
<thead>
<tr>
<th>Yes:</th>
<th>No:</th>
<th>Not Known:</th>
</tr>
</thead>
</table>

6. If young carers are not offered the carer’s assessment, are they offered any other assessment?

<table>
<thead>
<tr>
<th>Yes:</th>
<th>Specify what type of assessment:</th>
<th>No:</th>
<th>Not known:</th>
</tr>
</thead>
</table>

7. On average, how many carers assessments/other assessments do you currently undertake in a year for young carers? Please populate the table below.

<table>
<thead>
<tr>
<th>Assessment</th>
<th>Average number in a year</th>
<th>Any comment?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carers assessments</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Self-assessments</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assessment for young carer in conjunction with the community care assessment for an adult service user</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assessment for young carer in conjunction with an assessment for a disabled child</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
8. Do you record where a young carer declines a carers assessment?

Yes:
No:
Not Known:

9. If the answer to question 8 is ‘yes’, how many young carers refuse the carer’s assessment each year?

Number:

10. What are the common reasons for refusal by young carers of the carer’s assessment – if you know from recording or if you know generally/anecdotally.

Reasons for refusal:

11. What is your total spend in a year on carer’s assessments for young carers carried out, excluding the cost of any self-assessments and also excluding the cost of community care assessments and assessments for disabled children?

Total spend:

12. What is your total spend in a year on carer’s assessments for young carers carried out, including the cost of any self-assessments (if applicable) but, as for question 11, excluding the cost of community care assessments and assessments for disabled children.

Total spend:

13. Do you currently use the substantial and regular test for access to the carer’s assessment by young carers?

Yes:
No:
Don’t know:
14. If you do use the substantial and regular test, then what is the estimate of the number/% of young carers in your area not meeting the substantial and regular test criteria?

<table>
<thead>
<tr>
<th>Estimated number:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimate %:</td>
</tr>
<tr>
<td>Not known:</td>
</tr>
</tbody>
</table>

15. Do you commission the Third / Independent Sectors (eg a carer’s centre) to carry out the carer’s assessment now for young carers?

<table>
<thead>
<tr>
<th>Yes:</th>
</tr>
</thead>
<tbody>
<tr>
<td>No:</td>
</tr>
<tr>
<td>Partially (please specify):</td>
</tr>
<tr>
<td>Not known:</td>
</tr>
</tbody>
</table>

16. What is the average number of carer’s assessments for young carers per annum that those commissioned organisations carry out?

| Average number per year: |
Costs for future system (at today’s costs – the SG will build in uprating)

17. Which groups of staff do you anticipate will prepare the Young Carers Statements (see Annex A)? Please note from Annex A that the responsible authority will carry out the YCS. This means that the LA will prepare the YCS for school age young carers and the Health Board will prepare the YCS for any pre-school young carers. However, the Third and Independent sectors can be commissioned by the LA and HB to undertake the YCS. Please provide % and number estimates if possible.

<table>
<thead>
<tr>
<th>Group</th>
<th>%</th>
<th>Number</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Qualified social workers (only for school age young carers)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Social care assistants in LAs (only for school age young carers)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Third Sector/Independent providers (eg carers centres) – can be commissioned by the LA or HB</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Health personnel eg health visitors (only for pre-school young carers)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other (pse specify)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

18. Will the proposed legal changes (that all identified young carers should have a YCS), in your view, result in an increased number of YCSs in your LA area?  

- Yes, immediately:
- Yes, from a later date:
- No:
- Not sure:

---

12 It is likely that the SG will include transitional arrangements from carer’s assessment to YCS in Regulations. Therefore, the policy on transitional arrangements has not been settled. However, for the purposes of the costings, please assume that all newly identified young carers would be offered a YCS from the date of commencement of the Bill. With regard to existing young carers who have a carer’s assessment, please assume that they would be offered a YCS when the carer’s assessment is to be reviewed. Given that the SG expects that there will not be many identified young carers who have a carer’s assessment, it is likely that these young carers who do not have a carer’s assessment will be offered a YCS from the date of commencement. Please note though that this position could change.
Please comment here as appropriate on your answer above including what you expect the numbers/% to be for an increase; when you would expect an increase to materialise; why you envisage no increase (immediately).

Comment:

19. If the proposed legal changes will result, in your view, in an increased number of YCSs, then how many additional staff to your existing in-house complement will be required to prepare the YCS and at what cost?

Number of additional LA staff:
Cost of additional staff in LA:

20. Would you be likely to commission the Young Carers Statement from the Third / Independent Sectors?

Yes, for all YCSs:
Yes, for some YCSs (please estimate %)
No:
Not sure:
If yes, please estimate the aggregate cost per annum:

21. Any additional comments re capacity, resourcing, delivery in rural areas, delivery to equalities groups etc?

C: Information and Advice (future system) \(^{13}\) (See Annex A)

1. Estimated cost of establishing and maintaining the information and advice service for both adult and young carers.

Please note from Annex A that the SG does not expect the new Information and Advice service to be only an online source. However, please provide estimated costs for various types of information and advice services.

The LA will be expected to work in partnership with Health Boards and the Third Sector to deliver a co-ordinated, relevant and up-to-date service, taking into account the information and advice that already exists. It should be innovative and effective in providing the information and advice eg ‘walking with carers’ where carers are not simply signposted on to a service which might be able to support the carer or might

\(^{13}\) To exclude brokerage eg for SDS.
not as the case may be but where the worker supports the carer to find the right information and advice at the right time.

It is not possible to provide the information sought in the format requested: Information and Advice for carers in Inverclyde is currently provided via range of services both internal to the CHCP in the in Third Sector. We anticipate that we currently deploy around £80,000 p.a. in dedicated advice and information provision via workers, online and hard copy resources and via signposting. We further anticipate that we make use of around 10% of all direct services resources in relation to supporting carers with perhaps a quarter of that being in relation to information and advice – c £150,000.

<table>
<thead>
<tr>
<th>A. Type of service</th>
<th>B. Estimated Cost of existing Information and Advice service which meets the needs of carers (ie include info and advice on self-directed support for carers).</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Include original set up costs, annual maintenance costs and staff costs.</td>
</tr>
<tr>
<td>C. Estimated Cost of new Information and Advice Service required under Carers Bill</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Include set up costs, annual maintenance costs and staff costs. Take into account costs of existing service ie do not double-count</td>
</tr>
<tr>
<td>D. Comments</td>
<td>–eg do you expect to have a completely new information and advice service or do you expect to build on what you already have?</td>
</tr>
<tr>
<td>E. Type of Information and Advice Service you think you might provide under the Carers Bill (please tick column)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Online source only</td>
<td>See note above</td>
</tr>
<tr>
<td>Information leaflets only</td>
<td></td>
</tr>
<tr>
<td>Advice workers only</td>
<td></td>
</tr>
<tr>
<td>Online and information leaflets</td>
<td></td>
</tr>
<tr>
<td>Online, information leaflets and advice workers</td>
<td></td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
</tr>
</tbody>
</table>

3. Do you expect to commission Information and Advice from the Third/Independent Sectors and in partnership with Health Boards? Please keep in view that much information and advice is provided now by these sectors.
NB: This question is being asked because the SG presently funds Health Boards for Carer Information Strategies and local authorities and Health Boards presently fund the Third/Independent sectors to provide information and advice. Therefore, the SG sees a role for a coordinated Information and Advice Service involving these other sectors.

| Yes: We intend to continue with current arrangements but anticipate increased demand/need. Much of our current provision of carers specific advice and information is funded from the NHS Carers Information Strategy fund so funding at the level currently received would be required in addition to what may come from core resources – from where the core funding to our local Carers Centre currently comes. |
| No: |
| Don’t know: |
| Comment: |
### D: Current system of supporting carers

**Current system (use current gross costs) – gross cost = before recovery of any charges or contribution from carers towards costs**

1. Please populate the table below.

<table>
<thead>
<tr>
<th>Type of support</th>
<th>Aggregate existing average gross cost of providing this support to adult carers each year</th>
<th>Aggregate existing average gross cost of providing this support to young carers each year</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>For carer</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Short breaks (eg holiday)</td>
<td></td>
<td></td>
<td>Total costs of respite are £760k which could be pro rated if service can provide %</td>
</tr>
<tr>
<td>Item of equipment (eg laptop)</td>
<td>Cannot quantify.</td>
<td>Cannot quantify.</td>
<td></td>
</tr>
<tr>
<td>Advocacy</td>
<td>Cannot quantify.</td>
<td>Cannot quantify.</td>
<td></td>
</tr>
<tr>
<td><strong>Counselling</strong></td>
<td></td>
<td></td>
<td>We allocated £30,000 to the local Carers Centre for counselling and emotional support from NHS CIS in 2014/15</td>
</tr>
<tr>
<td><strong>Training</strong></td>
<td></td>
<td></td>
<td>We allocated around £15,000 from NHS CIS in relation to training in 2014/15 – plus an element of the core allocation of 100,000 to the carers centre</td>
</tr>
<tr>
<td>Information</td>
<td>Cannot quantify.</td>
<td>Cannot quantify.</td>
<td></td>
</tr>
<tr>
<td>Advice</td>
<td>Cannot quantify.</td>
<td>Cannot quantify.</td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td></td>
</tr>
<tr>
<td><strong>Type of support</strong></td>
<td>Aggregate existing average gross cost of providing this support to cared-for persons (of adult carers) each year</td>
<td>Aggregate existing average gross cost of providing this support to cared-for persons (of young carers) each year</td>
<td>Comments</td>
</tr>
<tr>
<td><strong>For cared-for person</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Short breaks (eg playscheme for disabled child)</td>
<td>Included in previous section.</td>
<td>Included in previous section.</td>
<td></td>
</tr>
<tr>
<td>Replacement care allowing the carer to have a break from caring</td>
<td>Included in previous section.</td>
<td>Included in previous section.</td>
<td></td>
</tr>
<tr>
<td>Service to cared-for person (not replacement care) that supports the carer (eg equipment and adaptations)</td>
<td>Cannot quantify.</td>
<td>Cannot quantify.</td>
<td></td>
</tr>
<tr>
<td>Other (pse specify)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL COST</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2. Given that neither adult nor young carers will be supported by all of the types of support listed in the table above, what is the aggregate gross cost each year of supporting all the carers and young carers in your area.

Adult carers - Aggregate average gross cost for a year: **Need numbers from service to quantify this section.**

Young carers – Aggregate gross cost for a year:

Number of adult carers supported in a year:

% of total adult carers identified in your area who are supported in a year:
<table>
<thead>
<tr>
<th>Number of young carers supported in a year:</th>
</tr>
</thead>
<tbody>
<tr>
<td>% of total young carers identified in your area who are supported in a year:</td>
</tr>
<tr>
<td>Comment:</td>
</tr>
</tbody>
</table>

*Questionnaire continues on next page*
Future system for supporting carers and young carers. There will be a duty to support carers according to eligibility criteria. Information and advice as a universal service for carers and young carers will not be a service provided once eligibility criteria come into play. (See Annex A)

Future system (use current gross costs and SG will uprate)

No information other than in relation to short breaks is required here as the information provided for questions 1 and 2 will be relevant.

1. For illustrative purposes, what would it cost to provide short breaks to carers and young carers as set out in the table below? Please complete the table disregarding any eligibility you currently apply. Please use gross costs (ie before recovery of any charges/contribution from carers). Please also see explanatory note below the table:

<table>
<thead>
<tr>
<th>Number of adult carers caring for 50 hours a week or more</th>
<th>Total gross cost in a year of supporting all these adult carers with a short break (assuming all are supported)</th>
<th>Number of young carers caring for 50 hours a week or more</th>
<th>Total gross cost in a year of supporting these young carers with a short break (assuming all are supported)</th>
<th>Number of adult carers caring for 20 hours a week or more</th>
<th>Total gross cost in a year of supporting these adult carers with a short break (assuming all are supported)</th>
<th>Number of young carers caring for 20 hours a week or more</th>
<th>Total gross cost in a year of supporting these young carers with a short break (assuming all are supported)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Explanatory Note:

Short breaks =

A) Respite care (residential or non-residential) provided to the cared-for person following a CSP with the main objective of enabling the carer to have a break.

B) Respite care (residential or non-residential) provided to the cared-for person following a community care assessment with the main objective of enabling the cared-for person to have a break (whether or not any carer also benefits indirectly).
C) Other short break for a carer, eg a holiday with the cared-for person; a holiday on their own (include cost of break only, do not include replacement care as this is covered at A) above

D) Any other support for a carer (e.g. equipment such as a laptop, greenhouse, etc; support, such as help with housework, gardening etc)

Please include in the table above for the purpose of the costings, any combination of the above definitions A to D that you feel are appropriate and set out your reasoning in the comment box below.

Comment:

(Reason for combination of A to D. Also your current eligibility for supporting carers and young carers with a short break if a break is deemed to meet outcomes/your current eligibility criteria for supporting carers and young carers irrespective of whether or not short breaks are one of the means to meet outcomes.)

E: Local carers strategies (see Annex A)

1. Estimated cost of producing and publishing the local carers strategy every three years ensuring proper linkages with wider planning obligations.

<table>
<thead>
<tr>
<th>Estimated cost over three years (minus existing costs): £45,000</th>
</tr>
</thead>
</table>

Brief explanation of cost (eg inclusion of consultation time, staff time etc, comparison with present costs for producing the carers strategy in the area):

Comment: £15,000 per annum to support the engagement vehicle by which carers can participate in strategic planning and review, support for such engagement, replacement care costs, venues for events, staff time to undertake analysis and planning and the production / publication of the document.

F Other provisions

There are likely to be other provisions eg on involving carers, young carers and relevant Third Sector organisations in the planning, shaping, delivery and review of services under specified statutory functions. However, most of this will already be provided for under Regulations under the Public Bodies Act. Therefore the obligation would only apply to functions of LAs and Health Boards which are capable of being integrated but which the LA and HB have not included within the integrated scheme.
Carers will be involved too at an individual level in decisions about support for themselves and, as appropriate, in decisions about services for the cared-for person. This is being worked through.

The SG is working through issues about where the carer and cared-for person live in different LA areas and responsibility for undertaking the CSP and for provision of support.

There are likely too to be provisions about reporting certain information but this is being worked through.

In any event, if there is likely to be a cost involved which cannot be absorbed by councils, please provide a commentary below.

**Comment:**

This questionnaire has been very difficult to complete due to the nature of the questions asked, and the format the answers have been requested in.

The vast majority of the resources currently deployed by ICHCP to meet the needs of carers and young cares and work with them as equal partners in care come from core resources delegated to the CHPC. It is therefore difficult to quantify specific spend to the level of detail asked for. Additional, non recurring resources are used and the level of this funding is anticipated to be needed at the current rate, if not at a higher level (e.g. carers information strategy funding).

Questionnaire ends.
As you know, the Carers (Waiving of Charges for Support) (Scotland) Regulations 2014 were introduced from 1.4.14 following agreement by the Scottish Parliament after councils had decided their 2014/15 budgets. COSLA continues to seek Scottish Government funding for this new financial pressure, as well as more widely for a new Carers Bill that is likely to be introduced early in 2015 – hence the need for a survey with a quick turnaround time. A better understanding of the impact of the 2014 Regulations is needed to assess the funding pressures on councils, and we would be grateful if you could answer the questions below. All responses will be treated as confidential and the aggregated responses will not identify individual councils. Please return to: vicki@cosla.gov.uk by Monday 12th January 2015

The Waiving of Charges Regulations are intended to prevent councils from charging for support provided to carers, or for replacement care (provided to the cared-for person while the carer is having a break), that is provided following a carer’s assessment to meet assessed carers’ needs. These assessments are carried out under section 3(4) of the Self-Directed Support (Scotland) Act 2013, or section 22 of the Children’s (Scotland) Act 1995). We are aware that there are some legal and practical issues regarding the interpretation of the Regulations, which are likely to have led to differences in implementation, and we have tried to take this into account in the wording of the survey questions.

For all questions, please include information (including lost income) for both adults and young carers.

Question 1: Have you reduced support to carers, and/or replacement care for the person they care for, in 2014/15:

(i) as a result of budget pressures due to The Carers (Waiving of Charges for Support) (Scotland) Regulations 2014? NO
   a. If NO, are you planning to reduce support later in 2014/15 NO
   b. Or in 2015/16 NO

(ii) as a result of other budget pressures? NO
   a. If NO, are you planning to later in 2014/15 NO
   b. Or in 2015/16 NO

Question 2: Have you increased support to carers, and/or replacement care for the person they care for, in 2014/15?: YES

   a. If YES, are you planning to increase, reduce or maintain support later in 2014/15? maintain at same level
b. If YES, are you planning to increase, reduce or maintain support in 2015/16? **maintain at same level**
c. Have your decisions at a) and b) above been made in response to the waiving of charges regulations? **NO**

**Question 3:** Has your council **lost any charging income** in 2014/15? Please complete table below

<table>
<thead>
<tr>
<th>Type of support</th>
<th>Actual lost income (year-to-date, from 1.4.14)</th>
<th>Estimated total lost income in 2014/15</th>
<th>Further information to help COSLA understand the figures, including basis for estimates or assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>A) Respite care (residential or non-residential) provided to the cared-for person following a carer’s assessment with the main objective of enabling the carer to have a break – any cost previously charged for.</td>
<td>0 0</td>
<td>0 0</td>
<td>Please clarify whether income lost is based on care costs, hotel or other living costs, or both. We only charge hotel costs and all chargeable income is recovered.</td>
</tr>
<tr>
<td>B) Respite care (residential or non-residential) provided to the cared-for person following a community care assessment with the main objective of enabling the cared-for person to have a break (whether or not any carer also benefits indirectly) – any cost previously charged for.</td>
<td>0 0</td>
<td>0 0</td>
<td>We only charge hotel costs and all chargeable income is recovered.</td>
</tr>
<tr>
<td>C) Other short break for a carer, eg a holiday with the cared-for person; a holiday on their own (include cost of break only, do not include replacement care as this is covered at A) above)</td>
<td>0 0</td>
<td>0 0</td>
<td>For holidays together, please clarify whether income lost includes costs for carers, or for cared-for persons, or for both. We only charge hotel costs and all chargeable income is recovered.</td>
</tr>
<tr>
<td>D) Any other support for a carer (e.g. equipment such as a laptop, greenhouse, etc; support, such as help with housework, gardening etc)</td>
<td>0 0</td>
<td>0 0</td>
<td>We only charge hotel costs and all chargeable income is recovered.</td>
</tr>
<tr>
<td>TOTAL</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>---------</td>
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</tr>
</tbody>
</table>

If you are unable to break down some costs into categories A to D above, please ensure they are included in the total and provide an explanatory note here.
Question 4i): To what extent has/will the waiving of charges lead to increased demand from carers? (See note below)

<table>
<thead>
<tr>
<th>Type of support</th>
<th>Actual % increase in demand (year - to- date, from 1.4.14)</th>
<th>Actual Cost (assuming all charges must be waived)</th>
<th>Estimated % increase in demand 2014/15 (compared to 2013/14)</th>
<th>Estimated Cost (assuming all charges must be waived)</th>
<th>Further information to help COSLA understand the figures, including basis for estimates or assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>A) Respite care (residential or non-residential) provided to the cared-for person following a carer’s assessment with the main objective of enabling the carer to have a break</td>
<td>%</td>
<td>£</td>
<td>%</td>
<td>£</td>
<td>Further information to help COSLA understand the figures, including basis for estimates or assumptions</td>
</tr>
<tr>
<td>B) Respite care (residential or non-residential) provided to the cared-for person following a community care assessment with the main objective of enabling the cared-for person to have a break (whether or not any carer also benefits indirectly)</td>
<td>%</td>
<td>£</td>
<td>%</td>
<td>£</td>
<td>Further information to help COSLA understand the figures, including basis for estimates or assumptions</td>
</tr>
<tr>
<td>C) Other short break for a carer, eg a holiday with the cared-for person; a holiday on their own (include cost of break only, do not include replacement care as this is covered at A) above)</td>
<td>%</td>
<td>£</td>
<td>%</td>
<td>£</td>
<td>Further information to help COSLA understand the figures, including basis for estimates or assumptions</td>
</tr>
<tr>
<td>D) Any other support for a carer (e.g. equipment such as a laptop, greenhouse, etc; support, such as help with housework, gardening etc)</td>
<td>%</td>
<td>£</td>
<td>%</td>
<td>£</td>
<td>Further information to help COSLA understand the figures, including basis for estimates or assumptions</td>
</tr>
</tbody>
</table>
Note: Costs of increased demand noted in 4ii, because carers would require a CSP in any event to access a short breaks.
**Question 4ii**: To what extent would this demand increase further if carers’ assessments were replaced with ‘Carer’s Support Plans’, as per the Carers Bill proposals? Please complete the table below, providing estimates for the next two years.

<table>
<thead>
<tr>
<th>Type of support</th>
<th>2015/16</th>
<th>2016/17</th>
<th>Further information to help COSLA understand the figures, including basis for estimates or assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Estimate increase in demand</td>
<td>Cost (assuming all charges must be waived)</td>
<td>Estimate increase in demand</td>
</tr>
<tr>
<td></td>
<td>(compared to 2014/15 estimate)</td>
<td>%</td>
<td>£</td>
</tr>
<tr>
<td>A) Respite care (residential or non-residential) provided to the cared-for person following a carer’s assessment with the main objective of enabling the carer to have a break</td>
<td>1%</td>
<td>£10,196</td>
<td>7%</td>
</tr>
<tr>
<td>B) Respite care (residential or non-residential) provided to the cared-for person following a community care assessment with the main objective of enabling the cared-for person to have a break (whether or not any carer also benefits indirectly)</td>
<td>Contained within (A) above</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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1 The Carers Bill is likely to propose a new duty on local authorities to offer a carer’s support plan (CSP) to all adult carers, irrespective of whether they provide regular or substantial care. This will include an assessment of need. The Bill is expected to set out minimum requirements for the carer’s support plan, which would include that it should set out the personal outcomes the carer wishes to achieve in relation to their caring role and to having a life alongside caring, should consider the need for support, and then detail the support that will be provided to achieve those personal outcomes, in whole or in part. The requirements will also include details of the arrangements for and frequency of review of the CSP. There are likely to be regulations too about how the assessment process leading to the compilation of a CSP is to be carried out, including how assessment of future need for support is undertaken, key trigger points for review (eg following hospital admission and discharge) and emergency planning.
<table>
<thead>
<tr>
<th>Category</th>
<th>Percentage</th>
<th>Amount (£)</th>
<th>Percentage</th>
<th>Amount (£)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>C) Other short break for a carer, eg a holiday with the cared-for person; a holiday on their own (include cost of break only, do not include replacement care as this is covered at A) above)</td>
<td>4.5%</td>
<td>£45,882</td>
<td>6%</td>
<td>£61,176</td>
<td>For holidays together, please clarify whether income lost includes costs for carers, or for cared-for persons, or for both</td>
</tr>
<tr>
<td>D) Any other support for a carer (e.g. equipment such as a laptop, greenhouse, etc; support, such as help with housework, gardening etc)</td>
<td>Not applicable</td>
<td>Not applicable</td>
<td>Not applicable</td>
<td>Not applicable</td>
<td>Please describe</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>£56,078</td>
<td></td>
<td>£132,548</td>
<td>If you are unable to break down some costs in to categories A to D above, please ensure they are included in the total and provide an explanatory note here.</td>
</tr>
<tr>
<td>Scenario</td>
<td>Full-year financial impact £</td>
<td>Impact on outcomes for carers and people they care for</td>
<td>Any unintended consequences or other comments</td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------</td>
<td>-----------------------------</td>
<td>-------------------------------------------------------</td>
<td>-------------------------------------------------</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| **A:** Waive charges for the cost of all respite care (residential or non-residential), defined as replacement care provided to the cared-for person with the main objective of enabling the carer to having a break (irrespective of whether the need is identified in a carer’s assessment, or cared-for person’s assessment) | £126,810 | ICHCP are confident that we meet a high % of the need currently identified. Any increase would depend on increase in demand for Carer Support Plan  
No impact on outcomes perceived | Carers may feel increased resources are available and that eligibility criteria are available and that eligibility criteria will not apply.  
Waiving of charges will reduce the capacity for provision of support breaks and respite care. Fewer carers may be able to access this service and a more stringent application of eligibility criteria would be required. |
| **B:** As for A, but also waive charges for all short breaks (irrespective of whether the need is identified in a carer’s assessment, or cared-for person’s assessment) | As above | ICHCP are confident that we meet a high % of the need currently identified. Any increase would depend on increase in demand for Carer Support Plan  
No impact on outcomes perceived | Carers may feel increased resources are available and that eligibility criteria will not apply.  
Waiving of charges will reduce the capacity for provision of support breaks and respite care. Fewer carers may be able to access this service and a more stringent application of eligibility criteria would be required. |
<p>| <strong>C:</strong> As for A but allow charging at local authority discretion for the short break itself (e.g. travel, accommodation, leisure activity) | | This is in line with current position that provision of personal care and support is free whilst charge is applied for non-care costs which is covered by DWP benefits | Impact on welfare reform may result in service users having a reduction in income which would not meet hotel costs. Councils may require to look at a financial |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>D</strong>: As for A but break down the constituent elements of replacement care and waive charges for the care element only i.e. continue charging for “hotel costs” for residential respite and normal living expenses for any other non-care costs.</td>
<td>No impact on outcomes perceived</td>
<td>This is in line with current position that provision of personal care and support is free whilst charge is applied for non-care costs which is covered by DWP benefits. Impact on welfare reform may result in service users having a reduction in income which would not meet hotel costs. Councils may require to look at a financial assessment for residential respite rather than a fixed charge. This would increase bureaucratic costs.</td>
</tr>
<tr>
<td><strong>E</strong>: Allow charging for respite / replacement care (irrespective of whether the need is identified in a carer’s assessment or cared-for person’s assessment) but require the waiving of charges for all short breaks for the carer. If carer and cared-for person have a short break together, the cared-for person would pay for their element of the break for themselves.</td>
<td>No impact on outcomes perceived</td>
<td>We do not currently apply a charge for such short breaks but this proposal is in line with SDS guidance. This allows greater flexibility as to how short breaks and respite care is provided. In line with SDS regulations this looks at increasing choice and control. Need to be clear around the definition of short break and respite so service user or carer is not disadvantaged by choosing a particular form of respite. How does this apply if the cared for person takes a respite break and the carer has a short break elsewhere? The guidance requires to be clear if this situation applies to this guidance.</td>
</tr>
<tr>
<td><strong>F</strong>: Continue with the existing regulations, but revise the statutory guidance to be clearer on attributing replacement care to carers or the people they care for, according to particular circumstances.</td>
<td></td>
<td>The regulations around SDS would in our view cover increasing flexibility and choice around short breaks and respite. Clearer definitions around terminology such as short break, respite and carer would be beneficial in improving outcomes for carers and cared for person. A change in guidance may not have the necessary impetus to make the desired changes to provision of short breaks and respite.</td>
</tr>
<tr>
<td>G: Any other option for amending the 2014 Regulations – please specify</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**Question 6:** What would be your preferred policy option for the future? Please select from options A to F, outlined at question 5 above.

Please note that council responses will be used to give COSLA information about officers’ views. Any preferred option which emerges would be presented for further discussion at a political level before any local government position was formulated. This discussion would include consideration of whether policy options would be fully funded by the Scottish Government.

Preferred policy option _____ D _____

**Question 7:** Are there any other comments or information you would like to provide?

The waiving of costs and charges has a direct negative impact on current budgets and would lead to tightening of eligibility criteria reduced provision which is counter intuitive to the principals driving the Carers Bill. Further funding is required to offset this and to increase the provision and availability of short breaks and respite.

The SDS regulations includes reference to Carers and in itself allows for greater flexibility and choice and control which will improve outcomes for carers and cared for people.
This submission is made on behalf of the National Carer Organisations. We are grateful for the opportunity to provide evidence to the Finance Committee on the Carers (Scotland) Bill.

In preparing our submission we sought to reflect the views of carers from the many and diverse caring communities and caring situations across Scotland. During the consultation on carer legislation we consulted with over 500 carers, via a survey, member meetings, visits to local carer organisations and through social media.

Since the Bill was introduced to parliament we have again consulted with our members, produced briefing papers and facilitated focus groups and events. Through this we have gathered extensive information on how carers have received the Bill, including information on the the additional financial impact the Bill is likely to have on both statutory and third sector organisations.

1. Introduction

More resources will be required or existing resource will be diluted (a see-saw effect) However, if done in partnership between local authority and health with pooled budgets it will achieve better outcomes for people (carer, West Lothian)

1.1 The Carers Bill introduces a new framework for recognising and supporting carers. Alongside this it provides carers with new rights and entitlements, such as a universal right to information, advice and a carers support plan and the right to support, based on eligibility criteria. It is essential that the Carers Bill has a strong financial footing and that sufficient resources are available to ensure the Bill can be fully implemented, enabling carers to access their rights.

1.2 We have studied the financial memorandum to question whether it fully captures the costs associated with the Bill and whether the estimates of demand appear to be accurate. In doing this we have raised more questions than we have provided answers.

1.3 We aim to seek clarity on a number of areas of the financial memorandum and how costs and estimates of need have been calculated. We believe the government should undertake further scoping on the financial impact of the Carers Bill and should consider using an external agency to facilitate this.

In addition, we believe the financial implications of the Bill need to be placed within the context of current social care reform and its impact on existing carer support provision.

1.4 We have also raised concerns in a number of areas, including:

- Costs associated with the duties within the Bill, including the duty to support and the provision of short breaks
The waiving of charges for support to carers

The financial impact of the Carers Bill on the third sector

The impact of the discontinuation of existing funding streams, such as the Change Fund.

The lack of accurate information on the spending by local authorities on carer support and the need for greater transparency

2. We are seeking clarity on the following areas

2.1 There needs to be a clear indication of what the government will be providing as additional resources for carer support and what resources will replace funding which is coming to an end. This would include respite care funds (£2.28 million) The Carer Information Strategy Funds (£5 million) and the 20% of the Change Fund which was directed to carer support. If the costings in the Bill are calculated without taking this deficit into account the sums won’t add up.

2.2 How will any new resources be directed to carer support, how will the government ensure that they are of direct benefit to carers and specifically used to implement the provisions within the Bill? As one carer put it ‘Who is to say that the money will be ring fenced and used for carers support?’ (NCO survey)

2.3 Local authorities will need to invest both new and existing resources in carer support. However, since there have been significant cuts to carer services over the last few years there is the danger that new resources will only address the rollback of services we have already seen and we will simply return to the position we were in previously.

2.4 The financial memorandum includes costings for additional posts in relation to the new duties within the Bill. For example, Table 70 outlines the costs associated with advice workers in relation to the duty to establish and maintain an information and advice service. It needs to be made clear that these workers will be additional to existing carer information and support workers to address the increased demands on services arising from the new duty.

2.5 It is also not clear from the financial memorandum how the costs in relation to the Duty to Support have been calculated. It would be useful to have a breakdown of the separate elements, such as short breaks, carer training etc.

3. Adult Carer Support Plans

3.1 The costing for the duty in relation to the provision of Adult Carer Support Plans appears to be based on the model of a one-off intervention. However an outcome based support plan is a process, rather than a single event. The Bill has made it clear that ACSPs will need to be regularly reviewed and best practice models, such as
Talking Points, recommend a less formal approach to assessment. This may have implications in terms of the estimated costs.

3.2 Paragraph 51 highlights the effect of staff grades and skills on the cost of preparing an ACSP. Whilst it is appreciated that some ACSPs will be more complex than others (both in terms of preparing the plan and actioning the support identified in the plan), it is important that all staff who carry out this task have the correct skills to do so and are experienced in working directly with carers. This does not mean that staff at lower grades are necessarily less skilled at working with carers, but that additional training and learning may be required and will have associated costs.

3.3 Resourcing for the third sector will be required if the local authority wants a carers centre or other third sector organisation to carry out the ACSP on their behalf. It would be useful to explore the costs of completing a carers’ assessment for the third sector in the same way as the costs have been estimated for completion by the local authority, especially as the Financial Memorandum states that contracting the third sector may lead to cost savings. We are pleased to see that the costs relating to contracting a third sector organisation will be absorbed by the local authority

4. Information and advice

4.1 The costs associated with the duty to establish and maintain an information and advice service seem reasonable, but it needs to be made clear that these workers will be additional to existing carer information and support workers to address the increased demands on services arising from the new duties.

4.2 In addition, we would like recognition that allocating two information and advice workers to each local authority area is somewhat simplistic and backs up concerns that information and advice services provided by a local authority will be of a minimum standard only. Densely populated or remote and rural areas are likely to need greater numbers of information and advice workers in order to meet population needs and ensure equity of access. Paragraph 66 and 67 highlights the requirement for the service to be proportionate to needs, which will only be achieved if resources are available to meet the needs of diverse areas.

5. Duty to Support Carers

5.1 The Financial Memorandum provides an estimate of 21% of adult carers and 40% of young carers requiring support and it estimates a cost of £333 per annum for each carer accessing support.

5.2 We are unsure how the estimate of need has been calculated, however reference is made to the number of carers who feel supported in the Scottish Health and Wellbeing Survey. We are concerned that this is likely to be an underestimate of demand, both of the number of carers requiring support and also of the cost of providing adequate support.
5.3 While the financial memorandum also includes an additional £2.36 million per annum specifically for short breaks, this resource is inadequate on its own. The intention within the financial memorandum is that the resources set against the duty to support also includes an element of funding for short breaks. However, the estimate of £333 is drawn from research which does not include the cost of providing a short break to the carer. This figure is based on the average cost of providing support through a local carer support organisation, for services such as information and advice, peer support and carer training and does not include the cost of providing short break services.

We say more about the estimated costs in relation to short breaks below.

6. Short Breaks

Scottish Government Respite Care Data

6.1 Government information\textsuperscript{1} on local authority respite care shows a considerable variation in the levels of provision across Scotland. Furthermore, recent data shows an overall decrease in provision over the last 12 months of almost 2,000 weeks despite continued additional government funding to local authorities to sustain levels of respite care. An analysis of this data over 6 years\textsuperscript{2} reveals that 11 out of 32 local authorities are providing less respite than when measured in 2007-08 when government first began allocating this additional funding.

6.2 For this reason we believe strongly that future funding to support carers, including short breaks, has to be provided within a robust monitoring and evaluation framework to ensure funding is being used for purposes intended. In the absence of ring-fencing we believe there must be clear, measurable success indicators in place so that progress can be reliably tracked and corrective action taken if necessary.

Levels of funding to support carer short breaks

6.3 We agree with Scottish Government that estimating costs in this area is extremely challenging, especially in the absence of reliable local information on short breaks, a limited understanding of levels of unmet need, and the wide-ranging needs of families.

However, we believe it is vitally important that costs are not underestimated. If sufficient funding is not attached to the Bill, particularly to cover the costs of implementing the Duty to Support, then local authorities will adjust their eligibility criteria thresholds ‘upwards’ to reduce the number of carers falling within the scope. This will seriously undermine the preventative aims of the Bill. This is also one

\textsuperscript{1} http://www.gov.scot/Topics/Statistics/Browse/Health/Data/Carers

of the reasons the National Carer Organisations and others are arguing for the development of National Eligibility Criteria.

6.4 In paragraph 82 the government has estimated 20% of carers would potentially be eligible to receive short break support which would amount to 149,000 adult carers and 8,800 young carers.

Based on these figures, and an average support cost of £300\(^3\) per carer, this would produce a total figure of £47.3m annually recurring (combined adult and young carer = 157,800 x £300). If you take away the £2.36m specifically identified in the Financial Memorandum for supporting carers short breaks this still leaves £44.9m annually recurring to be found. However, the total amount identified in 2017-18 to cover all costs associated with the Duty to Support only amounts to £6.8m. This eventually rises to £60m by 2021-22. The position therefore appears to be that the estimated levels of eligible need, which exists now, will not be met until at least 2021-22. We believe this needs explanation.

6.5 Furthermore if 79% (£47.3m/£60m x 100 in 2021) of this overall funding is expected to meet the carer short breaks costs then this leaves very little to deliver other forms of essential support covered by the Duty. In other words the estimated costs to meet the Duty to Support appear to be significantly underestimated.

**Carer short breaks that require replacement care**

6.6 In the Financial Memorandum the short break costs (£300 per carer) identified exclude any costs associated with the provision of a service to the cared-for person that enables a break for the carer. This might include a range of services that could be provided in-home, or in a day centre, or in a residential setting.

We would expect the need for such services to rise as more people take on caring roles, and caring roles intensify. In paragraph 19 of the Financial Memorandum the wider demographic context is set out in terms of the “cost of support in the future”. Identified here is an increase in older people aged 75+ of 28% by 2022, an age group for support where the caring role is already significant, and likely to grow. Additionally the continuation of the trend for more intensive caring is evident from the 2001 and 2011 census: “The proportion of carers caring for 20 or more hours each week has increased from 37% (in 2001) to 45 per cent (in 2011).”

6.7 **The financial impact of more carers reaching eligibility and requiring some form of replacement care to enable a break will therefore be significant, and these costs do not appear to have been factored into the Financial Memorandum.**

**Short Break Statements**

\(^3\) Important to note this funding is for the carer to purchase a break and does not cover the replacement care that may be needed to facilitate the break. This is not particularly clear in the memorandum.
6.8 The Scottish Government has estimated an initial £13,000 per local authority to prepare a short breaks service statement, followed by a recurring cost of £5,000 per area. The costs appear to be largely associated with the staff time involved.

6.9 We would expect the process of preparing, publishing and promoting a short breaks services statement to be highly dynamic exercise which would involve initial research of existing provision and levels of unmet need, and consultation and engagement activities across all stakeholder groups. There would be ongoing monitoring and review too. **We are not confident the costs associated with these activities have been properly taken into account.** Furthermore, it is unclear if a single local authority-wide statement is expected or if a separate statement for children and adult services will be needed. Again this may mean additional costs.

6.10 Short Break Statements have been in place in England since 2011 (as part of a Short Breaks Duty for disabled children and their families) and therefore there may be useful cost information that could be shared with Scottish Government.

7. **The impact of the Bill on the Third Sector**

7.1 The financial memorandum includes a small amount of funding (£500,000 per annum) to support approx 50 third sector providers in terms of technical capacity and data collection. It makes it clear that this is not intended as a resource for direct carer support.

7.2 We are extremely disappointed that the financial memorandum states

> ‘There are no direct duties on third sector providers such as local carer organisations in the Bill and therefore no direct costs on them arising from it’ (Paragraph 112)

The third sector, in particular local carer organisations, will be instrumental to the successful implementation of the Carers Bill.

7.3 The provisions within the Bill will directly result in an increased demand on their services, as more carers will be identified, undertake an Adult Carers Support Plan and require access to universal carer support services. Unless they are adequately resourced they will be unable to cope with the additional demands placed on them.

> ‘The Bill needs to recognise the role carers centres play. I did not want to let anyone know I could not cope until I came to the carers group. They have helped so much to get my life back on track’ (Carer, South West Glasgow)

7.4 Most local carer support organisations receive funding from a variety of sources, including their local authority (94%) and health boards. (41%)\(^4\)

\(^4\) Coalition of Carers in Scotland, Carers Trust funding survey 2014
Over the last few years they have seen an increase in the number of carers accessing their services. This is due to an increase in the numbers of people requiring care, earlier identification of carers and an increase in the intensity of caring roles.5

However, their funding has not increased to match the additional demands on their services. In 2013, 47% of local carer organisations had faced cuts to their core funding and nearly half were at standstill funding, some for four years or more.6

7.5 It is essential that the preventative nature of the universal support which they provide is maintained. Particularly as the Carers Bill will potentially focus both new and existing resources on carers who meet eligibility criteria. There is therefore a danger that carers will not be able to access support until they reach crisis.

7.6 The impact of The Carers Bill on third sector carer support organisations must be properly scoped and additional resources must be identified to ensure they are in a position to respond to the increased demands on their services.

8. Waiving of charges for support to carers (paras 88-98)

8.1 The national carer organisations note that the financial memorandum (paras 88-98) discusses the issue of waiving charges for support and services to carers and that it is “fully expected” that regulations to waive charges will accompany the Carers Bill. (para 98)

8.2 The financial memorandum further states that “the Scottish Government is aware that local authorities are experiencing challenges in implementing the regulations” with the main challenge being the “categorisation of replacement care provided to the cared-for person at the point a carer takes a break.”

8.3 The current regulations prevent carers being charged for support they receive in their own right, which is identified in a Carers Assessment.7 This includes, “where a local authority decides to arrange replacement care for a cared-for person as part of the support which they provide to a carer under S3 of the SDS Act8 in order to give a break from caring.” (para 91)

8.4 The Community Care and Health Act 2002 recognised carers as ‘key partners in providing care’. This was further strengthened by Caring Together The Carers Strategy for Scotland in 2010 which recognised carers as ‘equal partners in care’

This has been a key shift in recognising carers as service providers who have an

5 Census 2011

6 Coalition of Carers in Scotland, Carers Trust funding survey 2014

7 Statutory guidance to accompany section 3 of the Social Care (Self-directed Support) (Scotland) Act 2013 and the Carers (Waiving of Charges for Support) (Scotland) Regulations 2014

8 Social Care (Self Directed Support) Scotland Act 2013
important role to play, both in service planning at a local level, but also as equal to health and social care professionals in their knowledge and understanding of the care needs of the person they look after.

8.5 This recognition of carers as equal partners and as service providers is critical to carers; they provide a valuable service, saving the Scottish economy more than £10 billion\(^9\) every year, and as such should never be expected to be charged for support they require which sustains their caring role, health, wellbeing and quality of life.

8.5 The Minister with responsibility for carers at the time of the passage of the Social Care (Self Directed Support) (Scotland) Act 2013 said:

"I plan to use the powers provided as a result of section 16 of the Bill to issue regulations that will make clear that all charges for support to carers should be waived in whole.

"So, to be abundantly clear, carers will not be charged for the support they receive under Section 2 of the Bill."

8.6 The national carer organisations are clear in our response that this principle cannot and must not be lost during the passage of the Carers (Scotland) Bill, a Bill whose intention is, correctly, to support carers more effectively both in their caring role and as citizens.

8.7 We welcome this statement of expectation that regulations will accompany the Bill to waive charges for carers. However, we have concern that "it is further expected that the regulations would be different from the present regulations given the current challenges experienced by local authorities." (para 98).

8.8 It is difficult for us to comment on the financial memorandum in respect to this without sight of the proposed regulations and accompanying financial memorandum. However, once the Scottish Government and CoSLA discussions are complete and these are forthcoming (along with accompanying financial information), the national carer organisations will make a full response.

9. End of the Change Fund
9.1 The National Carer Organisations (NCO’s) note their concern at the loss of the carer specific expenditure within the Reshaping Care for Older People Change Fund which has not been replaced within the Integrated Care Fund.

9.2 Whilst it was always understood that this was time limited funding, the allocation of 20% (£60 million over its lifespan) enabled significant investment in a wide range of carer which will not be replaced by the Integrated Care Fund. In essence, this

\(^9\)Voluntary Carers, Carers UK
represents a significant loss of investment in carer support services across Scotland. The removal of the £2.82 million to local authorities through the General Revenue Grant to maintain an additional 10,000 weeks of respite, ceasing in 2015, is evidence of further cuts to vital support services.

10. Transparency

10.1 It will be important for local authorities and health to be transparent about the resources that they are directing towards carer support. Both so there is a clear indication of funding which is already in place to support carers and so that any new resources can be clearly tracked to ensure they provide additionality and are being used for their intended purpose.

10.2 The financial memorandum notes the current lack of comprehensive data on spending by local authorities on support to carers ‘It is not known on a Scotland-wide basis what funding is supporting carers’ (Para 29)

10.3 We therefore believe that section 28 of the Carers Bill relating to the duty on local authorities to prepare a local carers strategy should specify the inclusion of a financial breakdown. Each local carer strategy should outline the resources which are allocated to local carer support and what these resources will be used for. In addition, this information should also be reflected in the Joint Adult Strategic Commissioning Plan.

This will allow local partnerships to build on the good practice already established and it will help the government to track the variation in resources allocated to carer support throughout Scotland.

11. Conclusion

11.1 In summary, the national carer organisations broadly welcome the Carers (Scotland) Bill. The Bill has much to recommend it and will offer carers, for the first time, rights to support. Our recommendations intend to offer ways to strengthen the Bill further and to enhance both implementation and ongoing delivery of its provisions.

National Carer Organisations
1st May 2015

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About The National Carer Organisations
The National Carer Organisations are brought together by a shared vision that all Scotland’s unpaid carers will be valued, included and supported as equal partners in the provision of care and will be able to enjoy a life outside of caring.

They are Carers Scotland, the Coalition of Carers in Scotland, Minority Ethnic Carers of Older People Project (MECOPP), Carers Trust Scotland, the Scottish Young Carers Services Alliance, Crossroads Caring Scotland and Shared Care Scotland.
CARERS (SCOTLAND) BILL
WRITTEN SUBMISSION FROM NORTH AYRSHIRE COUNCIL

The Scottish Parliaments Finance Committee have issued a call for written evidence on the Financial Memorandum for the Carers Bill. Proposals within the bill and financial memorandum (FM) are split into the categories below, with the impact on North Ayrshire Council explained:

**Uptake of Adult Carer Support plan (ACSP)** will have an increase in costs in resourcing the plans, this is expected to be carried out by social work staff.

At present within North Ayrshire on average 570 carers have an assessment either in conjunction with the service user or separate carers assessment. However we have estimated that 1,430 carers within North Ayrshire will require an ACSP, this is 53% of current service users in the community. This is more than double the 22% that the Financial Memorandum quotes (17% Adults and 5% children) who identify themselves as carers in Scotland. This has provided the Carers Bill with a starting point of 754,000 carers and an increase of 3% in first year, there is no evidence to support these increases. North Ayrshire would expect that through the annual review of the service user, the ACSP will be completed for each carer, estimated at 53% in the first year not as stated in the bill “when carers come forward”, this wording suggests that it is only on requests and contradicts the duty to prepare an adult care and support plan.

The financial memorandum states that demand will peak at 34% of the population, basing this on the fact 44% of carers report they feel supported, however this is not based on evidence. The uptake will come through awareness and promotion of this will be undertaken differently within each local authority. North Ayrshire Council estimated that at present 53% of local carers would be eligible for an ACSP.

**Cost of the ACSP** - An ACSP will be more detailed and require additional resources than current practice, this has been estimated at £180 per assessment, based on 7 hours of a social workers time and 0.5 hour of a team Manager time for review. This is in line with the £176 average based on LA returns. For North Ayrshire it is estimated that 6 FTE additional staff would be required at a total cost of £240k per annum.

Financial Memorandum states that the costs of undertaking the ACSP can be commissioned from the 3rd sector, cost of contact arrangements could be absorbed by local authorities. Local authorities budgets are already under pressure from demographic increases and meeting higher levels of needs within older people and children services.

**Duty to support carers** - The FM has stated that the average amount on carer-specific support is assumed to be in the region of £1,000 per carer over duration of caring which is assumed to be between two to three years, and the carer would
receive support worth £333 per annum. This seems reasonable for older people, however for children and younger adults 3 years does appear very low. Once a carer has an expectation that they will receive a sum of money to purchase support, it cannot be time limited, this may increase pressures in forthcoming years on carers support within limited budget constraints. As COSLA state the £333 should be seen as part of an overall budget, and councils should then use their own eligibility criteria to arrive at an overall resource allocation for carers, however if carers come forward more quickly the budget will not support allocations, additional analysis will need to be undertaken with the Council to project demand based on some degree of certainty.

**Conclusion**

The FM is based largely on estimates; demand for support will vary from Council to Council dependent on current practices, carers strategy, eligibility criteria and availability of advice for carers. The additional work and associated costs estimated within the FM seem too low in respect of the additional volume of ACSP and the costs of additional care for children and younger adults.
CARERS (SCOTLAND) BILL
WRITTEN SUBMISSION FROM RICHARD (INDIVIDUAL)

A - Cost of ACSP and YCS

1 In Para 56 table 2 column 4 there is a total of 46,190 “Renewals” that are omitted from being costed in Table 1.

Assuming a “revised ACSP” cost of £88, half the cost of an ACSP under Option 3, the 20,860 recurring revised ACSP’s in 2021/22 would add £1.836m to the £18.867 recurring annual figure.

Similarly in Para 64 there are 6,336 YCS “Renewals” uncosted in Table 1. Assuming a revised YSP of £83.50 half the cost of an YSP under Option 3, the 2,200 recurring revised YSP’s in 2021/22 would add £0.184m to the £1.536m recurring annual figure.

2 Given the two stage process of undertaking both an assessment of needs and then preparing a person centred support plan which could typically total 3/4 meetings with a carer, and travel time, the likelihood of accomplishing an acceptable quality of outcome under the costs in Option 1 or Option 2 in paragraph 56 seems improbable.

The meetings would identify agreed personal outcomes, provide options for how assessed needs might best be met on a day to day basis, ensure a carer led pace and process to the production of the assessment and support plan, and then time to prepare a person centred support plan, to write up the assessment and support plan and arrange for the carer to read through the assessment and support plan, suggest changes, and revise. And there are employer NI and superannuation costs, and supervisory costs.

3 The assessment and support plan has to account for how caring is impacting on day to day life and will be based on a range of factors as yet unprescribed under 7 (e) in the face of the draft Carers (Scotland) Bill.

In England in Section 1 of the Care Act 2014, not only is carer participation in the assessment process detailed but also the factors to be taken into account in the assessment are comprehensive and identified up front in the face of their Act under the concept of “well-being”.

These include for example “participation in work, education, training or recreation” (confirmed in 10 (5) c of the Act) (and these factors formally meet the eligibility criteria when there is significant impact on the carer’s well-being)

The current lack of detail in the draft Carers Scotland Bill, by delaying most key issues to subsequent as yet unspecified regulation, makes informed costing of the assessment and support provision much more difficult.

B - Paragraph 82 - Carer Short Break Proxy of 33% not 20% of Carers
In paragraph 82, the “good balance” (13% negative, 17% neutral) from the Scottish Health and Care Experience Survey (15,000 responses as carers) is deployed as a proxy of 20% of 789,000 carers (157,800 carers) for costing the required carer short break provision. (calculated at 20% by the 13% negative figure plus 7% (approx 40%) of the 17% neutral)

There are 3 potential applicable proxies from the Scottish Health and Social Care Experience Survey (the others are “feeling supported to continue caring” and “impact on health and wellbeing”) This “good balance” proxy that is currently selected in paragraph 82 of the Financial Memorandum provides the lowest financial implication for implementing the Bill.

The “impact on health” measure as a proxy would similarly yield a 42% proxy (32% negative 25% neutral) and “feeling supported to continue caring” a 33% proxy (18% negative 38% neutral).

The "feeling supported to continue caring" proxy would be congruent with the personal outcome meaning as stated in the Bill of “enable carers to provide or continue to provide care for cared-for persons”. (Part 1 Section 4)

In addition in paragraph 72 the “feeling supported to continue caring” proxy is detailed helpfully by the responses for carers caring more intensively for more than 35 hours per week and 50 hours per week, who would more likely be more in need of a carer break. There was an average 22% negative and a 31% neutral response for these 35hr/50hr categories. This would again evidence supporting using approximately a 33% proxy (260,370 carers) in the Financial Memorandum and not a 20% proxy.

C - Replacement Care

Given the response from carers caring intensively to the “feeling supported to continue caring” question in the Scottish Health and Care Experience Survey this 33% proxy figure as above could also be considered as a beginning point for calculating the need for the inevitable replacement care for the Cared For Person arising from offering Carer Breaks, and other needs arising from the ACSP and YCP.

The replacement care required in responding to a range of carer needs, including employment, is as yet uncosted in the Financial Memorandum, and will arguably be the most significant cost of implementing the Bill.

D – Numbers of Carers requiring support

In Paragraph 56, Table 2 it is calculated there will be 256,351 carers with an ACSP and in Para 64 Table 2 there are 28,180 carers with an YCS, thus totalling 284,531 carers with support plans.

However, in paragraph 79 it is calculated that only 173,311 (153,811+ 19,500) will require bespoke support or 61% of the 284,531. If I understand this correctly, this would mean that 1 out of 3 carers having a needs assessment then receive no support requiring funding from this Bill.
This seems improbable as the more intensively supporting carers are those who opt to have a needs assessment, and then an ACSP, and will likely all require some level of support.

Furthermore, if 20% of carers will require a carer short break as in the 20% proxy in paragraph 82 totalling 157,800 carers, this would effectively leave in equivalent terms only 15,511 carers (173,311-157,800) receiving other forms of carer support (discounting the £33 difference between £333 and £300 in the calculations for Carer Short Breaks and additional Bespoke Support). Again this seems improbable.

**E – Ring fencing funding for unpaid carers**

From the Respite Scotland 2014 data it is calculated that unpaid carers now receive in real terms less respite weeks per capita in 2013/14 than they received in 2007/8. The reduction totals 1810 weeks, as below, 2007/8 to 2013/14.

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Respite Provision 13/14 in weeks</th>
<th>Change in Respite Weeks 07/08 to 13/14</th>
<th>% Change in Respite Weeks 07/08 to 13/14</th>
<th>% Population Change 07/08 to 13/14</th>
<th>Net pro rata % decrease in Respite</th>
<th>Net change in respite weeks pro rata to population change 07/08 to 13/14</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-17</td>
<td>22,060</td>
<td>-1030</td>
<td>-4.5%</td>
<td>-1.6%</td>
<td>-2.9%</td>
<td>-660</td>
</tr>
<tr>
<td>18-64</td>
<td>72,540</td>
<td>1590</td>
<td>2.2%</td>
<td>3.7%</td>
<td>-1.5%</td>
<td>-1030</td>
</tr>
<tr>
<td>65+</td>
<td>108,490</td>
<td>10110</td>
<td>10.3%</td>
<td>10.4%</td>
<td>-0.1%</td>
<td>-120</td>
</tr>
<tr>
<td>Total</td>
<td>203,090</td>
<td>10650</td>
<td></td>
<td></td>
<td></td>
<td>-1810 weeks</td>
</tr>
</tbody>
</table>

The 10,650 weeks headline figure includes a misallocation of Direct Payment respite for 2 Councils to the value of £2.1m (Page 3, Respite Care Scotland 2014). When excluded, the headline figure increase of 10,650 weeks reduces to about 7,500 weeks, 2007/8 to 2013/14, using the agreed £630 cost per respite week formula. The real term reduction, after demographic change 2007/8 to 2013/14, thus increases from -1,810 weeks to a circa -5,000 week real term respite reduction.
This backdrop is despite the funding Councils by the Scottish Government for growing respite provision (Para 26), and a proportion of the 20% allocation for unpaid carers of £60m from the Change Fund Reshaping Care for Older People.

In conclusion, if carers are to fully benefit from the provisions in the Carers (Scotland) Bill ring fenced funding of certain streams for unpaid carers attached to this Bill (as previously deployed by the Scottish Government to very successfully reduce delayed discharge numbers across Scotland) has many advantages, and is arguably now essential, not least in assisting the culture change that is required to prioritise and better support unpaid carers.

**F - Detail in the Bill to assist costing the implications**

In England the first section of the Care Act 2014 introduces the concept of “wellbeing” defined as:

“1 Promoting individual well-being

(1) The general duty of a local authority, in exercising a function under this Part in the case of an individual, is to promote that individual’s well-being.

(2) “Well-being”, in relation to an individual, means that individuals well-being so far as relating to any of the following –

(a) personal dignity (including treatment of the individual with respect);

(b) physical and mental health and emotional well-being;

(c) protection from abuse and neglect;

(d) control by the individual over day-to-day life (including over care and support, or support, provided to the individual and the way in which it is provided);

(e) participation in work, education, training or recreation;

(f) social and economic well-being;

(g) domestic, family and personal relationships;

(h) suitability of living accommodation;

(i) the individual’s contribution to society.”

In the England Care Act 2014 a “carer’s assessment must include an assessment of the impact of the carer’s needs for support” from the above “well-being” factors.

And, for example, the England Care Act 2014 requires that:
“(6) A local authority, in carrying out a carer’s assessment, must have regard to—

(a) whether the carer works or wishes to do so, and
(b) whether the carer is participating in or wishes to participate in education, training or recreation.”

These issues (a) and (b) above are then confirmed in the regulations as meeting the eligibility criteria where there is a significant impact on the carer’s well-being.

If the Carers Bill (Scotland) could as in these above examples become more detailed and prescriptive in the face of the Bill, rather than deferring to as yet unspecified associated regulations, it will be much easier to calculate accurately the implementation costs required in the Financial Memorandum.

G – Wider Issues - Carers and Employment

Despite the identification of large groups of carers who have been adversely affected in employment by their caring role (Scotland’s Carers March 2015 Page 43) there is as yet no provision in the Financial Memorandum, nor any reference in the face of the Bill to any carer rights to employment.

The Scottish Government has rightly recently emphasised the need for social justice, to tackle discrimination against women in employment, and to grow the economy to eliminate the fiscal gap and deficit identified in GERS, 2014. (Government Expenditure and Revenue Scotland 2014)

The SG is rightly committing to extending free childcare from 600 hours per annum to 1140 hours.

According to the Scottish Health Survey 2012/13 (15,000 carer responses) 6% of carers were unable to take up work due to caring, 7% had to work fewer hours, and 4% had to leave their jobs, and 2% took early retirement.

While paid employment is briefly mentioned in the Explanatory Notes to the Bill, it does not have specific support costs factored in nor any formula being deployed to arrive at a support cost.

Digging behind the “average” data one sees that female carers are unable to take up work at an early age 16-44 (4%-11% of carers by age bands) while for men at the age of 16-34 there is close to a zero impact.

And the impact is greatest on those carers on lowest incomes (below £13,234) and below £19,598.

Caring and subsequent unemployment, and underemployment, affects female carers disproportionately to male carers in some KEY aspects, as above. But both genders are adversely affected by caring, and the structural consequences further down the line can be reduced pension provision for carers in retirement due to employment
opportunities being unrealisable, and additional costs to the state in terms of the welfare budget, and no tax revenues.

If we are to be “consistent” in tackling inequality and gender inequality, particularly the inequality effecting female carers and carers on low incomes, then carer inequality in employment must be formally addressed both in the Bill and the Financial Memorandum, and be treated equally to parent carers who already benefit from 600 hours per annum of free childcare, and which is proposed to nearly double in the support level offered.

The omission of any costs to address carers’ needs relating to employment in the Financial Memorandum is a major omission.

Richard (Individual)
CARERS (SCOTLAND) BILL
WRITTEN SUBMISSION FROM
THE ROYAL COLLEGE OF GENERAL PRACTITIONERS

The Royal College of General Practitioners (RCGP) is the academic organisation in the UK for general practitioners. Its aim is to encourage and maintain the highest standards of general medical practice and act as the ‘voice’ of general practitioners on education, training and issues around standards of care for patients.

The College in Scotland came into existence in 1953 (one year after the UK College), when a Scottish Council was created to take forward the College’s interests within the Scottish Health Service. We currently represent over 5100 GP members and Associates in Training throughout Scotland. In addition to a base in Edinburgh, the College in Scotland is represented through five regional faculty offices in Edinburgh, Aberdeen, Inverness, Dundee and Glasgow.

1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

No

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?

N/A

3. Did you have sufficient time to contribute to the consultation exercise?

N/A (assuming this question refers to any consultation exercise preceding the Bill).

Costs

4. If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

The principles which underpin this legislative process, to comprehensively support both adult and young carers, are supported by RCGP Scotland. The following link is offered as evidence of RCGP’s policy to support carers and to provide resources which align to the content of this Bill: RCGP policy. However, with regards to the financial implications, RCGP Scotland have some concern about how current critically limited resources for all health and social care initiatives, including the financial requirement for implementation of the Carers Bill, will be prioritised when balancing the need to meet other high level priorities such as the urgent need for investment in mental health.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

RCGP Scotland has no comment to make on this question.

6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

RCGP Scotland has no comment to make on this question.

7. Does the FM accurately reflect the margins of uncertainty associated with the Bill’s estimated costs and with the timescales over which they would be expected to arise?

Yes

Wider Issues
8. Do you believe that the FM reasonably captures any costs associated with the Bill? If not, which other costs might be incurred and by whom?

Margins of uncertainty are reflected as in Question 7 above.

9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

Margins of uncertainty are reflected as in Question 7 above.

Elaine McNaughton
Dr Elaine McNaughton
Deputy Chair (Policy)
April 2015
1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

The Scottish Council of Independent Schools (SCIS) feels that there was a lack of opportunities for SCIS to be involved in any consultation preceding this Bill. This is concerning for SCIS as young people in member schools will be directly affected by this Bill.

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?

N/A

3. Did you have sufficient time to contribute to the consultation exercise?

SCIS feels that schools could have been given more time to contribute to the consultation exercise. SCIS was initially contacted regarding this Bill in October 2014 and expressed willingness to discuss it then but this was not initially followed up. SCIS was then only contacted again in mid-February by which point many decisions regarding the Bill had already been made. The topics of discussion at this point were not wide and we do not feel we were made fully aware of the potential impact of the Carers (Scotland) Bill on the independent school sector at an early stage.

Costs

4. If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

SCIS feels that the numbers provided may not be accurate. Moreover, the logic to how the numbers have been calculated is unknown and more accurate data should be an early requirement. It may be that the number of young carers attending independent schools has been over or underestimated in other ways and may also have been underreported, however, SCIS cannot currently be certain of the number of young carers attending independent schools in Scotland.

SCIS would be happy to work with schools to attempt to provide more definitive numbers. When discussing this Bill with independent schools there was an indication that it was likely that there were young carers who were pupils. Independent schools have an important role to play in supporting young carers are part of their pastoral role and they take this very seriously. This Bill would therefore clearly hold financial implications specific to the independent school sector. At present it is unclear what these will be. SCIS hopes these implications will be borne in mind when decisions are made about the Carers (Scotland) Bill.
However, until this Bill is finalised it would be extremely difficult for SCIS to be certain of the financial impact it may have so it is difficult to comment in detail at this stage.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

Until this Bill is finalised it is not possible to be certain. For example, it is unclear how independent schools would either perform the role of identifying pupils who were young carers or ensure that pupils self-identified themselves as young carers.

Moreover, it is unclear how the money the Scottish Government has estimated would need to be provided to independent schools would be distributed to these schools.

6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

The FM does not reflect costs of training and workforce development which would be necessary for independent school staff to have the skills and expertise to prepare a Young Carers Statement, as this Bill would require them to undertake as part of their duties. It is mentioned that training will be provided via NES and SSSC and it would be helpful to know if independent schools be able to access this training.

7. Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they would be expected to arise?
CARERS (SCOTLAND) BILL
WRITTEN SUBMISSION FROM SHARED CARE SCOTLAND

1. These are Shared Care Scotland’s views on the information contained in the Financial Memorandum relating to the Carers (Scotland) Bill as introduced in the Scottish Parliament on the 9th March 2015.

2. Shared Care Scotland¹ is a national charity that works collaboratively with a wide range of organisations and individuals, including carers and service providers, to improve the quality, choice and availability of short breaks (respite care) across Scotland.

3. Our comments relate to the estimated costs produced for the Financial Memorandum concerned with the provision of breaks from caring. We have also contributed to the National Carer Organisations response to the Finance Committee which covers the wider financial aspects.

4. We fully support the intentions of the Bill to provide better, more consistent support to Scotland’s adult and young carers. Access to breaks from caring (respite care or short breaks) is one such area of support that is highlighted time and again as a vital to maintaining carers health and well-being, and to sustaining the caring relationship.

5. The financial projections contained in the Financial Memorandum, detailing the expected costs of implementing the Bill, are significant but they must be set against the estimated £10.3 billion annually that carers save the Scottish economy.

Scottish Government Respite Care Data

6. Government information³ on local authority respite care shows a considerable variation in the levels of provision across Scotland. Furthermore, recent data shows an overall decrease in provision over the last 12 months of almost 2,000 weeks despite continued additional government funding to local authorities to sustain levels of respite care. An analysis of this data over 6 years⁴ reveals that 11 out of 32 local authorities are providing less respite than when measured in 2007-08 when government first began allocating this additional funding.

7. For this reason we believe strongly that future funding to support carers, including short breaks, has to be provided within a robust monitoring and evaluation framework to ensure funding is being used for purposes intended. In the absence of

¹ www.sharedcarescotland.org
² University of Leeds/Carers UK, Valuing Carers 2011, Calculating the Value of Unpaid Care http://www.carersuk.org/professionals/resources/research-library/item/2123-valuing-carers-2011
³ http://www.gov.scot/Topics/Statistics/Browse/Health/Data/Carers
ring-fencing we believe there must be clear, measurable success indicators in place so that progress can be reliably tracked and corrective action taken if necessary.

Levels of funding to support carer short breaks

8. We agree with Scottish Government that estimating costs in this area is extremely challenging, especially in the absence of reliable local information on short breaks, a limited understanding of levels of unmet need, and the wide-ranging needs of families.

9. However, we believe it is vitally important that costs are not underestimated. If sufficient funding is not attached to the Bill, particularly to cover the costs of implementing the Duty to Support, then local authorities will adjust their eligibility criteria thresholds ‘upwards’ to reduce the number of carers falling within the scope. This will seriously undermine the preventative aims of the Bill. This is also one of the reasons the National Carer Organisations and others are arguing for the development of National Eligibility Criteria.

10. In paragraph 82 the government has estimated 20% of carers would potentially be eligible to receive short break support which would amount to 149,000 adult carers and 8,800 young carers.

11. Based on these figures, and an average support cost of £300 per carer, this would produce a total figure of £47.3m annually recurring (combined adult and young carer = 157,800 x £300). If you take away the £2.36m specifically identified in the Financial Memorandum for supporting carers short breaks this still leaves £44.9m annually recurring to be found. However, the total amount identified in 2017-18 to cover all costs associated with the Duty to Support only amounts to £6.8m. This eventually rises to £60m by 2021-22. The position therefore appears to be that the estimated levels of eligible need, which exists now, will not be met until at least 2021-22. We believe this needs explanation.

12. Furthermore if 79% (£47.3m/£60m x 100 in 2021) of this overall funding is expected to meet the carer short breaks costs then this leaves very little to deliver other forms of essential support covered by the Duty. In other words the estimated costs to meet the Duty to Support appear to be significantly underestimated.

Carer short breaks that require replacement care

13. In the Financial Memorandum the short break costs (£300 per carer) identified exclude any costs associated with the provision of a service to the cared-for person that enables a break for the carer. This might include a range of services that could be provided in-home, or in a day centre, or in a residential setting.

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5 Important to note this funding is for the carer to purchase a break and does not cover the replacement care that may be needed to facilitate the break. This is not particularly clear in the memorandum.
14. We would expect the need for such services to rise as more people take on caring roles, and caring roles intensify. In paragraph 19 of the Financial Memorandum the wider demographic context is set out in terms of the “cost of support in the future”. Identified here is an increase in older people aged 75+ of 28% by 2022, an age group for support where the caring role is already significant, and likely to grow. Additionally the continuation of the trend for more intensive caring is evident from the 2001 and 2011 census: “The proportion of carers caring for 20 or more hours each week has increased from 37% (in 2001) to 45 per cent (in 2011).”

15. The financial impact of more carers reaching eligibility and requiring some form of replacement care to enable a break will therefore be significant, and these costs do not appear to have been factored into the Financial Memorandum.

**Short Break Statements**

16. The Scottish Government has estimated an initial £13,000 per local authority to prepare a short breaks service statement, followed by a recurring cost of £5,000 per area. The costs appear to be largely associated with the staff time involved.

17. We would expect the process of preparing, publishing and promoting a short breaks services statement to be highly dynamic exercise which would involve initial research of existing provision and levels of unmet need, and consultation and engagement activities across all stakeholder groups. There would be ongoing monitoring and review too. We are not confident the costs associated with these activities have been properly taken into account. Furthermore, it is unclear if a single local authority-wide statement is expected or if a separate statement for children and adult services will be needed. Again this may mean additional costs.

18. Short Break Statements have been in place in England since 2011 (as part of a Short Breaks Duty for disabled children and their families) and therefore there may be useful cost information that could be shared with Scottish Government.

**Waiving charges for support**

19. We note in paragraphs 88-98 that government is currently in discussion with COSLA to resolve difficulties in implementing the existing waiving charges regulations - linked to the Social Care (Self-directed Support) Scotland Act - where local authorities are not to charge for any support they provide to carers. The principle here is that carers are equal partners in care and must not be charged for services or support they receive which helps their caring role, and protects their health and wellbeing. Short breaks from caring, with the help of replacement care where required, can provide this critical support. We would therefore not wish to see any charges being introduced which would become a barrier to carers accessing the breaks they are assessed as needing.
CARERS (SCOTLAND) BILL
WRITTEN SUBMISSION FROM SOCIAL WORK SCOTLAND

Social Work Scotland welcomes the opportunity to provide written evidence to the Scottish Parliament Finance Committee on financial aspects of the Carers (Scotland) Bill. Social Work Scotland – formerly the Association of Directors of Social Work (ADSW) – is the leadership organisation for the social work profession in Scotland.

Social Work Scotland acknowledges1 the crucial support that unpaid carers provide to family members, friends and neighbours. We recognise that unpaid carers, rather than the State, provide the majority of care which enables people with health and social care needs to continue living at home. Improving support to carers is essential on moral grounds, as well as forming one of the most important elements in prevention strategies for health and social care.

However, Social Work Scotland is not convinced that the significant sums included in the Finance Memorandum really are sufficient to fully fund the Carers Bill provisions. We have five main areas of concern which we cover in our answers to the questions in the Committee’s call for evidence document:

(a) The additional carer assessments required is likely to be under-estimated – see our response under Question 4. The Bill’s provisions create a right to a carer’s assessment on demand. According to the Finance Memorandum (FM) there are 745,000 carers in Scotland and currently around 12,000 adult carer’s assessments of all types each year. This means that only 1.6% of carers are currently assessed annually. While we agree that many, perhaps most, carers will not request an assessment, the right to an assessment on request is likely to increase demand very significantly. Current legislation restricts assessment to carers who provide “substantial and regular care”; the abolition of this condition via the Bill’s revised definition of a carer removes the ability of local authorities to focus assessment resources on carers who are likely to require support. There is a real risk that assessment on demand will consume resources that would be better spent on providing carer support. The FM assumptions about the numbers of additional assessments required each year are not well-connected to the survey data said to inform these judgements.

(b) The numbers of carers assessed as requiring support is also likely to be under-estimated – also covered in our response under Question 4. The FM calculations are highly sensitive to the assumptions used. The key assumption that 60% of adults with a Adult Care Support Plan and 69% of young carers with a Young Carers Statement will require support is not well-supported by the evidence that 70% of carers receive no support, and only 4% receive respite care. There also appears to be an error of £11.5m in the calculation of the cost of support for adult carers in 2020-21.

(c) The unit costs used to cost assessment and support are too low. Our response to Question 7 argues that the ACSP assessment costs should be modelled on the average costs reported by councils in the questionnaire survey (£176 per assessment). Instead this average is presented in the FM as the high-end cost, and a lower English figure from Surrey is used as the average. Average costs for Young Carers Statements

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1 See also: Social Work Scotland response to Health & Sport Committee on Carers Bill
appear to be lower for reasons that are not clear. The unit costs for support are also unrealistic, particularly for respite care (£300 per year) which would only buy two days of respite care per year.

(d) The rate at which additional demand will build up will be quicker than estimated – also covered under Question 7. Previous social care legislation, eg Free Personal Care, created new demand more quickly than the 4-5 years assumed in the FM for the Carers Bill. Work in England on similar new legal rights for carers also assumed a faster build-up of new demand. We have also analysed the specific arguments in the FM for a slower build-up but they are not convincing.

(e) The ongoing increase in demand in future years is unlikely to flatline after the initial build-up of new demand for assessment and support from carers – this is covered in our response under Question 9

Consultation
1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

Social Work Scotland submitted a written response\(^2\) to the Scottish Government's consultation between January 2014 and April 2014 on proposed carers' legislation. However, there was no Scottish Government consultation on a draft Bill, and the earlier consultation provided no information on financial assumptions. In common with many respondents, Social Work Scotland commented on the need to adequately fund new legislation for carers, and these financial concerns are captured in the independent analysis of the consultation responses that the Scottish Government commissioned from Why Research but did not publish\(^3\) until February 2015.

Social Work Scotland also assisted COSLA and the Scottish Government with the content of two questionnaires issued in December 2014 on the costs of the planned carers' legislation and on the financial implications of the 2014 Regulations waiving charges for carers.

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?
Not applicable. There was no consultation on specific financial assumptions. The FM draws upon a range of sources of information, including the questionnaire responses mentioned above. However, legitimate concerns remain about the funding levels proposed.

3. Did you have sufficient time to contribute to the consultation exercise?
Yes – see comments above.

Costs
4. If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.
The Bill has very serious and substantial implications for Social Work Scotland members in local authorities. Local authority funding has been reduced in both cash and in real terms in recent years, and public sector austerity is likely to continue at least in the medium term.


While local government will wish to fully implement new legal duties to identify and support carers, in practice it can only do so if the new legislation is fully funded by the Scottish Government. New duties that are not fully funded can only be delivered by cutting other services.

(a) Estimating additional carer assessments required
Social Work Scotland considers that the FM under-estimates the increase in demand for carer’s assessments:
- The new terminology of “Adult Care Support Plans” (ACSPs) for adult carers assessments introduced by the Bill immediately suggests that support is somehow entailed by assessment. However, the duty to provide support is only engaged where the carer has assessed eligible support needs. That is why the new terminology is deeply misleading.
- Councils are able to use the current “substantial and regular test” to manage demand for assessment (and about half do so, according to questionnaire results mentioned at FM para 41). However, the Bill’s revisions to the definition of “carer” remove this qualification, and the FM’s reasons for assuming this will not increase demand are not convincing
- The new duty to provide support for assessed eligible needs is likely to increase demand for assessments.
- Publicity around the Bill and the new duty to provide information and advice will also increase assessment demand.

The Bill, if enacted, would create a right to assessment on demand, which local authorities do not have resources to meet. The 2011 Census shows that 35% of adult carers provide care for 20 or more hours per week. Social Work Scotland considers that over time it is likely that the majority of these carers will require assessment for support, plus a minority of the large number of carers providing fewer hours. However, the Finance Memorandum assumes that no more than 16% of the total number of adult carers will be assessed in any given year, and 30% of the total number of young carers, once the new legislation is fully bedded in. While there are many statistics quoted in the Finance Memorandum from different carer surveys and research, none of this evidence leads to these particular estimates, or to the “steady state” cumulative estimates of 34% of the total number of adult carers ever having had an ACSP, and 64% of young carers ever having had a YCS. It would be helpful if the FM had achieved greater transparency about the basis for the estimates: clearly many are matters of judgement.

(b) Estimating the numbers of carers assessed as requiring support
The cost of meeting the new duty is likely to be far larger than anticipated in the Financial Memorandum (FM), which assumes that only 21% of the adult carer population and 40% of young carers will have eligible needs (FM para 77).

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4 FM para 41 states: “The Scottish Government’s view is that removal of this test will not, in itself, result in a large increase in the numbers of carers requesting the ACSP. Most of the councils who do use the test did not know how many carers fell short of the regular and substantial threshold for access to the carer’s assessment”. If the second sentence is intended to support the first, the argument is simply a non sequitur.
5 We use this term to denote the period after the initial increase in assessment requests following implementation of the Bill.
6 Paragraph 56 states that: “The estimate is that over time 34 per cent of adult carers will be the highest percentage of carers who will have an ACSP”.
7 Paragraph 60 says “about 60%”, however Table 2 in paragraph 64 gives 64%.
The FM assumes that the proportion of carers assessed who are also eligible for support will be 60% for adults who have had an assessment and 69% for young carers by 2012-22 (para 79). The numbers who have had an assessment are cumulative, but are adjusted for people ceasing their caring role – estimated at 13% per year for adults and 20% for young carers – and also for “renewals”; people already assessed whose ASP or YCS is revised (re-assessed), also assumed at 20% for both adults and young carers. This brief description shows the complexity of the calculations, which are highly sensitive to the various assumptions.

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

Social Work Scotland has modelled the FM calculations for adult carers shown in the table in paragraph 79:

<table>
<thead>
<tr>
<th>Year</th>
<th>Para 56 T2 Estimate of cumulative number with an ACSP</th>
<th>% of Adult carer support plan holders</th>
<th>Estimated numbers receiving support</th>
<th>% of carer population receiving support</th>
<th>Cost of support to adult carers @ £333 unit cost (£m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017-18</td>
<td>22,350</td>
<td>50%</td>
<td>11,175</td>
<td>1.5%</td>
<td>3.721</td>
</tr>
<tr>
<td>2018-19</td>
<td>59,675</td>
<td>50%</td>
<td>29,837</td>
<td>4.0%</td>
<td>9.936</td>
</tr>
<tr>
<td>2019-20</td>
<td>102,577</td>
<td>50%</td>
<td>51,288</td>
<td>6.9%</td>
<td>17.079</td>
</tr>
<tr>
<td>2020-21</td>
<td>181,622</td>
<td>60%</td>
<td>108,973</td>
<td>14.6%</td>
<td>36.288</td>
</tr>
<tr>
<td>2021-22</td>
<td>256,351</td>
<td>60%</td>
<td>153,810</td>
<td>20.6%</td>
<td>51.219</td>
</tr>
<tr>
<td>2022-23</td>
<td>256,351</td>
<td>60%</td>
<td>153,810</td>
<td>20.6%</td>
<td>51.219</td>
</tr>
</tbody>
</table>

We have found what seems to be an error in the FM calculations for 2020-21: the formula yields £36.288 million costs as shown above, but in the published FM the costs for that year are shown as £24.808 million – a difference of some £11.5 million.

We criticise the unit cost assumptions in our response to Question 7.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

Social Work Scotland does not under-estimate the difficulties civil servants have faced in costing the provision of the Carers Bill. While we are aware of meetings between Scottish Government and COSLA officers to discuss these costs, we are also aware that the FM has been produced over a short timetable with less stakeholder involvement than has been the case with other financial memoranda associated with new health and social care legislation (such as Self Directed Support, or Health and Social Care Integration).

Nevertheless, we do not consider the FM estimates of the Bill’s implementation costs to be reasonable and accurate, for reasons given in our answers to other questions. We welcome the Scottish Government’s commitment, given in paragraph 7 of the FM, to
further work with COSLA on the cost estimates. Social Work Scotland is willing to assist such work.

6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

Social Work Scotland does not believe that local government will be able to meet unfunded costs of the Bill, when enacted. Local authority funded social work and social care services are already under extreme pressure as budgets are static or reducing while demand is increasing – as the Finance Committee has recognised in its previous work on prevention and on the financial implications of demographic change.

In England, similar legislation to improve support to carers also faces funding challenges and the UK Government’s impact assessment8 (equivalent to the FM) states that

The extra numbers of carer assessments and carer support services that might result directly from these changes to legislation are inevitably uncertain. We believe that our estimates are plausible, but clearly there is a risk that they could prove to be under-estimates or over-estimates. If our estimates of take up prove to be under-estimates, councils may need either to limit the amount of support that they offer to each carer or to change local priorities between support for carers and other services.

The consequences of under-funding will be similar in Scotland. It is a long-established principle that new legislation should be fully funded.

7. Does the FM accurately reflect the margins of uncertainty associated with the Bill’s estimated costs and with the timescales over which they would be expected to arise?

No, there are two problems: (a) the FM’s assumed unit costs are problematic, and (b) there is reason to expect a quicker build up of new demand.

(a) Unit costs of assessment and support

ACSP assessment costs have been modelling on three unit costs – £72, £110, and £176 per carer assessment – referred to in the tables as Options 1, 2 and 3.

The first problem is that the selection of the lowest and highest options is biased. Footnote 32 explains that the questionnaire survey of Scottish local authorities yielded unit costs for 14 LAs of between £72 and £342 per carer assessment, after excluding the highest and lowest unit costs. The average unit cost was £176 (para 54). This would normally generate low, medium and high estimates of £72, £176, and £342. Instead the FM takes the average of £176 as the high end estimate.

The FM’s mid-estimate of £110 is said in paragraph 50 to be based on 2011 costs in Surrey County Council in England. That doesn’t seem particularly relevant to costs in Scotland between 2017-18 and 2022-23.

Social Work Scotland considers that the ACSP assessment costs should be modelled on the average unit costs of £176 per week.

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The Young Carers Statement (YCS) assessment costs have been modelled on a narrower range of options: £106, £125, and £167, and are said to be based on the Scottish LA questionnaire returns but with higher cost returns excluded (for reasons stated in para 62). The lowest cost of £106 appears to be based on one return, while the £125 middle cost is an “average across five LAs with a unit cost of less than £200”, and the higher cost of £167 is an “average across seven LAs with a unit cost of less than £300”.

The exclusion of all assessment unit costs above £300 may or may not be valid; if it is, then we can take a weighted average of the three unit costs in terms of the number of LA questionnaire returns behind each figure: that suggests an average of £146 across the 13 LAs. Quite why the assessment cost should be lower for young carers is not clear, and there may be an argument for using a common unit cost for young carers and adults.

The FM estimates the unit costs for support services at £333 per year for both adult and young carers (para 78). For adults it is assumed that 60% of the cumulative number of people with a ACSP and 69% of young carers with a YCS will be eligible for support worth £333 per year; this amounts to £51.2m for adults and £6.5m for young carers, recurring by 2021-22 (table at para 79). In addition a further 5% of the total number of carers in the population are assumed to need short breaks at £300 per year, costing a further £2.36m per year (para 82).

While the unit cost of support of £333 per year is based on UK Government work on implementation costs for the similar legislation in England (FM footnote 51), the short breaks unit cost of £300 per person per year is much lower than that assumed in England (£967). In Scotland, the average unit cost of residential respite is around £1,000 per week, which is close to the English estimate if that is for one week’s respite per person. The FM’s estimate of £300 is too low and would only buy a short break of 2 days per person per year.

The assumption that an additional 5% of carers will need a short break is based on a 20% estimate, reduced to 5% on the assumption that the other 15% is already included in the support costs already calculated. The English analysis proceeds rather differently: the proportion of assessed carers assumed to be eligible is similar (63% compared to 60%) but it is split between eligibility for personal budgets (48%) and eligibility for respite care (15%) to avoid any double counting. Applying this approach to the FM data on the numbers of adult carers with an ACSP in 2021-22 produces a far higher estimate of total support costs:

<table>
<thead>
<tr>
<th>Type of support</th>
<th>Numbers of adult</th>
<th>% with eligible</th>
<th>Number with eligible</th>
<th>Unit costs of</th>
<th>Total funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revised estimates for care support (Social Work Scotland)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

5 FM paragraph 52 appears to concede that “the average unit cost of preparing the ACSP should be approximately the same as the unit cost of the carer’s assessment” – which is what the questionnaires to Scottish LAs have captured at £176 – but then argues that these may be reduced by a “light touch” approach to assessment before going on to describe a carer’s assessment in terms that are very comprehensive indeed!

10 They were taken as representing “comprehensive integrated assessments” of all the young person’s needs, not just of their needs as carers.

11 The 20% is a “proxy measure” based loosely on a survey finding that 70% of carers felt that they had a good balance between caring and other things in their lives (para 81). There is no data on how many of the 96% of carers who currently receive no short break or respite would have eligible assessed needs that indicated a break was needed.
Social Work Scotland considers that this approach is more likely to be more accurate, and that £79m is a more realistic and better evidenced funding estimate than the £53.6m in the FM (£51.22m + £2.36m). At the very least it demonstrates how small changes to the assumptions produce large differences in the funding requirements.

(b) Assumptions about the build up of new demand
The FM assumes a relatively slow build up of demand over four years from commencement of the Act, with year 5 the first year of full post-implementation demand estimated at 119,200 assessments per year. The tables therefore show additional demand starting in 2017-18, reaching saturation point in 2020-21 and flat-lining at the same level in 2022-23 and beyond.

However, in reality, the Scottish Government acknowledges that demographic factors will continue to increase the numbers of people requiring both formal care and care by unpaid carers beyond 2022-23, and that the number of carers will increase although not as fast as the need for care (FM paragraph 19, and Policy Memorandum paragraph 20). This means that additional demand for ACSPs is likely to continue to rise after the initial steeper build-up to “saturation”.

The FM arguments12 in favours of a slow build up are not convincing:

<table>
<thead>
<tr>
<th>Argument</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Previous national and local carers policy initiatives to increase the numbers of carer’s assessments have only led to modest growth. (Para 45)</td>
<td>The difference this time is that policy intentions are being backed by legislation and some funding. Enhancing carer’s rights to a support plan through legislation is surely a step change – otherwise why do it? The legislative intention has been very positively received by carer’s organisations and is being well-publicised. (There is also some local counter-evidence, such as Edinburgh’s carer payments which have greatly increased the numbers of carer assessments).</td>
</tr>
</tbody>
</table>

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12 Elsewhere (para 79) the FM acknowledges that “It is challenging to estimate how quickly an increase in ACSPs and YCSs and provision of bespoke support might occur”.

<table>
<thead>
<tr>
<th>Argument</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 Many carers are content with their support arrangements so are unlikely to request an ACSP: “…44 per cent of carers currently feel supported to continue caring (Scottish Health and Care Experience Survey) …[and] some who do not feel supported will opt out of the ACSP because they want more support from family and friends…” (Para 56)</td>
<td>The FM considers this argument mainly in relation to the level of “saturation”, but it could also apply to the rate of build up of additional demand. There are two problems with the argument: (1) feeling supported at the survey date is not the same as feeling supported over a period of time, especially if the needs of the carers or cared for person change. (2) The Survey estimate of the number of carers who currently feel supported is too large for them to be receiving that support from local authorities, so they must be supported by family and friends. The Bill provides new entitlements to assessment and to a support plan, and new duties on local authorities to meet assessed eligible needs of carers. That will be read as an improved offer so it is unwise to assume that people who report currently feeling supported will not seek further support from a new source.</td>
</tr>
<tr>
<td>3 Council questionnaire responses show they were divided on how soon additional demand would happen (Para 39)</td>
<td>According to the FM, 16 out of 17 LAs said that there would be increased demand: 10 said “immediately” and 6 said “at a later date” (unspecified in the FM). This not good evidence in favour of a slow build up.</td>
</tr>
</tbody>
</table>

Social Work Scotland considers that **a faster build up of demand is more likely**, for the following reasons:

1. The Scottish Government wishes to ensure that all carers who request an assessment will get one – that is bound to increase demand for assessments significantly.

2. Previous social care legislation known to increase demand did so more quickly. Published Free Personal Care statistics from implementation in July 2002 to 2013 show three distinct periods: (a) early take-up period of just over 3 years from July 2002 to September 2005; (b) a period of lower growth up to the end of 2010 (with demography a key driver); and (c) a flatter period of growth from 2011 in response to increasing austerity and resource constraint.

3. The UK Government has implemented very similar legislative changes for England within the Social Care Act 2014: their analysis of new demand for carer’s assessments assumes only two years of build-up before saturation\(^{13}\) in year three.

**Wider Issues**

8. **Do you believe that the FM reasonably captures any costs associated with the Bill? If not, which other costs might be incurred and by whom?**

Our response is focussed on the local authority costs which we do not think the FM has reasonably captured. However, Social Work Scotland members also include senior managers working in the Third Sector and we are aware of the recently published\(^{14}\) Carers (Scotland) Bill - Third Sector position statement. While we do not agree with everything in

\(^{13}\) Their estimated increase in the number of assessments has been criticised as too low by leading academics – see Linda Pickard, Derek King and Martin Knapp (2015): *The ‘visibility’ of unpaid care in England*, Journal of Social Work online, 1-20.

this document, Social Work Scotland would wish to call the Finance Committee’s attention to the following section on funding:

The additional duties on local authorities to provide carers with information and advice and to support carers who meet eligibility criteria will inevitably result in an increase in the number of carers identified and a corresponding increase in demand for services. Previously hidden carers will begin to seek early and preventative support and since the majority of these carers will not meet eligibility criteria it is likely that they will need to access universal support services, provided by the third sector. These services are already operating in a challenging environment, and the implications of the Bill on service provision, funding and capacity must be viewed in a wider policy context that takes this into consideration.

9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

The main future costs not covered in the FM relate to: (a) charging, and (b) demographic change.

(a) Waiving of charges for support to carers
Sections 88-98 of the FM cover charging issues, as is summarised in the recent SPICe briefing as follows:

The FM notes that the Bill amends section 87 of the Social Work (Scotland) Act 1968 and that regulations are expected to be made enabling local authorities to adjust or waive charges for support to carers. These changes will be expected to address the challenges faced by local authorities in implementing the current regulations in relation to waiving of charges. Given the uncertainties surrounding this area, the FM does not reflect the costs that might be associated with regulations introduced in this area. A revised FM would be presented if required once the position is clearer.

The “current regulations” are The Carers (Waiving of Charges for Support) (Scotland) Regulations 2014, put through the Scottish Parliament under negative procedure early in 2014 with an implementation date of 1.4.15, without any additional Scottish Government funding to councils to implement. Where councils use their current powers to provide services to support carers, following a carer’s assessment, then the Regulations stipulate that any charges must be waived.

The new Bill replaces such powers by a duty; therefore there will be an increase in support to eligible carers. As long as the 2014 Regulations remain in force such support must be provided free of charge.

Sections 92-96 of the FM admit that the implementation of the 2014 Regulations has been “challenging”, and suggest that this is due to practical ambiguities as to whether care is provided to benefit the carer (not chargeable), or to benefit the cared-for person (chargeable, unless free personal care for older people), or to benefit both. However, in our view, the fact that there was no implementation funding is at the very least an equal ingredient in the “challenging” mix.
Civil servants are working with COSLA on revised Regulations, and “if there are cost implications to the Scottish Government would present these in a revised Financial Memorandum” (para 98).

(b) Demographic change
All the costs in the FM flat-line from 2021-22, following a four year build-up period we have already criticised for being unrealistically long. As we noted in response to Question 7, in reality it is unlikely that such a “steady state” will be achieved. Indeed the Policy Memorandum acknowledges (in para 20), the number of carers is likely to increase, albeit at a slower rate than the increase expected in the future numbers of people with health and social care needs. This will mean funding pressures as a result of the Bill that are higher than those shown in the steady state period.

Response prepared by:

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1 May 2015
CARERS (SCOTLAND) BILL
WRITTEN SUBMISSION FROM SOUTH AYRSHIRE COUNCIL

Consultation

1) South Ayrshire took part in the consultation exercise and did comment on the financial assumptions. Our response was not complete due to the tight timescale.

2) A lot of the points we raised are included in the narrative of the memorandum but it is difficult to ascertain if all of the budgetary implications have been included as the figures quoted are Scotland wide.

3) The timescale for the consultation was extremely tight. The request for information was issued 15th December with a return date of 12th January. Most Council were closed for the Christmas break between 24th December and 5th January so this limited the time available and may have impacted on the number and quality of responses.

Costs

4) The types of costs we expected are included in the Financial Memorandum but it is difficult to ascertain if all of the budgetary implications have been included as the figures quoted are Scotland wide.

5) The estimates do include a minimum and maximum option which reflects the uncertainty over the future costs. They also reflect the increasing cost up until 2021/22.

6) Per para 37 on page 35 – the total estimated costs to local authorities are a minimum of £11.303m in 2017/18 rising to £71.781m in 2022/23.

South Ayrshire could not meet its share of the costs and would require that any costs arising from the Carers (Scotland) Bill be met by the Scottish Government.

7) As per question 5.

Wider Issues

8) Over 30% of carers supported in South Ayrshire will live in rural areas and support would need to be resourced in these areas to prevent disadvantage. Costs would include the need to provide access to additional services from the voluntary/private sectors and on a basic level costs associated with travel and time.

9) There are potential future costs but these are unquantifiable. Carers do not always view themselves as carers and as such the level of carers could be underestimated.

The cost of waiving charges still needs to be agreed and per para 95-98.
CARERS (SCOTLAND) BILL
WRITTEN SUBMISSION FROM WEST LOTHIAN COUNCIL

Consultation
1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?
Yes, council gave initial estimates of costs anticipated as a result of the carers bill to WLC.

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?
The anticipated additional costs to WLC exceed those reflected in the Financial Memorandum. It is felt that the increase in carers coming forward along with the expansion of services to be offered and the inability to charge for these services will provide a significant financial burden. It is felt that the council’s current net cost of £1.6m to support carers will double due to loss of income and additional services provided. This is significantly higher than the costs that have been estimated in the Financial Memorandum. We also anticipate a year on year increase in carers supported of 15-25% (this figure ties in with our current trend projections for cared for individuals). We further anticipate that the uptake of assessments will be greater in years 1-3 than outlined in the financial memorandum. This will result in a particular pressure in years 1-3, estimated at £1.48m by year 3.

3. Did you have sufficient time to contribute to the consultation exercise?
The timescale does not allow sufficient time to allow for presentation of the response to committee for approval.

Costs
4. If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.
As outlined in the answer to Q2. We do not feel that the full financial implications have been reflected in the FM. We anticipate that the net cost of support will double over a 2-3 year period along with a projected increase of 15-25% increase in carers seeking assessment. It is anticipated that given the proposed level of additional funding West Lothian Council will have pressure of £470,000 in year 1 increasing to £1m in year 2 and further increasing to £1.48m in year 3.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?
No, as outlined in the previous answers above we do not feel that the increased costs of providing support to carers has been fully captured. The growth in carers seeking assessment and financial implications of this have not been fully reflected either.
6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?
West Lothian Council does not have any additional resource available to fund the financial costs of the Bill. Given the material pressures and demands already present in social care it is considered vital that the full extent of additional costs is fully funded by the Scottish Government.

7. Does the FM accurately reflect the margins of uncertainty associated with the Bill’s estimated costs and with the timescales over which they would be expected to arise?
No, the proposed removal of the regular and substantial test introduces significant uncertainties. It is envisaged that this will encourage a significant number of carers to come forward and seek assessment that have previously been providing care on a more casual or ad hoc basis. This could significantly increase the workload of the assessors and the costs of implementing the bill.

Wider Issues
8. Do you believe that the FM reasonably captures any costs associated with the Bill? If not, which other costs might be incurred and by whom?
No, we do not consider that it fully captures the potential increase in demand for assessments nor the level and speed at which demand will increase.

9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?
We do not believe that it is currently possible to calculate future costs.
CARERS (SCOTLAND) BILL
WRITTEN SUBMISSION FROM COSLA

Introduction
1. COSLA has previously submitted written evidence to the Finance Committee outlining our concerns regarding the assumptions, and cost estimates that flow from them, set out in the financial memorandum (FM) which accompanied the Bill into Parliament.

2. The purpose of this briefing is not to repeat those specific points, but rather to provide the Committee with:
   - Additional background information
   - An update on COSLA Leaders’ discussions to date
   - Additional points regarding the FM estimates not included in our original submission

3. It is hoped that this will be helpful to the Committee in its deliberations and we would be happy to assist Committee members if they have any specific questions or wish to discuss the COSLA position on the Bill.

Risks associated with the estimates presented
4. The Scottish Government, COSLA, Social Work Scotland have all stated that it is difficult to estimate the demand increases (and therefore costs) that the Bill will give rise to.\(^1\) This results in a risk that demand will in fact exceed the projections presented; this is further compounded by a number of other issues with the FM estimates and the assumptions they are based upon.

5. COSLA believes there is a significant risk that demand will far exceed the FM estimates for the following key reasons:
   i. The FM estimates of the rate at which demand will build are considerably lower than UK government estimates for similar legislation in England\(^2\)
   ii. The FM estimates of the level and speed of uptake are based on assumptions about carer behaviour which are not sound\(^3\)
   iii. Small changes in such assumptions result in large differences in costs\(^4\)
   iv. There are calculation errors within key figures presented\(^5\)
   v. We have concerns about the way in which information collected from councils has been used\(^6\)

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\(^1\) Financial memorandum, paras 7 and 79; COSLA evidence submission to the Finance Committee, para 22; Social Work Scotland evidence submission to the Finance Committee, pg 4.

\(^2\) For example, Table 1, pg 5 of the UK Care Act 2014 Impact assessment shows demand building over just two years, not the much slower 4-5 years described in the Scottish Government’s Financial Memorandum.

\(^3\) The fact that 44% of carers currently feel supported is presented as evidence that uptake of ACSPs will be low and slow. It is not valid to assume from this that carer behaviour under the existing regime will not change as a result of new entitlements and the perception of an improved offer of support. See also Social Work Scotland evidence to the Finance Committee, pgs 6-7.

\(^4\) For example, Social Work Scotland’s very plausible re-modelling of just two assumptions in the FM (on the % of adult carers eligible for short breaks or other support, and the unit cost of respite) results in a funding increase of £25.6m. SWS evidence submission, pg6.

\(^5\) The Social Work Scotland evidence submission (pg4) identifies a calculation error in the cost of support to adult carers in 2020-21 of £11.5m, or 32%.

\(^6\) COSLA worked with Scottish Government to gather financial information from councils prior to the financial memorandum being drafted. However, COSLA’s interpretation of that data differs from the Scottish Government’s on key issues such as the unit cost of assessment. We have further concerns about the
vi. Mitigation of risk is predicated on presenting a range of costs within the FM; however, the figures chosen are simply three points from the lower end of the spectrum of potential costs. They tell us nothing about the true potential highest cost or, therefore, what would be a mid-point. This is a particular issue for the unit cost of assessment.

vii. The unit costs for support to carers are also unrealistic. For example, additional funding for short breaks/respite care is costed at £300 per year for only 7,866 people (1% of the carer’s population), which will only buy two day’s respite. The average cost of residential respite is currently £1,000 per week, so £300 will only buy two day’s respite. In England, the government assumes that £967 was the average cost per year for carer’s requiring short breaks/respite.

viii. The FM does not factor in projected growth in the carer population, but rather assumes it will ‘flat-line’ at a given point – this is in conflict with demographic information and research in this area.

Risk sharing

6. It is clear to us that the issues outlined above carry the risk that the Bill provisions will in fact be under-funded. This would result in councils being unable to meet carers’ increased expectations, increased pressure on universal services, and the true cost of new duties having to be met by cutting spending on other social care services (including those which otherwise would have been provided to carers and those they care for).

7. At present, all of these risks fall on councils and carers themselves, and COSLA believes it is more appropriate that these risks are shared between local government and the Scottish Government.

8. COSLA politicians have discussed these concerns with both Scottish Government officials and the relevant Minister, proposing that risk is more appropriately shared by working together to re-visit the FM funding estimates with a view to agreeing more robust estimates. We further requested that, should actual costs exceed the current or revised estimates, excess costs be met by the Scottish Government on the basis that it is a long-established principle that new legislation should be fully funded.

9. Although Scottish Government indicated that it would be prepared to consider any new information which comes to light about the costs estimates (which is reflected in paragraph 7 of the FM); however, this willingness did not extend to being prepared to jointly agree revised estimates, or to addressing unfunded pressures on councils that result from this new legislation.

10. COSLA remains concerned about the balance of risk for the reasons outlined above, and would argue that recent evidence submissions from key stakeholders (along with the errors mentioned at paragraph 5, point v above) constitute new information.

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7 For example, the range of unit costs of assessment gathered from councils have been revised downwards in the FM, with the average figure of £176 being presented as the top estimate, and the true top figure (after the removal of outliers) of £342 being dropped from the range altogether.

8 The average cost of residential respite is currently £1,000 per week, as noted in Social Work Scotland evidence submission, pg 5.

9 UK Care Act 2014 Impact Assessment.

10 As indeed the Scottish Government acknowledges in paragraph 20 in the Policy Memorandum to the Carers Bill.
11. However, we are not merely seeking to take up the offer to ‘consider any new information which comes to light’; rather, we are calling on the Scottish Government to work with us to reach joint agreement on the model to be used to estimate cost and demand and we remain willing to participate in further survey work to progress this if that is deemed necessary. With a better joint understanding established, we would advocate that a meaningful agreement on risk-sharing is put in place. The starting point for this would be to ensure more realistic funding is allocated from the outset. We would then want to work with Scottish Government to monitor the actual pattern of demand, within the context of a commitment from Scottish Government to increase levels of funding should actual demand exceed that estimated.

Conclusion
12. As we mention at the start of this briefing, COSLA has submitted written evidence on the FM which outlines our specific concerns in more detail. We believe many of these concerns are shared by relevant professional associations such as Social Work Scotland, and to an extent by third sector colleagues. COSLA recognises that we are entering largely unknown territory in terms of new duties in relation to carers, and that this makes estimating cost and demand difficult. With this in mind, COSLA does not wish to present an alternative estimate and argue that ours is more accurate than others’. First, we are seeking to work jointly with the Scottish Government to produce more robust estimates of the funding requirements of the Carers Bill, and secondly we are asking that the risks associated with estimating cost and demand are more appropriately shared between councils and the Scottish Government.

13. We hope that this briefing will provide the Committee with additional context to support the next stage of its deliberations. In the meantime we would be happy to assist Committee members if they have any specific questions or wish to discuss the COSLA position on the Bill.

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May 2015
Finance Committee

24th Meeting, 2015 (Session 4), Wednesday 30 September 2015

Carers (Scotland) Bill

Background

1. The Carers (Scotland) Bill (the Bill) was introduced by Shona Robison MSP, Cabinet Secretary for Health, Wellbeing and Sport, on 9 March 2015. The Committee issued a call for evidence on the Financial Memorandum (FM) for the Bill to which it received 18 responses.

2. At its meeting on 13 May 2015, the Committee took evidence on the FM from the Scottish Government Bill Team. Following this the 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 to the Committee on 3 June 2015 where the issues of replacement care and the waiving of charges was considered.

3. The Committee published its report on Financial Memorandum on the 18 June 2015. It highlighted the Committee’s concerns around the issues of replacement care and waiving charges and sought clarification from the Minister on its concerns prior to the Stage 1 debate on the Bill. The relevant recommendations from the report can be found in Annex A.

4. The Minister has now provided a response to the issues raised by the Committee, a copy of the letter can be found in Annex B.

5. The letter states only minor amendments will be made to the Bill to ensure that the way forward on the waiving of charges can be delivered in due course by affirmative regulations and given that the waiving of charges policy will be delivered through regulations the financial implications of this will accompany the draft SSI.

Alison Wilson
Senior Assistant Clerk to the Committee
Annex A

Recommendations extracted from the Report on the Carers (Scotland) Bill’s Financial Memorandum (paragraphs 85-88 of the report)

85. The Committee is concerned 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.

86. The Committee notes that the difficulty with the waiving of charges is a known issue arising out of the Social Care (Self-directed Support) Scotland Act 2013. It is not clear to the Committee how much progress has yet been made on resolving this issue. The Committee is concerned that this is the case given that the difficulties around waiving charges was a known issue at the time the Bill was introduced in early March.

87. The Committee believes that clarification of these issues and the nature of any amendments that the Government intends to bring forward should be provided before the Parliament is asked to vote on the Bill at Stage 1.

88. The Scottish Government has indicated that it would intend to bring forward a supplementary FM to address the costs of any amendments at Stage 2. The Committee is of the view that sufficient time must be allowed between Stage 2 and 3 of the Bill to allow proper scrutiny of a supplementary FM, including time for the Committee to seek evidence from stakeholders and the Scottish Government.

Annexe B

Letter from the Minister for Sport, Health Improvement and Mental Health

24 September 2015

I am writing in response to the Finance Committee’s Report on the Carers (Scotland) Bill’s Financial Memorandum. In particular, paragraph 87 of that Report sought clarification of the waiving of charges issue and the nature of any amendments that the Government intends to bring forward before the Parliament is asked to vote on the Bill at Stage 1. I am also updating you on the Finance Group that I have set up to consider the financial implications of the Bill.

I have decided to propose relatively minor amendments at stage 2 which will ensure that the way forward on the waiving of charges could be delivered through regulations in due course. We will also propose amendments so that the regulation-making power in section 23 of the Bill is subject to affirmative procedure (not negative as currently provided for in section 37) to ensure that the Parliament rightly has an opportunity to scrutinise the policy.

I said to the Finance Committee that I would not necessarily bring forward amendments to the Bill at Stage 2 to deal with the waiving of charges. As stated above, relatively minor amendments to the Bill will be required, not in themselves
requiring financial commitment. Given that the waiving of charges policy will be
delivered through regulations, the policy note accompanying the draft SSI will set out
any financial implications.

Regarding the Financial Memorandum generally, questionnaire returns from local
authorities which were agreed with COSLA, together with Scottish Government
statistics and survey work, helped inform the estimated figures in the Memorandum.
There was a lot of underpinning evidence supporting the costings. I therefore
consider the Financial Memorandum estimates to be robust, based on all the
available evidence. There are of course challenges particularly in estimating future
demand, a point acknowledged and agreed by COSLA.

I consider that the total maximum resource envelope as set out in the Financial
Memorandum at over £19 million in 2017-18 rising to over £88 million in 2021-22,
and thereafter on a recurring basis, to be significant. The Carers Bill sets out duties
but in many respects the Bill enshrines in law current practice in some parts of the
country with regard to assessment, information and advice, carer involvement and
local carer strategies. The exception is the duty to support carers which will replace
the existing power in the SDS Act.

I will of course respond to the issues raised about funding by the Health and Sport
Committee in my reply to that Committee.

Regarding the Carers Bill Finance Group, this met for the first time in July. At that
meeting it was agreed to set up a number of workstreams involving Scottish
Government officials, COSLA, Social Work Scotland, local authorities and the
National Carer Organisations to further explore the assumptions behind the Financial
Memorandum and consider any new evidence which may be available. Two of the
groups are specifically focusing on the key cost drivers of unit costs and future
demand respectively. The Finance Group workstreams are expected to complete
their initial deliberations by January 2016. I will ensure that the Finance Committee
is updated on progress and conclusions. There is a separate issue about the role of
the Finance Group in recommending an appropriate method of distributing funding to
local authorities, NHS Boards and the Third Sector. It has a role too in establishing
procedures for monitoring demand, costs and achievement against the Bill’s
objectives. These are on a longer timescale but will need to take into account the
date to be agreed in due course for commencement of the Bill.

I hope this is helpful. I am of course happy to provide further explanation as
required.

I am copying this letter to the Convener of the Health and Sport Committee.
Carers (Scotland) Bill: The Committee took evidence on the Financial Memorandum from—

Jamie Hepburn, Minister for Sport, Health Improvement and Mental Health, Dr Maureen Bruce, Deputy Director of Care Support and Rights Division, Moira Oliphant, Team Leader, Carers Policy, Care Support and Rights Division, and Victoria MacDonald, Senior Principal Legal Officer, Scottish Government Legal Directorate, Scottish Government.
On resuming—

Carers (Scotland) Bill: Financial Memorandum

The Convener: Our next item of business is evidence from the Minister for Sport, Health Improvement and Mental Health as part of our continuing scrutiny of the financial memorandum to the Carers (Scotland) Bill. Mr Hepburn is accompanied by Scottish Government officials Dr Maureen Bruce, Moira Oliphant and Victoria MacDonald. I welcome our witnesses to the meeting and invite the minister to make an opening statement.

The Minister for Sport, Health Improvement and Mental Health (Jamie Hepburn): Thank you, convener. I do not have an opening statement. I am happy to move straight to questions.

The Convener: That is fine. As you were a member of the committee for a considerable time, you will know that I will start with some questions. I will try not to ask all the nice, juicy questions so that colleagues can have a go. [Laughter.] They were going to lynch me during the break. I will kick off and we will see how it goes from there.

In paragraph 88 of its report on the financial memorandum to the bill, the committee stated:

“The Scottish Government has indicated that it would intend to bring forward a supplementary FM to address the costs of any amendments at Stage 2. The Committee is of the view that sufficient time must be allowed between Stage 2 and 3 of the Bill to allow proper scrutiny of a supplementary FM, including time for the Committee to seek evidence from stakeholders and the Scottish Government.”

How much time are we likely to get between stages 2 and 3?

Jamie Hepburn: I understand that the timetable is that we will have the stage 1 debate in early November and we will move to stage 2 pretty promptly thereafter. I think that stage 3 is likely to be in December or January.

The Convener: Do you feel that that allows sufficient time?

Jamie Hepburn: I certainly hope so. My understanding is that the committee requested sufficient time to assess any supplementary financial memorandum, and I was clear that we would provide a supplementary financial memorandum only if something that we put in the bill necessitated that. As I said in my letter to you, I do not think that we are in that territory.

The Convener: You state:

“I have decided to propose relatively minor amendments at stage 2 which will ensure that the way forward on the
waiving of charges could be delivered through regulations in due course."

That is a bit woolly. What timescale are we talking about?

**Jamie Hepburn:** For when the regulations will be in force?

**The Convener:** Yes.

**Jamie Hepburn:** The provisions in the bill will come into effect for the financial year 2017-18. I think that we will have enough time, following the bill being agreed to by the Parliament and royal assent, to have the regulations in place for implementation of the act.

**The Convener:** In your letter to us, you state that

"the Carers Bill Finance Group ... met for the first time in July"

and that it will

"further explore the assumptions behind the Financial Memorandum and consider any new evidence which may be available."

Will that feed into a supplementary financial memorandum?

**Jamie Hepburn:** I have made the point that we do not envisage there being a necessity for one but, if such a requirement emerged, we would provide one.

I stand by the financial memorandum that we have provided, which is based on the best available information that we had. We set up the finance group because of remarks that other stakeholders made, but I am not aware of any evidence having emerged thus far that would cause me to question the initial financial memorandum.

**The Convener:** You state that you

"consider the Financial Memorandum estimates to be robust, based on all the available evidence."

although the committee expressed a number of concerns in its report.

You state:

"There is a separate issue about the role of the Finance Group in recommending an appropriate method of distributing funding to local authorities, NHS Boards and the Third Sector. It has a role too in establishing procedures for monitoring demand, costs and achievement against the Bill's objectives. These are on a longer timescale."

What timescale are we talking about? It is quite difficult for us to pin these things down. You say "in due course" and mention "a longer timescale". We are not really getting anything concrete.

**Jamie Hepburn:** The group has two roles. One is to help to inform us as the bill proceeds. That is imminent, and we need to get any information that the group wants to provide as soon as possible, but there is also a slightly longer-term role. I know that the committee has expressed interest in the Government always reviewing the legislation that it passes, and the group is there to help to inform such a process. That is a slightly longer-term piece of work.

**The Convener:** I open up the session to colleagues round the table.

**Jackie Baillie:** I will pursue the question whether there will be a supplementary financial memorandum. You seem clear in your letter to the convener that there will not be one at stage 2 because there will be only limited amendments. Will we get one at any stage?

**Jamie Hepburn:** At this stage, I do not envisage one. Having been a member of the committee, I recognise the absolute requirement for it to scrutinise every item of Government expenditure. If it emerged that a supplementary memorandum was necessary, we would of course provide it.

**Jackie Baillie:** So you are saying that, if the committee recommended it, you would provide one. The committee has already done that.

**Jamie Hepburn:** No. I am suggesting that, if it emerged as a necessity, which I do not think it has done thus far, we would provide one.

**Jackie Baillie:** Do you accept that there is no procedure for providing anything like a financial memorandum at the stage when you would be introducing regulations?

**Jamie Hepburn:** I accept that, which is why we said that we will provide any financial information in the policy note. I am very willing to keep the committee up to speed as we progress.

**Jackie Baillie:** By definition, secondary legislation receives a lower level of scrutiny. Although you have moved from a negative to an affirmative instrument, the regulations will still receive considerably less scrutiny than primary legislation does. Is that not the case?

**Jamie Hepburn:** That is in the hands of the Parliament's committees; if a committee wishes to scrutinise any statutory instrument rigorously, it is able to do so. The move from a negative to an affirmative instrument is an important change. Our primary reason for doing that is that we think that Parliament should have the ultimate say in moving forward.

11:45

**Jackie Baillie:** The problem is that the Parliament also sets out clear procedures in relation to financial memorandums, which should
go before committees with primary legislation. I am being told that tens of millions of pounds’ worth of spending could simply slip through under secondary legislation. What estimates have you made of the total cost?

Jamie Hepburn: Let me be clear that we are not seeking to slip anything through; rather, we are seeking to be as clear as we can be. The matter is complicated and, to be candid, we are still discussing the issue with COSLA. I commit to keeping the committee informed as we move forward.

Jackie Baillie: Is it not the case that there is a difference of opinion between the Government and COSLA about some of the unit costs?

Jamie Hepburn: We explored that at stage 1. I go back to the point that I made before: on the information that we have available, the estimates that we set out in the financial memorandum are robust. The previous time that I appeared before the committee, when I spoke about the financial memorandum, I made the point that I would welcome any different methodology that any partners, including COSLA, might like to set out. I think that I am right to say that, thus far, we have received no such methodology. Nonetheless, we have set the finance group to work through the issues. I stand by the financial memorandum that we presented.

Jackie Baillie: Is it not the case that stakeholders have said that they believe that there will be enhanced costs? In setting out an ambitious policy and not following it up with adequate finance, are you in danger of disappointing people when it comes to implementation?

Jamie Hepburn: I agree that the bill is an ambitious piece of legislation in an area where we need to be ambitious. I am sure that you agree with that; there will be many carers in your constituency who find life difficult and I am sure that we can do more to support them.

I stand by the financial memorandum. We always seek to finance any legislative mechanism that we bring to Parliament.

Jamie Hepburn: When the convener asked about regulations being made in due course, I was not quite clear that you gave us the requested information. When are the regulations expected to be made?

Jamie Hepburn: I hope that we can put them in place to have statutory effect at the same time as the bill.

Jackie Baillie: When will that be?

Jamie Hepburn: That would start in 2017-18.

Gavin Brown: Minister, do you stand by the financial memorandum?

Jamie Hepburn: Yes.

Gavin Brown: How is the cost of replacement care dealt with in the memorandum?

Jamie Hepburn: We were clear that, at that stage, we had not come up with the appropriate mechanism to provide the information. I made that perfectly clear when I presented the financial memorandum and I have been clear with the committee. It is an on-going matter. I am happy to keep the committee up to speed and I expect that it will want me to keep it up to speed, so I commit to doing so.

Gavin Brown: So there is no figure for replacement care in the financial memorandum.

Jamie Hepburn: My memory—my officials will correct me if I am wrong—is that there was no figure at that time.

Gavin Brown: The bill team gave evidence to the committee and said on the record that the cost of replacement care would on current prices be in the region of £30 million. We asked why that was not in the financial memorandum and we were told that it was because the team had worked out the figure of £30 million after the memorandum was published. How is it that the Scottish Government is telling us that there could be costs of £30 million on top of those in the financial memorandum, yet you say that there is no need for any additional information?

Jamie Hepburn: I am not saying that there is no need for additional information. As a former member of the committee, I recognise the importance of assessing any financial commitment that the Government seeks to make. The point that I make is that we have not yet defined what the mechanism will be and, without having defined that, we cannot say definitively what the cost will be. However, I do not think that the cost will be anything approaching £30 million.

Gavin Brown: How can you say that? What will it be?

Jamie Hepburn: We have not defined it ultimately. I am happy to come back to the committee once we have finessed that further, but I can say that it will not be £30 million.

Gavin Brown: The problem is that you have said that before, minister. I quote directly from the Official Report of 3 June 2015, when you told me: "Having committed to come back to you in writing to clearly establish whether the £30 million is an annual figure, I will commit to providing a further breakdown of what it relates to, if the committee will find that useful." [Official Report, Finance Committee, 3 June 2015: c 53.]

"Having committed to come back to you in writing to clearly establish whether the £30 million is an annual figure, I will commit to providing a further breakdown of what it relates to, if the committee will find that useful.”—[Official Report, Finance Committee, 3 June 2015: c 53.]
Can you now tell us whether it is an annual figure and why you have not come back to us to tell us how it is broken down?

Jamie Hepburn: Having said that the cost will not be £30 million, I can tell you that it will not be an annual figure. If you feel that we have not provided you with the requisite information, I am happy to look at that and come back to you, and I apologise if we have not done that.

Gavin Brown: What do you mean by “if we have not done that”?

Jamie Hepburn: If you are telling me that you do not feel that we have done that, I am willing to concede that, and we will look to provide you with further information.

Gavin Brown: That is really important. I am pressing the point because that is potentially the biggest single slice of the whole expenditure, and for the memorandum not to have that cost is a big mistake, which you have not corrected, when there will clearly be costs for care.

Even if you do not think that the cost will be £30 million, the cost will be borne by someone—whether that is by the Government, by local government or by individuals—and, under standing orders, the Government has to tell us what it thinks the cost will be and which of the three categories will bear it. However the waiving of charges issue is resolved, if there is to be respite for the number of carers that we all want, a large cost will be involved. The only thing that you are arguing about is how it will be broken down and who will pay for it but, regardless of who pays for it, that should all be clear from the financial memorandum.

Jamie Hepburn: I take your perspective. I am pressing the point because that is potentially the biggest single slice of the whole expenditure, and for the memorandum not to have that cost is a big mistake, which you have not corrected, when there will clearly be costs for care.

Gavin Brown: Forgive me for pursuing this, convener. Mr Hepburn, you said clearly in the financial memorandum that in 2017-18 you expect 11,000 carers to receive support. Not all of them will be entitled to a break, but they will get some support. You also said that by 2021-22 more than 153,000—almost 154,000—will be getting support. Again, not all of them will get breaks, but I presume that a proportion will.

You can predict how many people will need support, so surely the Government can predict on current modelling what percentage of that 153,000 are cases where additional care is likely to be needed while the carer is away. I presume that you have some idea of the average weekly cost of care. Surely the Government ought to be in a position to estimate the likely costs. Of course there will be a range and it will depend on demand, but you must have some idea of what the likely costs will be.

Jamie Hepburn: We continue to discuss that with COSLA, which represents local authorities. It is the local authorities that will have the delivery function. We are trying to get a solid and reliable figure, which I will present to the committee as soon as possible.

Gavin Brown: Okay, but can you say whether more or less than 50 per cent of those carers would be likely to require a break?

Jamie Hepburn: I will reflect on that point and write to provide you with that information.

Gavin Brown: Subsequent to your appearance at the committee in June, you wrote to us on 10 June 2015 to say:

“As set out in my previous reply to you of 28 May, the waiving of charges issue is to be resolved for Stage 2.”

My reading of your most recent letter is that it is not to be resolved for stage 2 and that it will be resolved after the bill has been passed.

Jamie Hepburn: I have decided to resolve the issue by using a statutory instrument. We can rush to try to resolve it—although it is a complex matter and not a straightforward one—or we can put in place the appropriate mechanism to support carers appropriately. I think that carers out there would expect us to do the latter, and the issue can best be resolved by having a process in which we do that by regulations, which will be an affirmative instrument that is subject to parliamentary scrutiny, as any affirmative instrument is. That will give us space to proceed in the appropriate manner.

That is how I have decided to resolve the matter, so that is the resolution. We are taking it forward by statutory instrument.

Gavin Brown: Is that not delaying resolution, as opposed to resolving it? Just to say that there will be regulations does not resolve the matter. The issues remain the same; you are just delaying a decision on them.

Jamie Hepburn: No—a decision is clearly imminent. We continue to discuss the matter with local government and with the national carers organisations. Incidentally, I think that carers out there would want to know that we are resolute in the commitments that we have made to them.

We are just discussing the mechanism by which we seek to deliver, and I would argue that that
creates no more delay than any other statutory instrument or any bill. We deliver things by that mechanism. In my time as a member of the Scottish Parliament, I have scrutinised many bills under which we have sought to take forward our statutory obligations by way of regulation. I do not think that our approach to this issue is any different.

Gavin Brown: I shall close by saying that I strongly believe that the Government ought to produce a supplementary financial memorandum, because I think that you have missed what is potentially the biggest slice of the cost. If it is not the biggest, it is certainly one of the biggest slices, so I do not think that the financial memorandum represents best endeavours. I could be wrong, but I will leave it at that.

The Convener: That concludes questions from committee members, but I still have a few things to ask. Minister, you said that you do not want to rush to resolve the matter, but it is 16 weeks since you were last at the committee. As you know, and as you have said on a number of occasions, you were a member of the committee, and yet you say that there is no defined mechanism. You have said that you have not defined the cost, but it will not be £30 million. However, the financial memorandum indicates your best estimates, so will the figure be £29 million, £9 million or £15 million?

We really need a bit more information. It is not as if we are asking you back after you were here last week. Sixteen weeks is a long time, and I would have thought that negotiations and deliberations would have progressed somewhat, even before you came to the committee and before the financial memorandum was published, let alone in the 16 weeks since you were last here. Do you not feel that that is somewhat unsatisfactory? If you were back here on the committee, how would you view the position?

Jamie Hepburn: I recognise that committee members take their scrutiny role seriously, as I did when I was a member of the committee. All that I can do is be as candid as I can be. As I said, we are in dialogue with COSLA on the matter and we have not reached agreement yet. It would clearly have been better if I had been able to come along today and say that we were at that place, but we are not at that place. I hope to be there very soon, and as soon as we are, I will inform the committee.

The Convener: How soon is “very soon”? Will it be a week, two weeks or three weeks? Is there any deadline for concluding those discussions, given the stage that we are approaching?

Jamie Hepburn: I certainly hope to do that imminently. I hope that it will be only a matter of weeks.
Carers (Scotland) Bill: The Committee agreed a draft letter to the Minister for Sport, Health Improvement and Mental Health.
Dear Jamie

Carers (Scotland) Bill – Financial Memorandum

I am writing to you following your attendance at the Finance Committee meeting of 30 September 2015 where the Committee sought further clarification on the information provided in your letter of 24 September 2015 regarding the issues of replacement care and waiving of charges.

As you are aware Rule 9.3.2 of Standing Orders specifies that Bills shall be accompanied by a Financial Memorandum which sets out the best estimates of the administrative, compliance and other costs to which the provisions of the Bill would give rise, best estimates of the timescales over which such costs would be expected to arise, and an indication of the margins of uncertainty in such estimates.

It is the Finance Committee’s view that the information provided by the Scottish Government in relation to the issues of replacement care and waiving of charges does not meet this requirement.

The Committee remains of the view expressed in its report on the Financial Memorandum that the issues of replacement care and the waiving of charges requires to be clarified before the Parliament is asked to vote on the Bill at Stage 1.

Yours sincerely

Kenneth Gibson MSP
Convener

Cc Duncan McNeil, Convener, Health and Sport Committee
October 2015

Carers (Scotland) Bill – Financial Memorandum

Waiving of Charges and replacement care proposal

Thank you for your letter of 7 October following my attendance at the Finance Committee meeting on 30 September.

The Committee requires clarification of the waiving of charges and replacement care issue.

I am pleased to let you know that, following engagement with COSLA, local authorities, NHS Boards and the National Carer Organisations, I can confirm the position on waiving charges. The carer will not be charged for replacement care meeting his or her assessed needs; and, the cared-for person’s views will be taken into account in decisions on services which are delivered to him or her in order to meet the carer’s needs.

When the Carers Bill commences, local authorities will be required to waive charges for support provided under section 22 of the Carers Bill. Minimal amendments to existing regulations on waiving charges will be required to reflect this change.

In addition, we will improve the current statutory guidance on waiving charges to help local authorities understand and comply with this change by attributing replacement care either to carers or to the people they care for in defined circumstances that we will set out.

Estimated cost of waiving charges

There are cost implications associated with waiving charges for support provided under Section 22 of the Carers Bill.

We estimate that the cost of replacement care arising from the proposed amendments will be a maximum of £16 million per year, beginning in Year 1 of the Bill’s implementation.
This estimate is informed by Scottish Government Official Statistics data on current respite care provision\(^1\) and Local Financial Return (LFR) 03 data on current levels of social care charging\(^2\). It is broken down as £10 million for overnight care, £5 million for daytime care and £1 million for direct payments. It assumes that the cost of respite care is £1,000 per week on average.

This estimate contains some uncertainty as it also includes a proportion of replacement care to meet the cared-for person’s assessed needs that we have not been able to separate out from the available data.

The figure of £16 million per year should therefore be regarded as a maximum estimate.

**Background to developing the estimated cost of waiving charges**

Local authorities already provide replacement care. At present, replacement care is usually agreed through the cared-for person’s community care assessment and subject to local authorities’ own charging policies, including means testing. This care will continue after the Bill's commencement.

While this paid care also benefits carers, our ambition with the Carers Bill is to do more to support carers directly. This includes enabling the provision of replacement care for the specific purpose of meeting the assessed needs of the carer.

In estimating the financial implications of our proposed amendments, we wanted to make sure that we did not ignore, or double-count the cost of the care that the Local Authorities already provide. For the purposes of the Carers Bill, the estimated cost of waiving charges (£16 Million per year) aims to meet the cost of any additional replacement care that is put in place specifically to meet the assessed needs of carers.

Overnight care is the most intensive form of replacement care. Not all carers require such intensive support and a wide range of possibilities exist. For example, a local authority may provide replacement care for a carer to attend an educational or leisure class once per week\(^3\).

\(^1\) Respite Care, Scotland, 2014; [http://www.gov.scot/Publications/2014/10/4659](http://www.gov.scot/Publications/2014/10/4659)

**Clarification of previous figures**

During my evidence to the Committee on 30 September, Mr Brown referred to a figure of £30 million per annum in relation to replacement care. In my letter of 10 June, I said:

"I confirm that a portion of £30 million will be accounted for by existing expenditure. We have not identified what percent this is and what it is presently expended on. We cannot ascribe a £30 million cost to anything we determine to do regarding replacement care and the waiving of charges. This is because the mechanism which we may bring forward for the Bill at Stage 2 that will affect costs is not worked out yet. We will take this into account if a revised Financial Memorandum is required at Stage 2."

As I have set out in the paragraphs above, the regulatory mechanism is now resolved and an estimated annual cost has been developed. I hope this now clarifies matters for Mr Brown.
Implications of waiving charges on the Financial Memorandum

As previously stated in my evidence to the Committee, this Government is committed to supporting the Carers Bill and I consider the Financial Memorandum (FM) estimates to be robust, based on best available evidence. Nevertheless, there is flexibility in the overall cost envelope set out in the FM given the known variation in unit costs for carers’ assessments and the unknown final demand profile. I have also explained above the uncertainties associated with our estimate of the cost of additional replacement care.

Taking all of this into account, I believe that the cost of any additional replacement care as a consequence of waiving charges can be accommodated within the overall cost envelope currently set out in the FM.

The Carers Bill Finance Group is continuing to work on the cost estimates, to understand the variation in costs in different local authority areas as well as identifying and mitigating financial risks associated with implementation of the Bill. This work will help ensure that the Bill is implemented efficiently, recognising current best practice wherever possible.

I hope this provides the necessary clarification to the Committee. I am happy to provide further information.

I am copying this letter to the Convener of the Health and Sport Committee.

JAMIE HEPBURN
5 October 2015

Dear Duncan,

The First Minister is delivering a keynote speech to the Carers Parliament which takes place at Murrayfield tomorrow, 6 October 2015.

With reference to the Carers Bill, the First Minister intends to announce our intention to bring forward a Government amendment at Stage 2 of the Carers Bill in relation to emergency planning. This is in response to the many submissions from carers, the National Carers Organisations and other stakeholders during the Bill’s parliamentary process, who have told us how having such plans in place contributes to their peace of mind.

The proposed Government amendment is likely to enshrine a discussion about emergency planning in the adult carer support plan and young carer statement process.

This proposal is entirely consistent with the recommendations made by the Health and Sport Committee in their Stage 1 report and I hope therefore that this is a development which you will welcome.

I am also considering further Government amendments at Stage 2 to ensure that information about emergency and future planning (longer term planning for when a carer is no longer able or willing to carer) will be provided as part of the information and advice service for which the Carers Bill also provides.

I will provide further detail of these proposals as part of my response to the Committee’s Stage 1 report. In the meantime I would be happy to provide any further information you require.

JAMIE HEPBURN
27th October 2015

Dear Duncan,

CARERS (SCOTLAND) BILL
RESPONSE TO HEALTH AND SPORT COMMITTEE STAGE 1 REPORT

I am writing in response to the Health and Sport Committee’s Stage 1 Report on the Carers (Scotland) Bill. I would like to thank the Committee for its careful and detailed consideration of the Bill as introduced.

I am very pleased that 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. I am pleased too that the Committee agrees that the legislation, if implemented as intended, will significantly contribute to achieving those aims. I welcome the fact that the general principles of the Bill should be agreed to by Parliament.

The Committee has raised a number of important points and made a number of significant recommendations. I have considered all of these as set out in the attached Annex.

I am happy to provide any further comment or clarification before the Stage 1 debate.

I am copying this letter and attachment to the Convener of the Finance Committee.

JAMIE HEPBURN
Stage 1 Health and Sport Committee Recommendations and SG Response

Adult Carer Support Plan and Young Carer Statement

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."

I want more adult and young carers to be offered or to request an adult carer support plan and young carer statement.

The increase in demand will be accompanied by a more streamlined assessment process to develop the ACSP and YCS. Broadening the definition of 'carer' will remove the need to assess whether a carer is a regular and substantial carer as required by the current legislative requirements.¹

Additional resources for local authorities will accompany the Bill. I would expect local authorities to use the resourcing as set out in the Financial Memorandum to ensure they have the staff in place and/or to fund the third sector to prepare the ACSP and YCS. This additional resourcing is intended to support the management of demand.

I note the Committee’s concern on this matter and will communicate this to stakeholders to ensure that people understand and are reassured on this point.

An ACSP and YCS must always be proportionate to the needs to be met, and should reflect the carer’s wishes, preferences and aspirations.

'Light touch' means being able to prepare the ACSP and YCS quickly but sensitively in cases where the caring situation allows for this. It also refers to the method of preparing the ACSP and YCS. For example, an online or phone assessment is a 'light-touch' way of preparing the ACSP and YCS (for example, where the carer's needs are less complex or where the carer is already known to the local authority and an ACSP or YCS is being prepared following a change in his/her needs or

¹ The current legislative requirement is that a carer who provides, or intends to provide, a substantial amount of care on a regular basis for another person aged eighteen or over or for a disabled child, may request a local authority to make an assessment (the carer's assessment) of the carer’s ability to provide or to continue to provide such care for the person or the child.
circumstances). ‘Light-touch’ refers too to the type of low-level or less intensive support that might be required to meet identified needs.

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 YCS to be prioritised; for example, those caring for someone at the end of life.

I agree that there are certain circumstances, especially where a carer is caring for a person with a terminal illness, where the preparation of the ACSP or YCS should be prioritised. I therefore intend to bring forward amendments at Stage 2 to take an additional regulation-making power so that Scottish Ministers may set timescales for the preparation of the ACSP/YCS where the cared-for person is terminally ill.

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.

The Bill contains provisions at section 28(2)(f) that each local carer strategy must set out the authority’s intended timescales for preparing adult carer support plans and young carer statements. Since each local authority must publish its local carer strategy, information will be available on a Scotland-wide basis about intended timescales. This will be one driver of consistency of approach. In addition, we will work with local authorities in the initial implementation phase to share and support practice and drive consistent good practice.

Eligibility Criteria

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.
Section 19(2) of the Bill sets out what is meant by the term 'local eligibility criteria'. Local eligibility criteria are the criteria by which the local authority must determine whether it is required to provide support to carers to meet carers’ identified needs. Each local authority must therefore assess the carer’s identified needs against the local eligibility criteria. If a carer’s identified needs meet the local eligibility criteria then the Bill provides at section 22(4) that the local authority has a duty to provide support to the carer to meet those eligible needs.

The intention under section 19 is that the local authority must set out all of the information which would enable it to decide whether it is required to provide support in a particular case. I would expect local authorities to do that by deciding on a series of indicators (referred to by some during the stage 1 evidence sessions as the criteria) and making an assessment of the likely impact of one or more of these indicators as a way of determining when support is needed. We will set this out in guidance.

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.

I believe the balance of local eligibility criteria combined with national matters to be appropriate.

Local eligibility criteria will enable each local authority to determine whether carers’ identified needs call for the provision of support taking into account the total resource available to meet local demand for support.

During 2016-17 before the Bill is commenced, the Scottish Government will work with COSLA, local authorities, the National Carer Organisations and carers to share ideas and views about eligibility criteria. The aim would be for local authorities to learn from each other about eligibility criteria before they undertake consultation with bodies representative of carers and the involvement of carers as specified in the Bill.
Section 19(4) of the Bill requires each local authority when setting its local eligibility criteria to have regard among other things to such matters as the Scottish Ministers may by regulations specify. This provides Ministers with scope to make regulations to strengthen consistent approaches where this is needed. Paragraph 41 of the Delegated Powers Memorandum sets out for illustrative purposes only typical matters that could be included in regulations. For example, taking a preventative approach to avoid carers’ needs escalating to a more severe level could become a matter set out in regulations. The impact of that would be that I would expect all local authorities to have regard to setting eligibility criteria which support carers in a way which avoids their needs escalating to a more severe level and/or to delay or prevent other needs from arising.

I am also impressed with the NCOs’ ‘examples of indicators: impact on and risk to carers’ outcomes’ matrix included in their draft framework for national eligibility thresholds. These indicators too could be considered in national matters to be set out in regulations or for guidance.

The arrangements for monitoring and assessing implementation of the Bill’s provisions, including support provided to carers under local eligibility criteria will be agreed with COSLA, individual local authorities, the NCOs and other key interests.

With regard to the range of factors which would result in the Scottish Government setting out national eligibility criteria, this is a matter for discussion with COSLA and local authorities. I would envisage, however, that I would take into account such matters as a failure to establish and operate clear local eligibility criteria that provide a transparent framework for prioritising need and managing shifting demand. I might also consider taking into account if there is evidence that the national health and wellbeing outcome, “people who provide unpaid care are supported to look after their own health and wellbeing, including to reduce any negative impact of their caring role on their own health and well-being” is not being progressed over the years.

I expect local authorities to put in place procedures for monitoring and assessing the effectiveness of eligibility criteria. Once the Bill is commenced and implemented, I will discuss with COSLA additional monitoring that might be required so I have full information about effectiveness of the eligibility criteria.

**Short Breaks**

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.

Under section 32(4) the Scottish Ministers may by regulations make further provision about the preparation, publication and review of short breaks services statements.

The regulations under section 32(4) will enable Scottish Ministers to further clarify what is considered a short break.

We will consult on the draft regulations. I do however see the need for flexibility in what is considered to be a short break. The Scottish Government’s statutory guidance to accompany section 3 of the Social Care (Self-directed Support) (Scotland) Act 2013 and the Carers (Waiving of Charges for Support) (Scotland) Regulations 2014\(^2\) describes short breaks as follows:

"Short breaks help carers to take a break from the daily routines and demands of caring. The outcomes should ideally benefit both the carer and cared-for person(s) and support the relationship between them, although this might not always be possible. Carers should be given choices so that they can have a break that meets their needs and circumstances. The definition of a short break should be interpreted widely. Whilst it can mean a holiday, it should encompass other types of break/time out from caring. It can last at least one hour. It may be arranged on a regular, planned basis or as a one-off break. Where the short break is for an emergency situation, in order for the charges to be waived, a carer’s assessment needs to be carried out. In the circumstances of an emergency, this would clearly have to be undertaken quickly.

Short breaks can include:

- opportunities to experience new things;
- opportunities to maintain friendships;
- time to rest and recharge batteries;
- time for personal interests, leisure or cultural activities"

The Scottish Government’s Short Breaks (Respite) Guidance 2013-14\(^3\) also provides guidance on short breaks. This guidance states that “daytime respite services should not be included unless they enable the carer to take a break of at least one hour from caring tasks.”

I agree with the Committee that guidance regarding the provision of short breaks should make clear the importance of ensuring that short breaks are tailored to the needs of the carer.


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.

The intention of the Bill is to place a duty on local authorities to establish and maintain this service, but in doing so they should pay due regard to existing provision including any provided by the third sector and by NHS Boards. It might be the case that local authorities commission the third sector to provide all or part of the information and advice service.

I intend to bring forward an amendment at Stage 2 to clarify that where sources of information and advice for carers are already available within the local authority area, either from the local authority itself, third sector organisations or others sources, there is no requirement to create an additional information and advice service. However, in such instances, the local authority will be required to ensure that information and advice services are maintained.

Guidance will further explain how the requirement on a local authority to establish and maintain an information and advice service is intended to operate in practice.

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.

The Financial Memorandum sets out a total of over £5 million per annum for the provision of information and advice. This includes £2 million on a recurring basis from 2017-18 for NHS Boards to contribute towards the provision of information and advice.

I recognise that there are particular challenges in the delivery of services in remote and rural areas and in the larger cities. The funding formula will take account of this and will be determined in due course with COSLA and with other interests.

Where the third sector contributes to the information and advice service, I expect local authorities to fund this appropriately.
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.

The Financial Memorandum sets out estimated resourcing of £500,000 per annum in each of 2017-18, 2018-19 and 2019-20 for the third sector for systems for data collection and sharing, IT capacity and capacity building. This means that up to 150 providers could be supported in total. It is too soon to say how the funding would be allocated as this is a matter for the implementation phase.

There is a role for local authorities in ensuring that the third sector organisations they commission to deliver the adult carer support plan/young carer statement and support under the Bill have the necessary capacity regarding systems for data collection and sharing and general capacity. This is especially the case given the ultimate responsibility of local authorities in ensuring that the duties under the Bill are met.

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.

The resource commitment for the information and advice service includes £2.88 million on a recurring basis to provide advice workers in each local authority area. I would expect this to be in addition to the existing resources that local authorities and NHS Boards are already committing to the provision of information and advice. We will ensure monitoring of this during implementation of the Bill.

NHS and Integrated Health and Social Care

96. 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.

97. 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.

All functions created under this Bill which relate to the delivery of services to adult carers will require to be delegated under integration schemes under the Public Bodies (Joint Working)(Scotland) Act 2014. All local authority or NHS Board functions relating to young carers will be capable of being delegated if the local authority and NHS Board so choose. We will make amending regulations under the powers in the Public Bodies Act to achieve this.
The Public Bodies (Joint Working) (National Health and Wellbeing Outcomes) (Scotland) Regulations 2014⁴ set out 9 national health and wellbeing outcomes of which outcome 6 states that “people who provide unpaid care are supported to look after their own health and wellbeing, including to reduce any negative impact of their caring role on their own health and well-being.” This complements the provisions in the Carers Bill.

The integration planning and delivery principles as set out in sections 4 and 31 of the Public Bodies Act⁵ are the lens through which all integration activity should be focused to achieve the national health and wellbeing outcomes. There is a requirement to provide services so that they are planned and led locally in a way which is engaged with the community (including in particular service users, those who look after service users and those who are involved in the provision of health or social care).

Regulations under the Public Bodies (Joint Working) (Scotland) Act 2014⁶ provide for carers to be represented on Integration Joint Boards and on Integration Joint Monitoring Committees. This representation will help ensure the key issue of carer identification receives due attention by the integration authority. We will engage with Health Boards, Councils and Health and Social Care Partnerships to ensure their understanding of the requirements of the Carers Bill. We will also produce guidance on these requirements.

98. 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.

As well as the duty on local authorities to consult with the relevant health board before preparing its local carer strategy, the Bill also has provision at section 28(2)(c)(ii) for the local carer strategy to set out the support available to carers from the relevant health board.

Since functions in the Bill may be exercised in practice by local authority or health board officials (or both), depending on the decisions of the individual integration authority then I anticipate that there will be a key role for health boards in the preparation of local carer strategies.

I want to put beyond doubt the important role of NHS Boards in the preparation of local carer strategies and in plans for identifying carers and will bring forward an amendment at Stage 2 to give effect to this, as discussed and agreed through dialogue with several NHS Boards.

Role of GPs

99. 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.

I note the Committee’s concerns.

It is important to ensure carer identification in all health settings. Carer identification, including by way of carer registers, will be covered in guidance. We will also engage with the health care sectors to ensure that they are aware of the implications of the Bill.

I also anticipate that as GP practices begin to engage with the evolving Health and Social Care Partnerships, and begin working within clusters of GP practices coming together within localities to plan services for their communities, that this will be informed by the local community engagement around carers.

DAISy Project

100. 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.

Data gathered from DAISy will give an indication of the number of potential young carers in households in which there is at least one adult known to drug and alcohol services. This data will be made available to local authorities on timescales to be agreed with local authorities to inform and aid the preparation of their local carer strategies.

Hospital Admission and discharge

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.

I agree that hospital admission and discharge protocols should identify carers and ensure that they are consulted with before the patient is discharged from hospital. This will help ensure that carers are able and willing to care and to avoid crisis situations and unnecessary readmissions to hospital. Equally, it is important not to delay discharge from hospital unnecessarily.

The existing Bill provisions support the involvement of carers in hospital discharge. The local authority is required to take into account the views of the carer, so far as it is reasonable and practicable to do so, when determining the needs of the person being assessed and deciding what services to provide and how to provide them. In instances where the discharge of the cared for person means that their community care assessment needs to be revised, the carer’s views must be taken into account where it is reasonable and practicable to do so. (sections 27(3) and 27(7)).

Sections 9 and 14 of the Bill provide for Scottish Ministers by regulations to make provision about the review of adult carer support plans and young carer statements. One trigger for review could be when the cared-for person is discharged from hospital.

The guidance that will accompany the Carers Bill will highlight the importance of involving carers in the process of hospital admission and discharge. We will ensure that policy interventions are aligned to support this outcome.

Young Carer Statement and Child’s Plan

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.

I share the Committee’s concerns that young people are less likely to identify themselves as young carers.

Schools play a significant role in the day-to-day lives of young people and there are some very good examples of local authorities and carers centres working closely with schools to help identify young carers. I would expect local authorities to
recognise this in the local carer strategies and in on-going work with schools and will set out this expectation in guidance.

The named person service also has an important role to play in the identification of young carers in schools in a sensitive and supportive way. We will take steps to ensure that the named person service can deliver better outcomes for young carers.

The introduction of the young carer statement itself is a preventative measure. It specifically recognises the particular support needs of young carers and aims to ensure these are met at as early a stage as possible. We will work with organisations who support young carers to ensure that young carers are supported to identify themselves early.

In partnership with key interests, we will also continue to build on our on-going programme of support to young carers. This includes the voluntary sector short breaks fund, the annual Young Carers Festival, funding of NHS Board Carer Information Strategies providing a range of support to young carers, guidance and follow-up on the Education Maintenance Allowance (EMA) and funding of the College Development Network to identify and support young carers in Further Education. The Carer Positive scheme which recognises employers which support carers in employment will benefit young carers and young adult carers of working age. Scotland’s Employer Recruitment Incentive includes within its remit carers aged 16 to 29.

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.

The young carer statement (YCS) has been introduced to recognise the specific support needs of young carers. It is a preventative measure which aims to identify the young carer's (eligible) needs and provide support to meet those needs. By contrast, the child’s plan does not initiate or trigger interventions but brings together all the interventions that are to be provided for the child.

I intend to set out in guidance further detail about how the young carer statement will link to a child’s plan. This will take account of the Scottish Government’s response to the recent consultation on Statutory Guidance on Wellbeing, Named Person and Child’s Plan.

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7 http://www.sharedcarescotland.org.uk/short-breaks-fund/
8 http://www.carerpositive.org/
9 http://www.skillsdevelopmentscotland.co.uk/our-services/scotlands-employer-recruitment-incentive/
10 http://www.gov.scot/Publications/2015/09/7658
Young Carers - Named Person

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.

I recognise the Committee’s concerns about the provision set out at section 15(2)(b) which requires the responsible authority to share the information contained in the young carer statement with the young carer’s named person.

I intend to bring forward an amendment at Stage 2 to remove sections 11(6) and (15)(2)(b) from the Carers Bill about automatically providing the young carer’s named person with information contained in the young carer statement and automatic notification to the young carer’s named person about the young carer being offered or requesting a young carer statement.

I want to ensure that the named person service is informed to properly support any young carer. Equally, I see the need to respect the wishes of young carers who may want to keep their caring role private where it is appropriate to do so. I am considering the way forward in light of this balance to be achieved and will do so in consultation with young carers’ interests.

Young Carers - Pre-school Children

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.

Where a very young child (in pre-school or in the early years of primary school) is caring for a family member, they can be supported through the Bill’s provisions to
care in a way that is appropriate to their age. Section 13(1)(c) of the Bill sets out that a YCS must contain information about the extent to which the responsible authority considers that the nature and extent of care provided by a young carer is appropriate. This will be covered within the guidance that supports the Bill.

Workforce development plans for the Bill will ensure that this is understood and practiced by the health and social care workforce to remove anxieties around seeking an assessment for a young child.

Young Carers - Transitions and ending their caring role

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.

Under section 16 of the Bill a young carer support plan will continue to have effect, despite the fact that a young carer has attained the age of 18 years, until an adult carer support plan is in place.

Section 13(1)(j) of the Bill provides that the young carer statement must contain information about the circumstances in which the young carer statement is to be reviewed. Although I anticipate setting out the detail of review procedures in regulations, my intention is that one of the triggers for a review of a young carer statement is that the young carer is approaching the age of 18.

The young carer statement must also contain information about the extent to which the carer is able and willing to provide care for the cared for person. The review process will include discussion on whether the carer wishes to remain in their caring role and, if they do not, how they are supported to end that role.

Preventative and Anticipatory Support

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.
I agree with the Committee that a preventative approach\textsuperscript{11} is important.

All carers will have access to an adult carer support plan or young carer statement without any prior testing of being a regular and substantial carer. Enabling people to request an adult carer support plan or young carer statement as soon as they become a carer or offering one to adult and young carers can reduce the need to deal with crisis situations such as a serious illness.

The adult carer support plan and young carer statement process is based on the identification of personal outcomes and needs. Consideration should be given to whether a carer’s identified needs can be met by the information and advice service or general services available in the community before applying the local authority eligibility criteria. Low level needs (and support to meet those needs) will be considered as part of the ACSP/YCS. We will set this out in guidance.

Where a carer’s eligible needs do not meet local eligibility criteria, the Bill provides in section 22(4)(b) for local authorities to have discretion to offer support. I will be encouraging local authorities through guidance to use this power.

\textbf{Emergency Planning}

\textbf{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.

\textbf{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.

I recognise that emergency planning is a significant concern for many carers and can be a factor affecting their health and wellbeing. I therefore intend to bring forward amendments at Stage 2 to sections 8 and 13 of the Bill so that the adult carer support plan and young carer statement must contain information about emergency planning. This is likely to mean in practice that there will be a discussion with the carer about plans in place for when the carer is unexpectedly unavailable.

I also intend to bring forward amendments to section 31(2) so that the information and advice service must (in addition to the issues already specified at section 31(2)(a)-(e) provide information about emergency planning and future planning.

We will include in guidance further detail about emergency planning.

\textsuperscript{11} Preventative approaches encompass: supporting carers at an early stage in the caring journey to avoid their needs escalating to a more severe level and/or to delay or prevent other needs from arising; taking demand out of the system through preventative actions to tackle the root causes of inequality and negative outcomes; and the early identification of carers so that support can be put in place at an early stage.
Equalities

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.

I agree that it is important that the adult carer support plan and young carer statement are fit for purpose and reflect the needs of carers including those with one or more protected characteristics. To ensure that the guidance underpinning the Bill takes account of these needs we intend to co-produce the guidance with a range of key stakeholders, including those who represent people with one or more protected characteristics.

Financial Memorandum

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.

Given the wide range of duties and powers in the Bill, it is understandable that COSLA, local authorities and other stakeholders want to be assured about the level of financial resources to be made available.

I did not initially set up a finance-led group to inform the Financial Memorandum because the Carers Bill was informed by comprehensive information from local authorities. However, given the significance of the financial impact of the Bill I saw merit in establishing a group to help continue the work already undertaken.

The finance-led group is reviewing some of the cost estimates in the Financial Memorandum and will set out some sensitivity analysis to further clarify the limits of the estimates. It will also articulate a clear understanding of key financial risks associated with implementing the Bill and ensure that these risks are understood by all relevant stakeholders and are shared and mitigated as far as possible. To date though, there is no further evidence available to suggest that the Financial Memorandum provided with the Bill represents anything other than a robust assessment of the likely costs of the Bill’s provisions.
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.

I will write to the Health and Sport and Finance Committees setting out the conclusions of the finance-led group. Any new information can be included in an update to the Financial Memorandum. I believe that it would be helpful to look further at demand during implementation of the Bill with a view to developing options to manage the demand if demand is greater or less than expected.

Waiving of Charges/Replacement Care

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.

This is an important issue for carers and I want to make sure we reach a workable solution.

I recognise the importance of putting clear processes in place for decisions in relation to services such as replacement care which can affect both the carer and cared-for person. I will bring forward an amendment at stage 2 to deal with the role of the cared-for person when such decisions are made.

The actual requirement to waive charges will be made through minimal amendments to the existing regulations on charges. The regulations will be accompanied by their own policy note, which will include any financial implications. It is my aim that these regulations will come into effect in line with commencement of the Bill’s substantive provisions in 2017-18.

I attach a copy of my reply to the Finance Committee regarding the waiving of charges.
Supplementary Financial Memorandum Scrutiny

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.

At this stage, I do not envisage a need to produce a supplementary Financial Memorandum. However, in accordance with Standing Orders, following Stage 2, if any new or updated financial information becomes available, I will provide the Committee with a supplementary Financial Memorandum as soon as possible before Stage 3.

Delegated Powers and Law Reform Committee

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.

The Delegated Powers and Law Reform Committee wrote to Scottish Government on 31 March 2015, asking for further justification as to the choice of the negative procedure for the exercise of the power in section 1(3) and why the affirmative procedure is not considered to be more appropriate for this power.

In light of the Committee's concerns and further consideration, I informed the DPLRC of my intention to bring forward a Stage 2 amendment to make the power at section 1(3) subject to affirmative procedure.
EXTRACT FROM THE MINUTES OF PROCEEDINGS

Vol. 5, No. 45 Session 4

Meeting of the Parliament

Thursday 5 November 2016

Note: (DT) signifies a decision taken at Decision Time.

Carers (Scotland) Bill: The Minister for Sport, Health Improvement and Mental Health (Jamie Hepburn) moved S4M-14702—That the Parliament agrees to the general principles of the Carers (Scotland) Bill.

After debate, the motion was agreed to (DT).

Carers (Scotland) Bill: Financial Resolution: The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney) moved S4M-12890—That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Carers (Scotland) Bill, agrees to any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament’s Standing Orders arising in consequence of the Act.

The motion was agreed to (DT).
On resuming—

**Carers (Scotland) Bill: Stage 1**

The Deputy Presiding Officer (John Scott):

Good afternoon, everyone. The first item of business is a debate on motion S4M-14702, in the name of Jamie Hepburn, on the Carers (Scotland) Bill.

I call Jamie Hepburn to speak to and move the motion. Minister, you have 14 minutes.

The Minister for Sport, Health Improvement and Mental Health (Jamie Hepburn): I am delighted to open the debate on the Carers (Scotland) Bill on a motion that the Parliament agrees to the general principles of the bill. I thank the Delegated Powers and Law Reform Committee, the Finance Committee and, in particular, the Health and Sport Committee, for their work to inform Parliament of their consideration of the bill.

I was pleased to see from the Health and Sport Committee’s stage 1 report that it supports the bill’s general principles. I will try to respond to some of the issues that the committee raised in its report. I also thank the Convention of Scottish Local Authorities, the national carers organisations and, crucially, the carers themselves and their representative groups, for the constructive engagement with the Government and their considerable input into the bill to date. I have tried to listen carefully to the views expressed; they have certainly helped me consider how the bill can be improved further and how we can take forward issues outside of the bill.

I will outline some of the Government amendments that I intend to lodge at stage 2 if, as I hope it will, the Parliament sees fit to agree to the bill’s principles this evening. Several of the amendments are made as a direct result of suggestions and proposals that particular groups have made and which the committee has highlighted. I hope that carers will be able to hear their voices loud and clear throughout the bill’s provisions and, indeed, throughout the bill’s passage in the Parliament.

There are more than three quarters of a million unpaid carers across Scotland. They do an outstanding job caring for their loved ones, friends, neighbours or whoever it may be. It is right that we do what we can to better support Scotland’s carers.

The purpose of the bill is that adults and young carers should 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. The bill aims to do that by extending and enhancing rights for carers in law. In the wider context of the programme for government, the bill forms a key part of the Government’s position to tackle inequality, promote fairness and encourage participation.

Scotland has a growing population of older people successfully living longer. Sometimes, they do so with a range of complex and multiple physical and mental healthcare needs. There are also more children with complex health needs or disabilities. In the most deprived areas, 47 per cent of carers care for 35 hours a week or more. That is almost double the level in the least deprived areas.

We know from research that, although providing shorter periods of care can be positive for a person’s mental wellbeing, those providing longer hours of care report a negative effect. We need to support Scotland’s carers so that they in turn can support the many people with illnesses and disabilities or those who are frail. We especially need to support those who experience considerable disadvantage. Therefore, our wider work to tackle health inequalities within the even wider context of tackling economic disadvantage is, of course, crucial.

The bill is also set in the context of other legislation. It will complement the Public Bodies (Joint Working) (Scotland) Act 2014 and its provisions enabling the integration of health and social care. It will also work in conjunction with the Social Care (Self-directed Support) (Scotland) Act 2013 and the Children and Young People (Scotland) Act 2014.

Of equal importance is the continued emphasis on supporting carers in ways that cannot be included in the bill. We will continue to progress, for example, the carer positive initiative to recognise employers who actively support carers in the workforce.

I will turn to the bill’s provisions and the Health and Sport Committee’s comments in its stage 1 report. The bill will introduce a wider definition of carer. We are removing the requirement that a carer be someone who provides care on a regular and substantive basis. We are also removing the requirement that a cared-for person must be a person for whom the local authority must or may provide or secure the provision of community care services. All carers can ask for, as well as be offered, an adult carer support plan or a young carer statement. Under the bill’s provisions, carers will have a right to an assessment of their needs.

I want more carers to come forward and to have an adult carer support plan or a young carer statement, as those are the gateway to support. At present too few carers have an assessment, so
many carers are not getting the support that they need. The Health and Sport Committee has asked for clarification on how that additional demand will be managed.

I reassure the committee, and stakeholders for whom that is a concern, that an adult carer support plan or a young carer statement must be proportionate to the needs that are to be met and should reflect the carer’s wishes, preferences and aspirations. It can be what might be described as “light touch” where that is consistent with those needs, preferences and aspirations. The critical point is that each individual carer should get a support plan that matches their assessed needs. Additional resources for local authorities will accompany the bill.

The adult carer support plan and the young carer statement will set out the carer’s identified personal outcomes and needs and will record the support that is to be provided to meet those needs. The plan will also contain information about the adult carer’s personal circumstances at the time of its preparation. That will include the nature and extent of the care provided; the impact of caring on the carer’s wellbeing and day-to-day life; and—importantly—information on the extent to which the carer is willing and able to provide the care.

Many carers have said that knowing that the person for whom they care will be supported when they are unexpectedly unavailable brings peace of mind. Enable Scotland has effectively communicated the impact that that can have on carers, and the Health and Sport Committee has commented on that aspect in its stage 1 report.

I recognise that that is an issue of importance to carers. Therefore, as the First Minister set out at the carers parliament, I intend to lodge a Government amendment at stage 2 so that the adult carer support plan and young carer statement will also contain information about emergency planning.

I am pleased that we have been able to position young carers so firmly in the bill. I, along with other members, attended the young carers festival earlier this year, and none of us could have failed to be moved by listening to the experiences of the young carers who were there. Our ambition for young carers is that they should have a childhood as similar as possible to that of their non-carer peers.

The bill introduces the young carer statement as a direct response to feedback from young carers and their representative organisations to recognise the specific needs of young carers. To further that ambition, the statement must contain information about the extent to which the care that is provided by the young carer is appropriate.

The bill contains provisions that require local authorities to set local eligibility criteria. The criteria will allow the local authority to determine whether it is required to provide support to carers. There are also powers for the Scottish ministers to specify in regulations matters to which the local authority must have regard in setting local eligibility criteria.

Johann Lamont (Glasgow Pollok) (Lab): I have been struck by the different levels of support that are available for young carers in different areas. Why has the Government come down in favour of having local eligibility criteria rather than establishing a baseline that could be expected to apply across Scotland and which local authorities could tailor to their particular needs?

Jamie Hepburn: I was just about to come on to say that I recognise that there has been debate about that particular issue. We need to recognise that local authorities are democratically accountable bodies in their own right, but it is important that we set some direction, and we will do so. As I have set out, we will address in regulations matters to which local authorities must have regard in setting local eligibility criteria.

The Health and Sport Committee has asked us to consider that further; we have done so and we will continue to do so. I recognise that the national carers organisations have undertaken a range of work on the matter, for which I thank them, and I assure them that that work will inform the regulations that we set out. My clear commitment to those organisations is that we will continue to work with them to ensure that we get the regulations and guidance right. The bill is only at stage 1, and I will consider anything that comes forward at stage 2.

Local authorities are under a duty to prepare a local carer strategy and must consult with health boards, carers and carers organisations in doing so. As the Health and Sport Committee noted in its stage 1 report, those provisions will complement those that are set out in the Public Bodies (Joint Working) (Scotland) Act 2014. All local authority and national health service board functions created under this bill that relate to the delivery of services to adult carers will require to be delegated under integration schemes under the 2014 act. All local authority and NHS board functions relating to the young carers will be capable of being delegated if the local authority and NHS board choose to do so.

To complement provisions in the Carers (Scotland) Bill on carer involvement, regulations under the Public Bodies (Joint Working) (Scotland) Act 2014 provide for carers to be represented on integration joint boards and integration joint monitoring committees and to be involved in strategic and locality planning by integration
authorities. I believe that it is essential that carers’ voices are heard locally, and our legislation will help ensure that that happens.

Local authorities will be required to establish and maintain an information and advice service. That recognises the role that timely, accurate information about issues such as income maximisation can play in enabling carers to sustain their caring role and have a life alongside caring, which is of course one of the fundamental aims of the bill overall. It is my intention that, in complying with that duty, local authorities should pay due regard to existing provision, including that provided by the third sector and national health service boards.

The Health and Sport Committee has recommended that that intention should be made clearer. I agree, so I intend to lodge a Government amendment at stage 2 to clarify that, where sources of information and advice are already available within the local authority area, there is no requirement to create an additional information and advice service, although there will still be a requirement to maintain such a service.

Finally, I take this opportunity to clarify the position in relation to the waiving of charges and replacement care. That is an important issue for carers, so I am pleased to confirm that carers will not be charged for replacement care that meets their assessment needs; neither will the cared-for person be charged for support that meets a carer’s eligible needs. The cared-for person’s views will be taken into account in decisions on services that are delivered to him or her in order to meet the carer’s needs. When the bill commences, local authorities will be required to waive charges for support provided under section 22 of the bill. Minimal amendments to existing regulations on waiving charges will be required to reflect that change.

I will say a few words about the bill’s implementation. The effective implementation of the bill will be hugely important as there is so much in it of benefit to carers and it enshrines a number of significant carers’ rights. I restate my commitment to key stakeholders to work together with them to ensure that implementation of the bill is firmly grounded in reality. As I set out earlier, the feedback and views that we have received thus far have been hugely important to us. I look forward to our continuing to work constructively together to deliver the regulations and guidance under the bill.

Again, I thank the Parliament for the opportunity to set out what I expect the bill to do for carers. I mentioned some of the issues raised by the Health and Sport Committee in its report; I know that it raised other issues, but I am sure that they will be covered over the course of this debate. I look forward to continuing to hear the views of the committee as we move forward to stage 2 and I look forward to hearing what other members have to say in today’s debate on this important issue.

I move.

That the Parliament agrees to the general principles of the Carers (Scotland) Bill.

The Deputy Presiding Officer: I call Duncan McNeil to speak on behalf of the Health and Sport Committee. Mr McNeil, you have 10 minutes or thereby.

14:43

Duncan McNeil (Greenock and Inverclyde) (Lab): The majority of us in the chamber this afternoon have been, or will be at some point in our lives, carers. For some of us, it will become a lifelong commitment; for others, it will be something that we do intensely for a few months that will change our lives dramatically, and then it will be over. Being a carer is a role born out of love and support for those closest to us. It can bring a source of satisfaction, be life affirming and deepen relationships. However, it can also be physically demanding and require huge emotional strength. It can have a detrimental effect on an individual’s physical and mental health, friendships, relationships and employment.

The Health and Sport Committee welcomes and supports the general principles of the bill, which seeks to provide better support and rights for carers. It is important to ensure that people can continue to care in good health and have a life alongside caring. I offer my thanks and those of the committee to all the witnesses who gave evidence on the bill but especially to the carers, the carers’ organisations and the Health and Sport Committee’s scrutiny of the financial memorandum. We also welcome the Government’s further clarification of replacement care costs. The figure of £16 million is now regarded as a maximum estimate. The committee
was keen to get that clarification before today’s vote.

My colleague Johann Lamont referred to eligibility criteria in her intervention. During our scrutiny we explored in some detail the question of whether the eligibility criteria that will be used to determine which carers are provided support by the local authority should be set at the local or national level. The committee took evidence and recognised the concerns on both sides about eligibility criteria. On the one hand, carers wanted the Scottish Government to set criteria on a national basis from the outset. They believe that that would provide equity and a degree of certainty for carers across Scotland, and prevent what many describe as a postcode lottery. On the other hand, COSLA and the local authorities were concerned that they needed to be able to prioritise support in line with local needs.

As the minister mentioned, our report calls for the Scottish Government to give further consideration to whether the balance between Government and local authorities in setting eligibility criteria is appropriate. The minister made it clear that he believes that the right balance is being struck. I take encouragement from his remarks today that that discussion will continue. If things stay the same and there is no substantial movement from the minister’s stated view, there will have to be a focus on assessment and monitoring of the approach. People need to be assured that the issues that they are worrying about are being tackled. We need to be able to ensure that the approach that is being taken is delivering what we expect on the ground. I welcome the minister’s commitment, in his response to the committee’s report, that he will continue to work with COSLA, local authorities, the national carers organisations and carers to share their ideas and views about eligibility criteria and how they are monitored and assessed. I look forward to hearing the outcome of those discussions.

The minister has listened to our evidence on several other areas of the bill, which we welcome. He committed to bring forward changes to the bill at stage 2 in the light of our findings. We look forward to hearing how he will do that—first, with regard to our recommendation that consideration should be given to prioritising assessments for carers who are caring for someone at the end of their life; secondly, with regard to our recommendation that it should be made clearer that the focus should be on supporting and enhancing existing carer information and advice services—any new services should be established only where necessary, as the minister said in his speech; and thirdly, with regard to our recommendation that adult care support plans and young carer statements should include consideration of emergency planning arrangements. We look forward to assessing the details of the Government’s amendments in those areas at stage 2.

I am pleased that the Scottish Government supports our recommendation that the bill should place greater emphasis on the role of the national health service. However, I ask the minister to provide further information this afternoon on hospital admissions and discharge. We heard on several occasions—and we know from our casework—that there are concerns among carers and carers organisations that a lack of consultation with carers when a person for whom they are caring is admitted or, more important, discharged from hospital often results in crisis situations and, in many cases, ultimately, unnecessary readmissions to hospital.

We asked the Government to respond to the call to include in the bill provisions that place a duty on health boards to involve carers in hospital admissions and discharge procedures, and the Government confirmed that health admissions and discharge protocols will highlight the importance of consulting carers in the process. However, the Government also highlighted that local authorities are required to take carers’ views into account should the community assessment need to be revised, so far as it is reasonable and practicable to do so. That suggests that there may be instances in which it is not reasonable or practicable to take carers’ views into account before the cared-for person is discharged. A question arises from that, and I hope that the minister will be able to give us some examples of where he believes that it would be appropriate not to consult carers at the point of discharge.

The minister has said that further detail will be provided on several provisions in the bill by way of regulations. That includes further clarification of what is considered to be a short break for carers. Can the minister provide further detail on the Government’s approach to those regulations? Will draft regulations be published? What will the consultation process be? We must ensure that, even though the plans are not in the bill, there is scope for the Parliament and those who will be directly affected by the plans to engage with and shape them.

The committee believes that the bill is an important step in delivering appropriate care and support to carers in 21st century Scotland, and we recommend that the Scottish Parliament supports its general principles.

14:53

Rhoda Grant (Highlands and Islands) (Lab): I, too, thank those who gave evidence on the bill to
the Health and Sport Committee, and I thank the carers organisations that have worked alongside committee members, both at committee and in other locations, and given us advice and information on the bill and what they believe should be in it. I am grateful for that.

We welcome the bill. Its sentiments and general principles are easy to support. Carers need to be recognised for the role they play in looking after family and friends, giving, and continuing to give, even when that is to their detriment. The value of that in monetary terms is estimated to be £10.3 billion per annum, but what carers provide in personal terms is priceless. They do it because of love and compassion—they do not want to see their loved ones going without support—and I believe that we, in turn, must support them. Carers are used to warm words and appreciative statements. What they really need is support. On the face of it, the bill offers that, but it needs to be strengthened to ensure that it delivers real support for carers.

Carers’ lives are as different as the individuals, so their needs will always be different. They cope in circumstances that are often difficult to comprehend, and the bill seeks to support them in their role. Adult carers need to be able to have a life of their own, the ability to work and the ability to decide on the extent of their caring role.

Young carers need support to be children, to have a childhood and to have that role recognised. The bill talks about removing the caring role from pre-school children. Young carers organisations disagree. They believe that young children need to be allowed to care, but only to an extent that is appropriate to their age and wishes. I believe that that principle holds true for all carers. They must be given a choice about whether they are carers and, if so, what amount of care they provide. That turns current practice on its head. At the moment, carers are expected—often forced—to care, and do so with very little support. They do not have a choice.

I have heard from constituents who are at their breaking point, collapsing from stress and exhaustion, yet receiving no support. They cannot attend to their own health needs because there is no one to pick up their caring role. I have also heard of carers who suffer violence because their loved one no longer knows who they are and reacts badly to them, yet there is no protection for them and they are told that they must continue to care as there is nowhere for a violent person to be cared for.

We hear from young carers that they have to choose between education and their caring responsibility. Every child needs a childhood and every child has a right to education. That should not be compromised by their caring role. Their caring role must be replaced to allow them to access education, without the threat of being taken into care. Families need support, not fear.

Turning to the finance that supports—or, possibly, does not support—the bill, COSLA and carers organisations are concerned that the financial memorandum is not realistic about the cost of providing support to carers. One carer told me that the cost of providing replacement care to allow her a break would run to thousands of pounds if it was provided for a week. The financial memorandum does not reflect those costs. The Government has said that it will finance replacement care; I welcome that, but its costings need to be realistic. It has committed £16 million, but it is not clear whether that is from the funding that is already allocated to carers, or whether it is new money.

Other aspects of the bill are also unrealistically costed. The cost of carrying out an assessment runs to much more than the financial memorandum suggests. Neither does the bill take account of the burden on social workers, who are already overworked. Can other organisations and professionals carry out carers’ assessments? Could that be a role for carers centres, which could relieve pressure on social workers?

I turn to changes that I believe would strengthen the bill. COSLA and carers organisations are concerned about the eligibility criteria, which a number of members have mentioned. Councils, which are under huge financial pressure and are taking on more of the burden for a smaller share of the finance, are concerned that the bill is yet another unfunded demand. They understand the needs of carers and empathise with them, but they worry that services for carers will mean fewer services for the cared-for person if the provision is not properly funded. If that were to happen, the burden would fall to carers again and we enter a vicious circle. Councils do not want nationally set criteria for support for carers because they are afraid that that will be unaffordable. However, carers are concerned that there will be a postcode lottery with regard to support for carers if criteria are set locally.

Carers organisations have come up with a possible solution, which involves setting minimum national standards to prioritise the needs of carers who are unable to continue their caring role without support; those who are on the verge of having to give up the role; those who have to choose between employment and caring; and those who are looking after someone at the end of their life. They suggest that those people should be eligible for support through national criteria. The terms of the support must be person centred but can be locally decided, while delivering the outcome that allows the carer to continue to care.
Carers organisations also suggest that support for carers more widely could be set by local criteria, but the suggestion would ensure that those in most need are prioritised. A similar proposal has been made by Unison. That is especially important in the early stages of delivery of the bill’s outcomes, because even the Government admits that only a small percentage of carers will have their needs met in the early days of the act. It is important to ensure that those are the carers who are most in need.

The bill provides for short breaks for carers but lacks a definition of what a short break will be. Will it be an hour to nip out to the shops? Will it be an afternoon to meet friends? Will it be a week to go on holiday? None of that is clear in the bill. What is clear is that carers are the only people in our society who are expected to work unsupported 24/7. A short break needs to be a break from caring. However, it should not be seen as the only support that allows a carer to live their life. A number of constituents have raised the issue with me as a concern. One was told, when she had to go into hospital, that she would receive respite care to allow her to go into hospital. However, despite being told, on her discharge from hospital, that she should do nothing strenuous for a number of months, her adult daughter was returned to her immediately without any additional support being provided. Her daughter has mobility problems and needs to be lifted often as part of her care. My constituent was told that she had used up her annual allocation of respite and, basically, that she had to get on with it. Another constituent who was offered a hospital appointment for an operation organised replacement care herself, which involved a family member travelling from abroad and her booking into a respite care bed. All that had been organised only for her operation to be cancelled at short notice without her being able to change any of the alternative care arrangements that she had put in place.

The bill specifically entitles young carers to a young carer statement, but it is unclear what that statement will provide. As a minimum it must assess support to ensure that the young carer has a childhood and is fully engaged in education. The Scottish Youth Parliament’s report entitled “A Costly Youth: The Impact of Caring on Young People in Scotland” highlights the impact that caring has on education. Young carers are concerned that the young carer statement will be placed with their child’s plan—if they have one—or passed to their named person. If the statement is prepared correctly, it will detail the support that the young carer needs and may give details about their home circumstances, and they are not always happy about their headteacher—the default named person—having access to that. The situation will vary depending on the child’s relationship with their headteacher and the support that they receive from the headteacher, but I believe that the minister needs to look at that again. I fear that the lack of confidentiality could result in young carers avoiding having a statement and asking for support. It is really important that a school knows that someone is a young carer so that it can provide educational support, but it should be up to the young person to decide on the level of information that is provided to the school regarding their home circumstances.

The bill needs to look at accountability and enforcement. A carer’s life is challenging enough without their having to fight for the support that they are entitled to. We need to acknowledge that things do not always work well and that carers need a simple, straightforward appeals process. The current system is too complicated and takes too long to work through. A carer simply does not have the time to navigate a complicated process, especially if they are caring for someone who is terminally ill. An appeals system that is accessible and simple will benefit carers and allow them to access the support that they need. Both the assessment and the delivery of support must be subject to appeal, and I ask that that be included in the bill.

Presiding Officer, I am aware that I am running out of time.

The Deputy Presiding Officer: You can have a little more time, if you want.

Rhoda Grant: Thank you, Presiding Officer.

The minister mentioned emergency planning, and I welcome his commitment to amend the bill at stage 2 to allow for emergency planning. Something else that must be included is transition planning. Many elderly carers look after their offspring, knowing that their offspring are likely to outlive them and worrying about what will happen to them when they are no longer around. Emergency plans are therefore essential, especially in situations involving elderly carers. The assessment needs to look at transition planning as well, so that people can have comfort.

We need security for advice and information services. I welcome the minister’s commitment to lodging an amendment on that at stage 2. However, such services should be a bit more secure. Instead of there being no requirement on local authorities to establish them, there should possibly be a commitment that they should support such services. Information services for carers are independent of local government, although much of the support comes through local government, and it is important to have an independent voice supporting carers.

We need equalities statements as part of the carers plans from local authorities and a bill of
rights for carers so that they know what they are entitled to.

We welcome the bill and hope that the Scottish Government will listen to our concerns and work with us to improve the bill. If we do that as a Parliament, we can go much further than warm words and show carers how much we value what they do.

15:05

**Nanette Milne (North East Scotland) (Con):** I am pleased to see the bill make its way through the parliamentary process. While it will require a number of amendments as it goes forward, the Scottish Conservatives will support it at stage 1.

I echo the thanks already expressed to the many witnesses who gave evidence to the Health and Sport Committee—many of them carers themselves—and who let us know where they support the bill’s provisions and where they have concerns.

The care provided by the many thousands of adult and young carers today is valued at a massive £10.3 billion a year. While there are already various strategies and pieces of legislation in place to help to improve carer identification and support, the bill seeks to achieve better and more consistent support for all Scotland’s carers by enshrining their rights in law so that they can continue to care, if they so wish, in good health, can have a life besides caring and, in the case of young carers, can have a childhood similar to their non-carer peers.

The aims of the bill are laudable. If they are achieved, they should make a significant improvement to the lives of the carers who make such a valuable contribution to our society.

That said, the Health and Sport Committee heard serious reservations about parts of the bill from the witnesses who gave written and oral evidence. I note the minister’s response to them and his welcome decision to introduce a number of amendments as the bill proceeds through Parliament. I will touch on a few of those concerns during the remainder of my speech.

The broadening of the definition of carer and the entitlement to an adult carer support plan or a young carer statement, which should enable more carers to seek support, is generally welcomed. However, as we have heard, that has led to concern about how local authorities will manage the expected increase in demand for an adult carer support plan or a young carer statement in accordance with carers’ wishes and level of need. While the ministerial response gives some comfort in accordance with carers’ wishes and level of need.

While the ministerial response gives some comfort and show carers how much we value what they do.

No timescale is specified in the bill for providing an adult carer support plan or a young carer statement. There are cases in which they are required urgently, such as when a carer is supporting someone at the end of life. I am pleased that the minister has taken that on board and look forward to his stage 2 amendments.

In that context, Marie Curie Cancer Care points out that the bill as drafted will not support carers whose caring role has come to an end, for example following bereavement, and asks the Government to consider an amendment to ensure that support is available for people as they make the transition away from their caring role.

Guidance is also required to give all carers an understanding of the expected timescale for receiving an assessment after one is requested. That should be reasonable and should ensure some consistency across all councils so that all carers receive a support plan as soon as possible. The bill would place an explicit duty on councils to provide support to carers who meet eligibility criteria and would give discretionary powers to support those who do not. Those criteria would be set locally.

It is fair to say that that proposal was met with a sharply polarised response from witnesses, with carers very strongly in favour of nationally set eligibility criteria, to ensure equity across Scotland, and council representatives wanting them set locally. Although the Government is satisfied that its proposals are appropriate and the minister has pledged to work with all stakeholder groups to share ideas and opinions about eligibility criteria, I have no doubt that we will hear a lot more about that issue at stage 2.

Of great importance to carers is the availability of an information and advice service that is local, independent and expert. Such services are already provided within the third sector. There is a strong feeling that the focus should be on funding and supporting them and that new services should be set up only where necessary. Therefore, I look forward to the Government’s promised stage 2 amendments to clarify that, where such a service is already available locally, there is no reason to duplicate it, although the local authority will be required to ensure that it is maintained.

The bill would move the duty to prepare a local carers strategy from health boards to councils, and many of our witnesses felt that there should be a greater role for the national health service in identifying carers and signposting them to services and support, particularly in light of the continuing integration of health and social care. Again, I look
forward to seeing the Government’s promised stage 2 amendments to give effect to that.

There is also a call for the bill to include a duty on health boards to involve carers in hospital admission and discharge procedures because of valid concerns that a crisis can develop if, before discharge, hospital staff do not identify carers and establish that they are willing and able to provide the necessary care. I hope that the Government will consider that.

There are particular issues with young carers, who are less likely to identify themselves as carers and who, depending on their age, may not realise that they are carers. There is a general welcome for the young carer statement but, as Rhoda Grant said, a lack of clarity as to how it will link to the child’s plan. There are also concerns about information in the statements being shared with a young carer’s named person. The young carer should have control over where that information goes.

There are several other issues that I do not have the time to deal with in detail, such as emergency planning, but I cannot conclude without reiterating the many concerns that have been expressed about the estimated costs of implementing the bill and the Finance Committee’s serious concern about how, with the current proposals, charges can be waived for services that support carers, including the replacement care that is often required to enable them to take the short breaks that are essential if they are to be able to continue their caring roles without detriment to their wellbeing. Those financial issues simply must be resolved if the bill is to be effective.

As I said at the outset, we will support the general principles of this important bill but there is clearly still some way to go to ensure that it becomes the effective piece of legislation that the Government envisages in its policy memorandum.

The Deputy Presiding Officer: We move to the open debate. We have a modest amount of time available, so speeches will be six minutes or thereabouts.

15:12

Graeme Dey (Angus South) (SNP): Two things unite the chamber in relation to the bill: first, the fact that we welcome its intent; and secondly, a shared desire to ensure that, when it is finished with, it delivers as much as is feasible to improve the lives of carers.

Measures that lead to the better identification of carers and their needs, and the placing of a duty on local authorities to support carers in a variety of ways, are as welcome as they are needed. The reduced budget that is available to the Parliament and, in turn, local authorities restricts our ability to go as far as we might want in giving carers the kind of deal that they deserve. However, the Government’s commitment to increasing the carer’s allowance and its success with pushing the United Kingdom Government to introduce amendments to the Scotland Bill to provide autonomy over defining carer’s allowance eligibility, coupled with the bill, are evidence of the direction of travel to which the SNP is committed as far as carers are concerned. I acknowledge that there are many MSPs in other parties who share a desire to create a framework that better recognises and supports carers’ work.

I commend the stage 1 report that the Health and Sport Committee has produced. I say that not because I am currently a substitute member of the committee—I played no part in the scrutiny process—but because it is an excellent piece of work. I also welcome the Scottish Government’s response to it. We started out on the right track with the bill. The committee and the minister, in his response to the report and his opening speech, have given fresh impetus to that journey, although there remain areas of the bill in which there is scope for further improvement.

The Government’s intention to lodge amendments to ensure that adult carer support plans and young carer statements will contain information about emergency planning is as welcome as it is necessary. Anyone with the slightest knowledge of carers recognises their concern about what would happen if they had to go away or into hospital and the anxiety that it causes. The planned stage 2 amendments on setting timescales for preparing adult carer support plans and young carer statements in cases in which the cared-for person is terminally ill is similarly a step in the right direction.

The point of the scrutiny process of which the debate forms part is to consider how we might further improve the bill. There are a number of opportunities in that regard. Waiting times for adult carer support plans and young carer statements are one of those, as is the duty on hospital discharge.

I am concerned that no national time limit has been set for the production of a carer’s assessment. As we know, there can be wide variations in performance in that area and, to be frank, ridiculous delays that stretch to not only months but years. Through the bill, we need to send a message that we want greater consistency that reflects best practice. I am not sure that, on its own, the inclusion of intended timescales in each local carer strategy will deliver that.

The issue of hospital admission and discharge is dealt with well in paragraphs 106 to 108 of the stage 1 report. I note what the minister says in his
response about the bill’s provisions supporting the involvement of carers in hospital admission and discharge procedures and his view that the accompanying guidance will highlight the importance of involving carers in that process, but twice in his response the minister uses the phrase “where it is reasonable and practicable to do so”.

Although I do not doubt his intention in this area, I wonder—as Duncan McNeil did—whether we need to strengthen this part of the bill. Who will determine when the circumstances are such that it is “reasonable and practicable” to take the views of the carer into account? Will it be harassed ward staff or the busy social work team member? I share the concerns that carer organisations have expressed that the reality might differ from what is intended, and I hope that the issue can be considered again, difficult though it might be to nail it down. The minister has agreed to lodge amendments to put beyond doubt the role of the NHS in preparing local carer strategies and identifying carers, and I wonder whether we might be able to tighten things up in this area, too.

In a similar vein, although I do not necessarily seek an amendment, I note the committee’s comments on the role of general practitioner practices in identifying and supporting carers. I appreciate entirely that GP practices are under considerable pressure and welcome the fact that carer identification will be covered in the guidance, but if, as I have found in my constituency, some GP practices will not even display posters that direct patients to carer support services, there might be work to be done in ensuring that they go beyond even that basic action.

As Nanette Milne did, I want to touch on an important issue that Marie Curie has raised about supporting the needs of those carers whose caring role has come to an end. As Marie Curie says, many carers will need support after they have finished caring. I know from my work locally with the carers centre in Arbroath and from hosting visits to Parliament by carers from all over Angus that the support network and camaraderie on offer, never mind the advice and practical assistance that are provided by staff from such organisations, are vital in helping people to cope with their caring responsibilities. There is also surely a need for people to have access to such provision when those responsibilities end and they seek to move on in their lives.

The Angus carers centre in my constituency extends access to its services for two years after the person’s caring responsibilities have come to an end. I would be interested—as I am sure the minister would be—in finding out whether that is typical across Scotland. If it is not, perhaps we need to explore how we can provide support to former carers in that position.

I hope that the minister takes my contribution in the spirit in which it is intended; I am sure that he will. As I said earlier, the bill as drafted provided an excellent starting point. The Health and Sport Committee’s stage 1 report, along with the minister’s response to it, offers to move it along. With the will to take that further, which I am sure exists, I think that we can end up with a piece of legislation that has the potential to make the kind of tangible difference to the lives of carers that we all want to see.

15:17

Johann Lamont (Glasgow Pollok) (Lab): We know that there is across the chamber significant support for carers. Some of us have been carers or will be in the future. We have certainly met people in our communities who take on the most immense burden in difficult times, and they have our admiration.

Out of love—although occasionally people are caught up in a caring role by accident—carers go far beyond what most of us can imagine in disrupting their lives to give people the care that they need. There is no doubt that, since the Parliament was established, carers’ voices have been heard. They have been at the heart of many of our debates, and the campaigning organisations and the carers should be congratulated on how effective they have been.

However, we face a challenge in relation to the Carers (Scotland) Bill. We need to ask whether, as well as hearing what carers say, we are listening to what they tell us. We will be damned if we settle for rhetoric without delivering on carers’ aspirations. There needs to be a will to make a difference. If warm words put food on the table, carers would be feeding on a banquet every night. That is a challenge for all of us.

I am proud of the work that Labour did when it was in power. I am particularly proud of the establishment of carers centres, which represent an understanding of the need for flexible support and which reach out to and support people when they are in circumstances in which they find it difficult to get through processes. I pay particular tribute to south-west Glasgow carers centre in my constituency. As well as providing practical support to carers, including young carers, it supports people who no longer have a caring role and offers friendship to people as they come to terms with bereavement.

The centre has highlighted a number of specific points—as it often does when I meet it—that it would be useful for me to raise with the minister. I want to raise points from the cross-party group on carers and, if I have time, I will make a number of broader observations about the bill.
Many carers have expressed frustration because some of the care support that they need is not big stuff. They may need time to go to the hairdresser, the library or church, or they may need to spend a little time with their friends. There is frustration that access even to a bit of respite or support can often involve a long and complicated process, which in some cases is more expensive to fund than the cost of the support.

There is the example of a woman who cares for her husband and who wanted to go to her granddaughter’s wedding. It took more than nine months to establish whether she would be able to get that time off. Even then, she lacked the confidence in the care that was going to be offered to her husband to allow her to go to that wedding. Surely we can find a process or establish a fund to provide small amounts of money with speedy access, which would make a huge difference to people in their ordinary lives and help them to sustain their caring role.

Problems with the carers information moneys have also been highlighted to me. I understand the plan to take those moneys from health boards and give them to local authorities, but there is a concern that the moneys have on some occasions been handed back unspent and therefore that the opportunity has not been taken to support carers. What mechanism has the minister considered, with the planned change to local authorities, to ensure that the funding gets as close to carers as possible, does not get lost in the process and is directed towards those who need it most?

Practical issues that relate to young carers need to be addressed, including attendance conditions on education maintenance allowance in schools. Work has been done to ensure that colleges and universities understand the particular barriers that young carers face. They need the liberation and support of education almost more than most young people do, and we should ensure that we talk to authorities about that.

Like others, I accept that there is support for the bill at this stage, but that cannot in itself be enough. We need to be honest about the tough context in which carers are working. I have been struck by the dilemma that emerges in the bill with the proposal to open up the identification of carers and the assessment of their needs. I understand the rationale behind early identification, but we must reflect on the fear that has been expressed that such a broadening might dilute the support that is available to carers who are already in need.

In truth, a right that is unenforceable is unacceptable. We need not just to declare the right but to will the means to deliver. That is a practical challenge for the Government and the minister. It is not good enough for us to create a right and then sit back and denounce local authorities when they fail to deliver it.

I acknowledge the emphasis on identifying young carers, which can be a challenge. In my last teaching post, when I worked to support young people to stay in mainstream education, I met many young people who were carers. Some of them were carers entirely inappropriately. I know that understanding of a young person’s situation—they might be reluctant to talk about the reality of their family life—is more likely when there is a strong guidance team, a strong attendance officer team, behaviour support, learning support and classroom assistants. Those people have the intelligence and understanding to reach out and see that a young person is perhaps struggling because of what is happening in their home.

Neil Findlay (Lothian) (Lab): One of the worst moments that I had in teaching was when I chastised a young girl for being late every morning—she came into my class late each day—because no one had informed me that she was a carer. That was absolutely awful, and that is where the system breaks down.

Johann Lamont: I will make two brief points. In giving our teachers information, we need to have more confidence that they will treat it professionally. If they do not do that, we should definitely deal with that, because they will have behaved inappropriately.

I am making the point that the intelligence in schools is often garnered not simply by teachers. At this moment, our schools are being stripped of such support because of the pressures on their budgets.

We need to see carers in the context of the real world, which is increasingly stressful. If they are working, their tax credits may be removed, and employers are demanding increased flexibility of them. Zero-hours contracts and people being available for longer means that they cannot guarantee that they can care for their loved one. People are being forced out of work because of a lack of proper support.

I raise the particular problem of kinship carers in my city. I am sure that the minister is aware that 32 per cent of all children who are supported in kinship care situations are in Glasgow. I ask him to look again at the funding that is needed to match our aspiration that kinship carers should have parity with foster carers. I ask him to give me a guarantee that we will not all just sit and blame one another for that situation. We need to work together to get a solution for kinship carers.

We understand the central role of local authorities in offering support for carers. It is therefore essential, whether it is in health, education or social work—wherever it might be—
that we are honest about how we will ensure that local authorities are properly supported.

Across the Parliament, we have a responsibility on this. If we are saying that local authorities must deliver good-quality care, we need to take a fundamental look at how we regard local authorities and how we fund that care. That is a key commitment for any bill through which we want to provide increased support to carers.

15:26

Linda Fabiani (East Kilbride) (SNP): I welcome the Carers (Scotland) Bill and the fact that, after many years of everyone in the Parliament coming together to get the best rights for carers, we are now considering a bill that will enshrine carers’ rights in law for the first time in Scotland.

What many people, including the minister, have said is absolutely right: implementation is hugely important. That covers implementation at the start, but there are also on-going matters such as monitoring, funding, guidance, regulations and the mix of guidance and legislation. I hope that the minister is having discussions with COSLA and local authorities as to how the proposed measures can best be implemented and monitored.

For any bill, the stage 1 debate is a really good opportunity to raise particular issues, perhaps including missed areas for improvement and the identification of unintended consequences that sometimes come up. The Health and Sport Committee’s report highlighted some of that. The commitment that the Government has made to lodging stage 2 amendments, including amendments on emergency planning, is welcome.

I wish to discuss two kinds of carers, to ensure that their circumstances have been fully considered in the consultation process and the drawing up of the bill for introduction. The subject of carers of adults who have learning difficulties has been raised many times by me and by other members over the years. There are particularly active elderly carers in my constituency of East Kilbride who have very much helped to force improvements.

The example of parents who are carers of their adult children with learning difficulties puts into stark relief some of the needs that we are discussing. Support plans are absolutely necessary. There is an issue about no statutory timing being specified for introducing support plans. That is hugely important when we are considering particular categories of carers, and the carers of adults with learning difficulties represent one such category.

That leads us to emergency plans. For many years, we have talked about the good practice of having crisis plans and emergency plans, but the theory does not always translate into practice, and I have seen examples of that. We might consider the stress that is experienced by someone who is 80 or older, for instance—as I know—from the absolute terror of something happening to them and of their child who has a vulnerability, regardless of their age, coming home to find that their mum or dad is not there any more, with no proper plan in place. That is a huge stress for carers to deal with. I would like support plans and emergency plans for that category of carer to be given absolute priority. That is very important.

I wish to mention another matter, which I think that Duncan McNeil raised.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): Does the member agree that, as part of health and social care integration, it is vital that emergency plans are on GPs’ records? When the individual—the parent or other adult—is admitted, it makes life a lot easier for everybody if the GP knows that they can call on an emergency care plan.

Linda Fabiani: I absolutely agree and I was going to come on to that. This is about a joined-up way of looking at health and social care. I notice that Inclusion Scotland has a concern that, because carer support plans will be statutory, they will take precedence over social care packages, which are discretionary.

We have to make sure that we really have a joined-up system that benefits the people who need it. That is very important. We started well with the integration of health and social care; here is another way that we can look at preventative measures against stress and crisis.

The other group of carers that I will bring up is one that I have fairly recent knowledge of. I had not thought this issue through before, but I have been giving it a lot of thought because of circumstances in my constituency. It is about the families of those who end up suffering from early-onset dementia.

We have to talk about dealing well with people who have dementia generally, but particular issues arise when someone has early-onset dementia. The person who is affected could be in their 40s or 50s—even in their 30s—so their partner is still working and has a career. Again, the issue is about the interaction between social care—the home care package—and the caring responsibilities that the partner, or adult children in the house, may have. We have to get that right.

We should not assume that someone will give up work to be a full-time carer. That may well not be in the best interests of the person who requires
the care. A constituent said to me, “I want to take her on holiday and take her out and about. I want to be able to afford to do those things in older age through my pension, because she loves it; it gives her a great sense of wellbeing.” That is hugely important.

We have to look at the needs of the person who requires care and the needs of the carer and take full account of what is best for the wellbeing of that entire family unit. I am calling for consistency in how we deal with such things and a recognition that not every case follows the textbook and can have a box ticked to say that it has been dealt with.

Another constituent of mine has caring duties for a parent who has dementia and for a child who has special needs. The on-going difficulty for her is that two branches of the same council social work department do not communicate, which means that she never gets a day off. There must be better ways of doing things, through carer support plans, although that can happen only if we know that the plans will be put in place timeously.

15:33

Jim Hume (South Scotland) (LD): The bill has the potential to improve the lives of thousands of people. We have an opportunity to change the way in which carers are regarded and supported and to make their lives, and those of the people for whom they care, easier.

Members have talked about the changing demographics in Scotland. The pensionable-age population is projected to grow by 47 per cent in some areas over the next 25 years. It is great news that people are living longer, but we need to ensure that they are healthier, too.

Carers, paid and unpaid, take on a large part of the responsibility of caring for elderly people and people with mental health problems or disabilities who are not fully capable of taking care of themselves. Nearly 800,000 carers in Scotland provide support to loved ones, at an estimated value of about £10.3 billion. The figure is made up of 745,000 adult carers and 44,000 carers who are under 18.

While it is important for care to be delivered at home and to be consistent, we need to recognise the negative effects that caring has on people. I am glad to support the principles of the bill that will provide carers with a layer of support and protection.

The Scottish health survey analysis of mental wellbeing among carers showed that mental wellbeing scores decrease as hours of care increase. With 177,000 people over the age of 16 providing more than 35 hours of care each week, there is clearly a need to act proactively and prevent a decline in their mental wellbeing.

I look forward to seeing the successful implementation of the relevant bill provisions for adult carer support plans and young carer statements, which are a vital starting point. We have to make sure that the mental health of carers is in good condition. Unfortunately, as we know, it is not easy for people to obtain timely treatment. I have repeatedly called for preventative spending on mental health and I want to see such spending and to see relevant services and treatments available for anyone who is also a carer.

Similarly, the Coalition of Carers in Scotland warns that the waiting time for an adult carer support plan must be cut. Timescales must be spelled out and reasonable, and the plans must fulfil the purpose of supporting carers. Putting carers through completing unnecessary paperwork and more waiting time is the last thing that they need on top of all their responsibilities.

On the young carer statements, it has been mentioned that there need to be stronger systems for advocacy, redress and appeal, and young carers need to be more involved in the development of their statements—that is one of the preventative measures that we can take to ensure that young people have a say in their plans. I support other similar provisions in the bill, such as supported short breaks, replacement care and the right to advocacy, especially for young carers.

However, I am aware that a common thread of concern has been the postcode lottery for some services. Health inequalities will not reduce if we compound them with the unequal treatment of carers. Should the bill proceed, and I am sure that it will, I would like to see that we are taking the right steps to address issues such as local eligibility criteria that might undermine need because of financial restraints in an area. When we can ensure that decisions are taken locally, we must empower carers and councils to take them, but we must make sure that equality is prescribed in the law; otherwise, we risk seeing further growth in health inequalities.

Carers belong to a special group of people who we cannot allow to remain on the margins. Their concerns must be taken at face value. I hope that, when health and social care integration goes live next year, it will act as a gateway for increased involvement.

General practitioners might have a role to play through identifying carers and signposting them to services and support as a first step. I believe that that is one of the main concerns of national carer organisations and that current strategies, such as
the national carers strategy, have not taken that on board yet.

Subsequently, it is useful to involve carers in NHS processes such as those for hospital admission and discharge. That saves time and money and is better for the patient. There are calls and proposals for further involvement and a responsibility on health boards to inform and involve carers in their decisions about hospital admission and discharge. It has been proven that carer involvement reduces the need for readmission, as carers know best what the person for whom they care needs in their daily life. I stress that that must include both adult carers and young carers.

Like the majority of individuals and organisations that support the principles of the bill, I just want the details to be set out at the outset. We can achieve that by taking into account the views of the numerous organisations that represent carers rights and the views of the carers parliament. I hope that the bill will proceed to stage 2, when views on how to strengthen and improve it will be welcome, and I look forward to being part of that.

15:39

Sandra White (Glasgow Kelvin) (SNP): I am pleased to speak in the debate. Although I am not a member of the committee that took evidence on the bill, it is important to me and the many groups and constituents I represent that we look at the rights of adult and young carers. As has already been said, we have an estimated 745,000 adult carers and 44,000 young carers in Scotland. I really think that it is incumbent on us as individual parliamentarians and on the Parliament as a whole to encourage and empower carers of all ages to exercise their rights.

As I said, there are an estimated 745,000 adult carers in Scotland. Although the group of adult carers on whom I want to concentrate makes up a small percentage of that number, I think—and I am sure that most people would agree—that they are an extremely important group. Linda Fabiani spoke passionately about this issue with reference to one of her constituents.

As convener of the cross-party group on older people, age and ageing, I am acutely aware of the position, to which Linda Fabiani referred, of carers who are over the age of 70, and indeed over the age of 80, and who are themselves caring for older people—some are pensioners, some are just older people and some are people with disabilities.

Rhoda Grant has been present when older carers have come along to our cross-party group to tell us about the great difficulty they have in getting care for their adult children—as Linda Fabiani said, it does not matter what age their children are, they are still their children. It is very difficult for an older person who is caring for another older person to get care breaks or respite.

I recognise that money has been put into the reshaping care for older people change fund and, specifically, into its carer component. That has made a big difference to the many groups and projects—I will not name them—that involve carers in shaping services and developing local strategies and which generally provide a better quality of life for carers and those for whom they care.

Nanette Milne said that we really need to look at strategies. I hope that the involvement of carers—particularly the group that I am talking about—in developing strategies, which has been so successful throughout Scotland, will continue once the duty on local authorities to involve carers comes in—I am sure that it will. Will any checks and balances be put into the bill through amendments to ensure that carers continue to be involved in developing strategies in the way that they are already involved? It will be interesting to see whether such involvement continues once the duty is placed on local authorities. Perhaps the minister could cover that in his closing remarks.

Rhoda Grant mentioned the important issue of short breaks, which we always called respite—I think that they are still called that. Nanette Milne referred to the Finance Committee’s comments about that. The issue involves COSLA, carers and those who are cared for. Does the minister have an update on the position? We need to find out exactly what will happen, not just to the carer who has a short break or respite, but to the people who are being cared for. The bill takes into account carers of all ages, but the issue of the small percentage—it might not be that small, in fact—of carers who are 80, 82 or even 84, which is not raised that often, should be put at the top of the agenda when we look at the respite component.

I will raise an issue that I do not think has been mentioned yet. The Smith commission recommended that the Scottish Parliament should have complete autonomy over eligibility for carers allowance. That is really important, particularly given the amendment to the Scotland Bill that has been tabled recently, which I hope would achieve that proposal—a proposal that the Scottish Government made in the first place.

I do not know whether the minister can find this out, although I am sure that we will find it out once the matter is debated at Westminster, which will happen on Monday, I think. Can we get an absolute assurance that elderly carers who are pensioners and who get benefits and other entitlements will not miss out on those entitlements because of the eligibility criteria for
the new carers allowance? It is important that everyone is entitled to that. I would not like to see a situation in which someone may lose out if they get another benefit over which we have no control. The issue may adversely affect the benefits of pensioners who care for a son or daughter who is also a pensioner. I will leave the minister with that thought.

15:45

Jackie Baillie (Dumbarton) (Lab): Other members have spent much time on particular provisions of the bill and the importance of supporting carers. I do not want to repeat what they said, but we have had powerful speeches from Duncan McNeill, Johann Lamont and others across the chamber. Instead, I want to spend my time looking at the bill’s financial aspects. I do so with a genuine concern that there may be insufficient resources to meet the expectations that have rightly been raised by the bill.

I have two carers centres in my constituency—the Carers of West Dunbartonshire centre and the Helensburgh & Lomond Carers centre. Without question, both do a tremendous job. In both cases, the numbers of carers whom they support is constantly increasing.

There are about 10,000 carers who live in West Dunbartonshire—per head of population, we have the highest numbers in Scotland, according to the latest census. West Dunbartonshire also has the highest number of people per head of population with one or more long-term conditions, a high proportion of whom are carers who manage their own health alongside undertaking their caring role.

Last year, Carers of West Dunbartonshire supported 1,060 individual carers, of whom 385 were new referrals. The organisation also dealt with about 4,600 inquiries, and demand for its services is rising. Helensburgh & Lomond Carers supports 800 carers overall, and the number of new carers who registered with the organisation was 91 last year. However, we are only just halfway through this year and that number has been exceeded already, so demand for its services is also rising rapidly.

Although it is great news that both centres are reaching more carers than ever before, funding is becoming increasingly difficult. Year-to-year contracts, uncertainty about future funding sources and the consequent effect on staff retention are making things incredibly difficult for organisations that deliver for carers, and we need to find more effective ways of supporting them.

Funding for the very successful young carers initiative at the Helensburgh & Lomond Carers centre comes to an end in April 2016. The organisation has been unable to secure funding to continue that valuable service, leaving 150 carers facing a future without that essential support.

As I understand it, and as members will be aware, carers information strategy funding finishes in March 2016. However, the information that carers centres have received suggests that funding for the bill will not kick in until 2017, and it does not take a genius to work out that there is a gap. As far as I am aware, not a great deal has been said about that, which is making people nervous about what will happen between 2016 and 2017. Core support posts for carers are funded through the strategy, and the concern on the ground is that the posts will be terminated unless transitional money is made available to bridge the gap. When the minister sums up, will he advise the chamber what provision will be in place from April 2016 to April 2017 to avoid that unnecessary and disruptive interruption to the service?

I understand that the guidance that accompanies the bill is likely to say that there will be money for two additional posts. The carers organisations that I have spoken to are genuinely concerned that in fact those posts are not additional. We can all agree that raising awareness will undoubtedly be one impact of the bill. However, it is just not tenable for carers organisations to cope with the rising demand that I have described with a standstill staffing assumption. It is not just that they face rising demand now, and even more so in the future; the carers with whom they deal require more contact and more intense support than before. Although the Carers (Scotland) Bill is absolutely welcome, it might be undermined if support in the community is depleted or vanishes. I would be grateful for the minister’s comments on that in his closing speech.

The minister will be aware that the Finance Committee thought that there were deficiencies with the financial memorandum and that the required clarity over costs was not what we would have wished it to be. I suspect that he shared that view. When the committee suggested that a supplementary financial memorandum be brought forward between stages 2 and 3, the minister agreed. However, he then changed his mind and said that he would introduce proposals through secondary legislation to give effect to the waiving of charges and would put the financial consequences in a policy note. Members will appreciate that such an approach is without precedent.

I therefore welcome the further clarity that the minister provided in his letter to the Finance Committee on 26 October, in which he said that the cost of replacement care will be a maximum of £16 million per year from year 1 of the bill’s implementation, and that the £16 million will aim to
meet the cost of any additional replacement care that is put in place to meet carers' assessed needs.

However, I confess to being confused. Am I right to assume that that money is to cover what is already in place, which is welcome, or is it about how we meet new demand? Given the minister's announcement, does he intend to bring forward a supplementary financial memorandum, and does he now not need to bother with regulations and the financial information in the policy note?

The minister said that the £16 million "can be accommodated in the overall cost envelope ... set out in the FM."

Carers organisations are very concerned that that leaves very little remaining in the financial envelope for everything else. The national carers organisations are concerned that it takes no account of any new demand that might arise from the increased number of adults and young carers who will receive an assessment.

According to the financial memorandum, in year 1—in 2017-18—the Scottish Government anticipates spending £19 million. If the £16 million cost of replacement care is to be found from within that amount in 2017-18, that leaves a mere £3 million for everything else. I hope that the minister will tell me that I have done my sums wrong and will provide the reassurance that everyone out there is looking for.

The bill will raise awareness and expectations, but on the evidence before us there may not be sufficient resources to turn the good intentions that I know the minister has into reality. Members on all sides of the chamber have recognised the important work of carers, and we must back that up with the resources to enable carers to do their job.

15:52

**Bob Doris (Glasgow) (SNP):** There is a lot of good in the bill. Carers' rights will be fully enshrined in law for the first time. We are broadening and widening the definition of a carer, and easing the threshold for providing a caring role. There will be a more systematic process of assessing carers’ needs and providing support for them.

We will place a statutory duty on local authorities to involve carers and their representatives in the planning and delivery of support. There will be yet further progress to expand short breaks and a break in caring for carers. That will happen, and the bill will drive progress in supporting both adult and young carers. What we are talking about this afternoon is the extent of that progress, and the extent to which we will improve the lives of carers.

It is surely a good thing that additional moneys are being provided. The lives of carers will be improved; we are simply debating the extent to which their lives will be improved, and we should embrace that on a cross-party basis in Parliament this afternoon.

Of course there is a financial context to the bill. I will not be drawn into the yah-boo politics of yesterday and today at First Minister’s questions with regard to the financial constraints on this Parliament and the cuts that are coming down the line. However, we cannot deal with the financial reality across all sectors of Government without looking at the entire funding package to Scotland from the UK. Of course it will be tough to deliver, implement and fully fund the bill, but the Scottish Government is committed to doing so and to improving the lives of carers. That is just a fact. More money is being provided: that is also a fact.

**Johann Lamont, who is not in the chamber at the moment, said earlier that the needs of kinship carers had not been met. I double-checked my facts and saw that the Scottish Government announced on 10 September that £10.1 million was being given to councils to raise kinship care allowances to the same level as those for foster care, benefiting 5,200 vulnerable young children, many of whom are in the constituency that I represent, so Johann Lamont was just wrong.**

**Joan McAlpine (South Scotland) (SNP):** Will the member take an intervention?

**Bob Doris:** In a moment.

I note that Jayne Baxter is in the chamber. She, too, has championed the cause of kinship carers. Undoubtedly, since 2007, when the SNP Scottish Government took office, there has been huge progress on a cross-party basis.

**Joan McAlpine:** Notwithstanding the member’s comment about that cross-party basis, he has drawn attention to the fact that the Government has put money in place for kinship carers. However, it is my experience that some Labour councils are not taking that money and getting it to where it is supposed to go, which is to the kinship carers. Certainly, that is the case in Dumfries and Galloway. I wonder whether it is also the case with the Labour council in Glasgow.

**Bob Doris:** I have to say that progress has been made with the Labour council in Glasgow, which used to give no money to the kinship carers of looked-after children. Members will remember Steven Purcell: it was my intervention with him that got an allowance—£40 a week—for kinship carers for the first time in Glasgow. I agree that there is more to be done in Glasgow, but progress
has been made. Given that I might criticise the local authority later in my speech, I have to give it credit where it is making progress.

I want to look at the details of the bill now and the increase in the number of adult carer assessments and young carer support plans that will be generated by the bill. I am glad that the minister has addressed today the resourcing concerns in that regard. I am also glad that the minister’s response to the Health and Sport Committee makes it clear that local authorities will be able to prioritise how quickly they address some carers’ assessments and young carer support plans. We still want more detail on the expected timescales around that, but I note that the minister said that the publication of the expected timescales by each local authority will drive consistency. That might be the case, but at some point we might have to take steps to ensure consistency.

I have a suggestion in relation to the drawing up of carers’ assessments. The Health and Sport Committee is currently undertaking an inquiry into palliative care. I wonder whether the minister would give consideration to ensuring that, whenever carers’ assessments are drawn up, those assessing the care give cognisance to whether carers are providing palliative care that has not been identified; and to whether, if that is the case, that could drive change in that sector too. If we could do that, it would be very important.

The committee looked in some detail at eligibility criteria. I found that there was a lot of confusion among stakeholder groups about eligibility criteria, and what would be national and local. There was also confusion about what the threshold would be to receive care or care support, and what the level of care or care support would be. It was my understanding—and I think that it was the committee’s—that we were not saying that every local authority in the country would provide the same level of support. The committee was looking to ensure that those with similar needs all had support provided at local authority level and that local authorities had the flexibility to prioritise the level of support that was available. Perhaps that is something that we have to look at as well.

In relation to information and advice services—this is an important point—some third sector organisations said that they were worried that the requirement for information and advice services might lead to local authorities tendering or contracting out existing contracts and undermining the third sector organisations’ role. I am delighted that the minister has made it quite clear that that is not the situation and will not be the case, and that that will be clarified through a stage 2 amendment.

However, local authorities have form in that regard. This is where I will mention Glasgow City Council, which I said earlier to Joan McAlpine I would do. Local authorities have been known to abuse Scottish Government legislation, namely the Social Care (Self-directed Support) (Scotland) Act 2013. Very vulnerable adults with learning disabilities were forced into a personalisation agenda and key services were withdrawn from them; when they were asked why, they were told that it was because of the Scottish Government’s self-directed support legislation. That was just wrong. We have to ensure that there are no unintended consequences of the bill. That is why it is very important that at stage 2 the Government lodges that amendment in relation to information and advice services.

I know that lots of things regarding the bill are important, but I promise that the final thing that I would like to say is vitally important. There is much discussion about how we can better support carers in relation to hospital admissions and discharge, and about how we can ensure that they are part of the processes. However, we do not talk enough about how people who come into hospital might be carers who have yet to be identified. An admission of someone to hospital should be a trigger to identifying whether they are an unidentified carer, and a carer’s assessment should be offered. We have that opportunity with the bill.

The bill will improve the lot of carers. Let us get together as a Parliament to improve and enhance the bill and deliver for carers, who do a vital job in Glasgow and right across Scotland.

16:00

Jayne Baxter (Mid Scotland and Fife) (Lab): I am not a member of the Health and Sport Committee, so I have not been involved in the detailed scrutiny of the bill, but I am very pleased to speak today about what is a very important bill. If we get it right, it has the potential to transform the lives of carers and, by association, those for whom they care across Scotland.

Estimates vary, but it is widely accepted that there are almost 800,000 carers in Scotland. According to Carers UK, the economic value of that unpaid care is in excess of £10 billion. The emotional value of such care is incalculable.

Many of us will have witnessed or indeed had our own experiences of the role that carers play. If one’s friends or family were affected, few would hesitate to help. However, the responsibility of caring for a vulnerable person often goes way beyond helping. It can be more demanding and stressful and go on for much longer than carers can manage without additional support. The care that is needed and provided is vital and is too often not apparent to others. As a consequence,
the value of that care is not always recognised. Too often, support service providers do not even know that someone is a carer. People often care for loved ones alone, with little or no external support or engagement with support services. We need to identify carers at the earliest possible stage, so that they know what support is available to them. It is common for carers who have additional support needs not to be identified as such.

Underpinning how we can change that for the better is the importance of the NHS in preparing carer strategies. The NHS can provide a great deal of support for not just the person who is being cared for but carers themselves. Far too often, however, carers are not aware of the support that is available to them. In the interests of both the cared-for person and the carer, the centrality of the NHS to supporting care and carers needs to be formally recognised in the bill.

In considering the issue of carers being invisible, I want to say something about young carers. Ever since I was a councillor in Fife, I have supported the campaign to recognise the important role that is played by those young people. I did not have much experience of them when I became a councillor, but Fife Council ran an awareness-raising campaign for staff and councillors. The council knew that, although it was likely that there were thousands of young carers in Fife, very few of them were known to the services that could support them. Although young carers have a right to privacy of course, it is important that they realise that they are not alone, they have rights and there are services and people who will help them. We have to encourage young people who have caring responsibilities to come forward and we have to train the staff who work with young people to learn how to recognise the signals that a young person might be a carer, and then to respond appropriately to the impact that those caring duties may be having on the young person’s quality of schooling or personal development. I was struck by how isolating being a carer must be for many young people and how we all can and should do better to change that situation.

This year, I had the privilege of working with the Carers Trust and young adult carers to launch their going higher campaign to extend a similar approach throughout colleges and universities. As I said at the launch of the campaign, it seems perfectly reasonable that educational institutions would adopt a person-centred approach to ensure that everyone fulfils their potential. We should do the same, as a Parliament and as a society. The starting point has to be the situation facing each carer, and from that we must put together the right package of support.

This bill as it stands is a good starting point. It aims to provide a framework for recognising and supporting carers and to improve identification of adult carers and young carers. It places duties on local authorities to support carers, and publish local carer strategies, make provision for carer involvement and provide information and advice services to all carers. However, many of the briefings that I have read argue that the bill does not go far enough, or that it does not offer enough detail. There are concerns about the lack of timescales for the production of adult carer support plans, about the inconsistencies and the potential for a postcode lottery in the eligibility criteria for carer support, and about the levels of finance and choice to be provided for respite short breaks.

It is clear that what is needed is a coherent, multi-agency approach for most carers. I do not think that anyone disagrees about that need, which has been discussed many times in the Parliament, but I sincerely hope that the bill will go further, as it proceeds, and foster such an approach across Scotland. Currently, it focuses excessively on the responsibilities of local authorities and insufficiently on what the NHS and other agencies including the third sector can do in addition to and in collaboration with local authorities.

It is right for the Parliament to support the bill at stage 1, but it is essential that, at future stages, the Scottish Government listens closely to the concerns that are raised by groups that represent carers, as well as by individual carers, to ensure that the bill takes a meaningful step towards improving circumstances for carers and those they care for. If the Government does not do that, the bill could be another missed opportunity.

16:06

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): I feel privileged to be allowed to speak in the debate. As usual, I start by commending my colleagues on the Health and Sport Committee for the good work that they have carried out and for their comprehensive stage 1 report on the Carers (Scotland) Bill.

I also welcome the detailed and supportive responses from the Minister for Sport, Health Improvement and Mental Health in his reply to the committee. He can correct me if I am wrong, but I counted at least six commitments to amend the bill at stage 2 after some lengthy and heartfelt evidence was given to the committee by stakeholders along the way. Also, a number of commitments were made to provide additional guidance, alongside the bill, to deal with the many clarifications that were sought by the committee on behalf of those who gave evidence. Like some
other members who have spoken, I am not a member of the committee, but I hope that I will do justice to the work that others have done.

The bill is really about caring for the carers, and it sets out where we think help is most needed and where the most positive interventions might take place. I like the comment in the policy memorandum that the bill’s objective 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 ... in good health and to have a life alongside caring.”

What a lovely way of simplifying the bill.

**Johann Lamont:** Does the member agree that, to make it real, which is something that we all aspire to, we have to get the money right, too? Does he share the concerns that have been expressed about the potential gap between our aspiration and the funding that is going to underpin it?

**Willie Coffey:** Absolutely. Of course we do. The issues about finance and resources are well covered in the committee’s report and I am pretty sure that the minister will refer to them in his summing up.

The need

“to have a life alongside caring”

is too often overlooked or ignored, and sometimes it is not even recognised by carers, as a few members have mentioned today.

As I read through the report, it became clear to me that the bill sets out a carer’s journey and that we can and should help along the way, from recognising the role of our younger carers and the help that they need from their schools right through to the possible end of a carer’s responsibilities through choice or circumstances. The bill and the committee recognise the important issues that we need to provide for.

Tonight is Guy Fawkes night, and thousands of carers across Scotland will be out there making sure that a loved one is enjoying the night at one of the many fireworks displays that will take place—I recommend the display at Kilmarnock’s Kay park, which will attract more than 30,000 people—or caring for a loved one at home and possibly missing out. That is why I was drawn initially to the committee’s comments on providing short breaks for our carers. It is so important to provide short breaks, even for a couple of hours, as the witnesses highlighted. I note that the minister agreed to clarify what “short breaks” means in response to the committee’s request.

Short breaks are not new, but if we can build in a mechanism that formalises them, it will mean that carers will not need to feel guilty about taking a break and those who are cared for will no longer need to feel guilty either; if their carer was previously unable to get one. A recognised short break is simple enough but very important. It helps to remove that problem and helps us progress the aim in the bill of supporting a life alongside caring.

I was staggered to read that the number of young carers in Scotland is thought to be more than 40,000, with a suggestion that it could even be as high as 100,000. Those giving evidence asked for more work to be done to identify our young carers, especially those at school, many of whom probably do not recognise that they are even performing the role. Often, those young carers need only a little bit of information and advice and a little flexibility when it comes to school timetables and attendance. They also asked that we should do our best to identify those young carers before any crises develop. Schools have a crucial role to play in that, and that too is acknowledged by the minister’s intention to set that out in guidance in relation to the development of our local carer strategies.

I would be interested to know whether any research has been done on the impact that caring has on the educational attainment of young carers and on what proportion of them move on to further and higher education. However, that is for another day.

The potential confusion in having the proposed young carer statement and a child’s plan was raised, but I think that the minister explained that well. As I understand it, the carers statement is about identifying specific support needs for the carer and the triggers for intervention, whereas the plan is an overarching summary of that.

There was a concern about the overlap between a young person’s role as a carer and the named person proposals, and the possible unintended intrusion that that might cause if a young carer had not consented to any interventions. The minister has recognised that and has agreed to remove that possibility from the bill at stage 2.

When young carers reach the age of 18 and begin to make their transition to adulthood, they will begin to interact with adult services in respect of their caring role. Clearly, many young people will want to move on and cease their caring role in order to progress their own lives, and I simply note the sensitive way that that is discussed in the committee’s paper and the minister’s recognition of the need to support such a process.

It has been a privilege to be able to take part in this important debate and to highlight for the public the many positive steps that are being taken by the Scottish Government to recognise the invaluable work that is carried out by Scotland’s
The important statistical information that was published this spring, which was based on 2011 census returns, showed that the age group in which people are most likely to be carers is the 55 to 64 age group. However, it is not unusual, particularly with regard to learning disability, dementia and end-of-life care, for the carer to be in their 70s or 80s.

An example of the difference that an emergency plan can make is the case of Jeanette, which was highlighted by Enable in the course of the campaign. Jeanette looked after her daughter Vanessa, who has learning disabilities, but had no emergency plan in place until after she had to go into hospital for a knee replacement. Some time after she was discharged, she had an awful experience when she collapsed at home in the early hours. However, because she had a written emergency plan in place, the emergency services were able to consult the plan, contact the right respondent and get the right care in place for Vanessa. Jeanette said afterwards:

“I know people think they can go on caring, but things happen to change that and I would urge them to take the time to put a plan in place.”

The fact that Jeanette had that experience and was supported by her local authority draws attention to the fact that good services are already provided, but we need the bill to ensure that such provision becomes consistent across the country.

I also welcome the moves by the minister to prioritise plans for people who care for individuals who have a terminal illness, and I support the calls from Marie Curie and from other members that general practitioners should be involved in identifying carers who are in such circumstances. I am also very sympathetic to calls for carers’ views to be considered when discharge plans are being put in place by hospitals.

As the co-convener of the cross-party group on carers, I draw attention to the briefing from the national carer organisations, which welcome the bill but have certain asks in order to strengthen it. In my role as the co-convener of the cross-party group, I will put those asks on the record. They ask for the following: a redefinition of outcomes to acknowledge that carers have the right to a life outside caring; for national eligibility criteria; for a short-breaks duty to be placed on local authorities; for it to be ensured that replacement care is properly funded; for it to be ensured that support services in the third sector and public sector are prepared for the additional demands that will be placed on them as more carers identify themselves and seek help; for a duty on the NHS to involve carers in discharge plans, which I have mentioned; for a statutory right to advocacy; and finally for a statement on equality.

Time restrictions mean that I cannot go into all those in detail, and I am aware of the cost constraints that mean that not every one of them will be delivered. However, if I had to single out one of those asks, it would be the request for nationally defined eligibility criteria. In my experience, among carers and their representatives there is passionate opposition to locally defined eligibility criteria, and they are consistent in their demands for consistency. In my opinion, the big three asks from carers organisations to strengthen the bill are emergency plans, the waiving of charges and national eligibility criteria. I welcome the fact that the first two of those big three asks are being addressed by the minister in his stage 2 amendments, and I ask him not to rule out similar measures to address the third.

I am aware that the Health and Sport Committee is sympathetic to both local authorities and carer organisations with regard to eligibility criteria, as it states in its stage 1 report. I note, too, that the minister, in his reply to the committee, says that, in 2016 and 2017, before the bill is commenced, the Scottish Government will work with COSLA, local authorities, the national carer organisations and carers themselves to share ideas and views about eligibility criteria. However, I have heard examples from members across the chamber of variation in services. There are some excellent services, as I have outlined in the case of Jeanette, but other members have mentioned their
constituents’ poor experiences. The bill exists because of the patchiness in approach; we are legislating to address that. Therefore, it could be argued that nationally defined criteria for eligibility would be an extension of the general principles of the bill, which is why I think that the proposal should not be ruled out.

16:18

Dr Richard Simpson (Mid Scotland and Fife) (Lab): I am glad to join other members in speaking in the debate, although I am no longer a member of the Health and Sport Committee. Although I commend the bill’s intentions, I find myself once again questioning a bill that has been introduced. Carers deserve not just warm words, but detailed commitments, but once again we have a bill without draft regulations, although the regulations will be critical to delivery of the bill’s aims.

In hustings for the 2011 election that were attended by carers, I promised that if Scottish Labour formed the Government I would seek to ensure that our priorities matched those of carers. Labour had already sought to make it possible for carers to seek an assessment of their own health, which is fundamental and should not be a one-off event but a continuing process. A carer who is looking after a person with a deteriorating condition such as dementia is likely to face increasing challenges that make their own health more vulnerable.

Although the support plan helps, the thresholds, nature and extent are unclear. Concerns about a postcode lottery on thresholds are valid, as is concern about the length of time it takes for an assessment to be undertaken. That does not relate just to terminal care.

As the Health and Sport Committee has indicated, respite is another issue. Respite can mean many different things, from a period of a week or more to an hour or two a week. There needs to be clarity on thresholds, as well as minimum standards.

The committee is right to express its concern about provision in relation to terminal illness. That requires priority. One cannot wait when one gets into a terminal-illness situation; one needs action immediately.

The agreement to ensure that all carers who want one will have an emergency plan was one of the most significant asks in 2011. It led me, at First Minister’s question time, to ask the then First Minister, Alex Salmond, why that was not occurring. He undertook that it would occur. It is a pity that, three years on, we are still just talking about legislation. Linda Fabiani referred to parents of adults with learning difficulties. I cannot understand how anyone listening to carers who are growing old and have to look after their adult children would not hear their anxiety about what will happen if they have an emergency.

I have current family experience in dementia care. The social worker and carer support have both been very helpful, but my relative—the prime carer—is uncertain about whether a recent week’s respite care will be charged for or free. She simply cannot find out.

There are other areas of vagueness. There is an absolute need for carers to be advised of discharge from hospital and to be involved in admission. That is, of course, a requirement where there is formal incapacity, but in the case of patients with capacity, it must be addressed on a consensual basis. A recent Scottish study showed that 50 per cent of patients with a previous diagnosis of dementia before admission do not have that critical fact recorded on their notes. Too often, carers feel excluded by a medicalised process. As far as discharge is concerned, notification must be not just a general intention, but must be detailed. Never again can we have in the press reports such as that about a blind man being discharged in the middle of the night without knowing whether there would be relatives at home. Such situations are unacceptable.

The role of GPs in the new integrated world that we all seek remains unclear. Their knowledge and role is important. Where is the support for groups such as the Edinburgh north-west personal medical services group? Yesterday, I attended a meeting of the group. Representatives of 12 of 16 practices were able to be there, along with practice managers and various NHS Lothian staff. The group has link workers to undertake detailed assessment as part of post-diagnosis in dementia—an area that general practice has been tasked with. The quality of the carer and patient experience is measurably improved. That is an example of how a cluster in a new contract, in the new world that the Government is now beginning to accept, could work. I commend the work of the group to the minister.

We also heard reports from Muirhouse practice, which has established an effective computer-based signposting and information service for national and local support for carers. It is not rocket science, but it requires administrative support so that it does not have to be done on the basis of individual practices. As Graeme Dey said, at a time when general practice is under stress, the Government has a duty to make its intentions much clearer, not just on requirements but on resources. On finance, I do not believe that even the adjusted financial memorandum bears scrutiny. As I understand it, the £16 million is not new money, so what is it?
On dementia, there is a substantial drive for early diagnosis and first-year post-diagnostic support. If that is tied in to robust delivery of the aspirations in the bill, we can hope that fewer individuals will require institutional care, which would ameliorate some of the growing pressures on the NHS.

As in almost every intervention that I make in Parliament on matters of health and social care, I call for robust monitoring not only of the process but the outcomes. Who will undertake that role? Will it be the Care Inspectorate? What work has already been done on the elements that should be reported? Carers should not have to resort to their MSPs when their needs are unmet, so the right to advocacy is an important part of ensuring that issues can be resolved early.

However, I repeat that the landscape on comments, concerns and interventions from individuals when they have problems is incredibly cluttered. There is a vital need to align the Patient Rights (Scotland) Act 2011 feedback sections to the social care system. If that is not done, carers will not be able to contest their assessment, the timing of matters or all the other issues that colleagues have rightly mentioned.

The general principles of the bill are welcome. As always, the Government’s aspirations are welcome, but if they are to be fulfilled, the detail—the draft regulations on many aspects, the system of monitoring and the financing—must be much clearer before Parliament passes the bill at stage 3.

The Deputy Presiding Officer (Elaine Smith): I have a few minutes left in hand, so I can give Mr Lyle up to seven minutes and then have one extra minute each for the closing speakers.

16:25

Richard Lyle (Central Scotland) (SNP): It is almost a pleasure to follow Dr Richard Simpson and respond to his comments. The SNP Government has a strong record on supporting health in Scotland and I am sure that it will continue to do everything in its power to ensure that the people of Scotland have access to the best healthcare that is available and to ensure that no group of people is overlooked when it comes to health.

As we adapt to having an ageing population, the role of carers will become even more important, so there is an overwhelming economic, social and moral case for continuing to improve the services that are offered to them. The Carers (Scotland) Bill will for the first time enshrine in law the rights of carers. It proposes a range of measures to improve and expand support for carers. Therefore, it is important to hear some of the key facts and stories about our carers in Scotland.

There are an estimated 745,000 adult carers and about 44,000 young carers in Scotland. The value of the care that they provide is estimated to be around £10.3 billion each year. However, it tends to be overlooked that caring can have a detrimental impact on the health and wellbeing of a carer, which can consequently affect the quality of care that the person who is being cared for receives. Caring can intensify pre-existing health problems in carers or even lead to new ones. It is estimated that around 32 per cent of carers have indicated that caring has a negative impact on their health. Research has shown that the most common health effects are psychological.

It is not morally acceptable to allow someone who provides care to another human being to suffer on their own. That is why the Government has placed the issue at the forefront of the First Minister’s programme for government and has invested about £114 million—more than ever—in programmes to support carers. It is also why we need to address the issue here and now.

Recently, I heard a story about a man named Ronnie, who has cared for his wife for the past 15 years. She needs 24-hour care, so he gave up his job 12 years ago to look after her full time. When he was asked what we could do to help him, he replied:

“There’s not enough recognition of what a carer does.”

Where have we heard that before? When he filled in forms, there was no category “full-time carer”. He said that

“no-one understands what that is.”

Stories like Ronnie’s are why the Scottish Government should place, and will place, the needs of carers at the heart of the devolved carers allowance. Carers sacrifice much for the betterment of others and now they are suffering. We cannot sit on the sidelines and let them suffer any longer. The bill that we are debating aims to improve support, and to provide greater support, to carers.

At present, the law considers a carer to be someone

“who provides, or intends to provide, a substantial amount of care on a regular basis to a person aged 18 or over”

and for whom the local authority provides community care services. The bill will broaden the definition of carer to encompass more people who go unrecognised as carers, so that they get the recognition that they deserve. To accomplish that goal, it will remove the requirement for care to be substantial and regular.
The bill will place on local authorities a duty to prepare a support plan for anyone who identifies themselves as a carer or any carer who requests one. Such support is something that many carers drastically need, and it is our job to ensure that they receive it.

Young carers are a shining beacon among the incredible young people we have here in Scotland. Young carers are those who are under the age of 18 or who are 18 and are still at school. It is the Government’s responsibility to make sure that they are looked after. It is my firm belief that we must do everything in our power to protect the wellbeing of young carers.

Under the current legislation, if the young carer’s needs can be addressed through the normal course of things—for example, by their parents or by mainstream services—there is no need for a support plan. That is unacceptable, and I am pleased to say that the bill addresses that issue. Under one of its proposals, the bill will give a responsible authority a duty to prepare a young carer statement for anyone it believes to be a young carer and for any young carer who requests one. That will improve access to support for young carers and it will, it is hoped, prevent the escalation of caring needs.

As I near the end of my reflections on carers in Scotland, I want to highlight one more story from the Carers Trust that I read. I also recommend that all my colleagues—if they have not already done so—take the time to read and learn about more of the touching stories about carers throughout the UK. This story is about a 14-year-old girl who is caring for her eight-year-old brother, who suffers from a very rare genetic condition. The girl lives with her mum and her brother, so it can be hard for her mum to get all the jobs done around the house. The girl can no longer live a normal childhood. It was not her choice to live this life, but it is the life that she lives. She talks about how, when she talks to people such as doctors and social workers, some of them do not listen to her because of her age. I am here today, along with members across the chamber, to say to that young girl, “The Scottish Parliament is here and we are listening to you.”

I want to conclude by again highlighting some of the bill’s key points. It will enshrine carers’ rights in law for the first time in Scotland and it will ensure that carers will be protected from being charged for the support that they receive. The Scottish Government will seek to amend the bill to enshrine emergency planning in the care plan process. I am sure that the Government is committed to ensuring that we look after our carers. All the comments that other members have made aside, let us appreciate carers’ tireless efforts. In every aspect, carers are true heroes, and I commend all of them for all the work that they do each and every day.

The Deputy Presiding Officer: We come to the closing speeches.

16:33

Jackson Carlaw (West Scotland) (Con): It has been a very interesting and well-informed debate, in which all the pertinent questions have been asked in some very well-targeted and passionate speeches. There have been quite a lot of calls for change. Often in the Parliament, that presages a partisan debate, but I do not get any sense of that at all. It seems to me that the minister recognises that the bill is an important one that is a work in progress, and I hope that he will be open to considering and incorporating—in addition to the amendments that he has already identified will be made—some of those the cases for which have been made powerfully in the debate.

It is interesting that the debate is taking place on the same day that the British Medical Association has published its manifesto for Scotland. Right at the start of that, the BMA talks about the population challenge. I think that that underpinned one of the key points that Jackie Baillie made, which was to do with the question of what we are setting in train now and whether we will have the resource to fund it as the population continues to change.

All of us who debate health matters regularly know that it is clear that the profile of the population of Scotland has changed dramatically. It is clear that, 100 years ago, Scotland was a young country. It is hard to imagine that older people were the exception, not the rule. However, we now see an enormous increase in the number of elderly people. As Jim Hume said, we can celebrate that, but nonetheless that brings with it challenges for the future. As we look forward, there will be an even greater concentration of elderly people.

We have talked before about how we have moved from the experience of the provision of care in a family being an exception to its being something that nearly all of us now have first-hand experience of. That will become more common, not less so.

Johann Lamont said:

“a right that is unenforceable is unacceptable”.

That was very powerful. We have embarked on huge and important social legislation in the chamber before, whether for free transport for the elderly or free personal care for the elderly, which we are funding, but at a rate that is far greater than anybody envisaged when we began. When we commence the important changes for carers, it
is therefore important that we know that we are putting in place a mechanism by which they can be properly and effectively realised not only now, but as we go forward.

In identifying the various amendments, the minister gave quite a technical speech. However, Duncan McNeil brought the debate very much back to the very personal role of carers; in fact, Richard Lyle ended the debate in exactly the same way. Duncan McNeil made points about the end-of-life carer assessment, the priority that may need to be attached to that—albeit that I accept Richard Simpson’s more general point, as well—and the emergency planning arrangements. He welcomed additional services not being required unless they are absolutely needed, and he brought focus on discharge and admissions, which Richard Simpson gave a stark example of in his contribution. Those remain areas in which considerable work is still to be done.

I very much appreciated Rhoda Grant’s contribution, particularly on post-carer support. The reality is that, although we say that we want to ensure that the opportunities of young carers are not in any way compromised by the role that they take on as carers, which they feel that they have to take on—I have an experience of that in my own family—those opportunities are compromised. We simply cannot have a young person going into further education and suddenly being brought into a domestic situation to provide concentrated care for a relative without that having an impact on their potential opportunities when they become post-carer individuals. It is very important that we try to find a way of building into our thinking how we will give post-carer support to individuals in order that they are able to resume their lives and make full use of and exploit all the potential opportunities that they have, which may have been set to one side at the time. It is not good enough just to say that. The reality is that that is happening, and we have to address that.

Graeme Dey was interesting when he gave the example of GP practices identifying potential carers. My colleague Margaret Mitchell wanted me to highlight the practice in a Motherwell general practice, which now has automatic flagging of carers so that, if a carer presents, any GP is stimulated to check how their health is.

I have already mentioned Johann Lamont’s thoughtful speech, which included some very well-focused questions. She raised an important point about the bureaucracy that underpins the opportunities for people to get minor respite and the desire that there should be to offer that much more readily.

Linda Fabiani introduced the issue of early-onset dementia. That was something of a digression, but it was important nonetheless. The Public Petitions Committee has been dealing with that issue over a considerable period of time. More recently, the Cabinet Secretary for Health, Wellbeing and Sport said that she was looking at proposals that she hopes to bring before Parliament in the new year. We look forward to hearing those proposals.

My goodness—Jackie Baillie has certainly carried a load for the Labour Party this week. She was the voice of reason on Tuesday and a partisan turn in a good old tribal way yesterday. Today, she used her forensic skills on a whole series of issues that relate to finance. I hope that the minister will respond to those points. Mr Coffey said that he was very confident that he would do so. Like me, he must have seen the blizzard of communications that came from the officials down to Mr Hepburn following Ms Baillie’s speech. I am therefore very confident that those financial questions will be answered.

We have a bill for which there is a tremendous amount of good will across the chamber. Concerns have been expressed that must be addressed, and I am confident that they probably will be. As the bill leaves Parliament and becomes a legal entitlement, it is important that its financial underpinning is robust and that it looks to the future as well as to today. Otherwise, we will be looked upon as people who had rather rose-tinted spectacles regarding how such things would operate, and who did not put in place the provision to ensure that they would be effective.

16:40

Neil Findlay (Lothian) (Lab): Caring is something that we all do. Even as cold, stone-hearted politicians, we have some care within us—at least I hope so when I look around the chamber. We do that whether it is for our children, our friends, our grandparents, our neighbours or our mums and dads. We all show that love and affection and perform our duty, hopefully as members of a civilised society, through our friendship, compassion and care for those who need our help. We see that in our communities and around us every day and every week.

That care can be expressed in many different ways. It might be a simple thing, such as someone occasionally dropping in to check that their neighbour is okay, driving a parent to a day centre or pensioners group, providing a daily meal or taking a friend to hospital or a doctor’s appointment. Those are acts of care that we all do and see regularly.

However, for many people—many of our family, friends and neighbours—caring is a commitment that requires much more than that. It requires a dedication that is often full time. Duncan McNeil
eloquently described the consequences of such a level of commitment for those people who perform that role. Several members have mentioned the number of carers involved, which is quite an astronomical figure. Almost 800,000 Scots provide that caring role.

I was very pleased that Johann Lamont mentioned young carers. The example that I mentioned earlier about the young girl in my class at school will live with me for some time. That young girl clearly lacked confidence, she was pretty anonymous in the class and she sank into the background, not saying very much. No wonder she never said very much—what she was doing at home was taking up all her efforts and energy. The fact that I, as her teacher, did not know that, was shameful. That revealed a breakdown in the system, which should have alerted me or any other teacher who went into the class, whether for one day or for the rest of the year.

Those carers do not need our sympathy or our warm words. They need and want our support, in both deed and budget. As many members have said, it is estimated that there is a huge financial value—up to £10 billion, which is a remarkable figure—in the amount of care that is provided. We need to invest to ensure that people get a fair deal for that, and that they get the support that they and the people they care for deserve.

All that comes at a cost to the carers themselves. As Jim Hume mentioned, there are effects on people’s psychological wellbeing, with problems of mental ill-health, anxiety and a lack of confidence and self-esteem. Carers are also more likely to be in debt, to have to leave their job or to require reduced hours, all because of the pressures of having to juggle a job and caring responsibilities. All that adds a huge strain to their emotional wellbeing and their personal relationships. For those and many other reasons, carers require our help and support and the help and support of the communities that they live in.

Given the vital role that carers play in our communities, any bill to help carers would be welcomed. However, some serious questions have been asked today about the substance of the bill, and about how it will help and improve the daily realities that are faced by carers. Those questions must be answered.

As Richard Simpson said, there is a real concern about the lack of regulations that accompany the bill. Jackie Baillie mentioned many of the points that the minister and his team will have to answer.

Of course, everyone will support the proposal for carer plans; it is hardly controversial. Ensuring that there is a support plan that identifies the needs of carers is a good thing. On the passage of the bill, we would like that provision to be implemented without delay. However, the adult carer support plan and the young carer statement will be worth more than the paper that they are written on only if they are followed through, with support being put in place and fully financed so that the plans become a reality. We can write up as many plans as we like and stick them in a cupboard, but if they do not mean anything for the people who need our assistance it will hardly have been worth the effort.

Issues around the eligibility criteria—at national or local level—will be debated during the bill process. Some people suggest national criteria; others suggest local criteria. Whichever they are, the criteria must be effective and allow flexibility to meet local needs while ensuring that people can get equal access.

Bob Doris: Neil Findlay makes a very thoughtful point regarding national and local eligibility criteria, although there has been confusion about what different people in the carer sector mean by that. He mentioned equal access. Was he talking about equal access as a trigger for when carer support needs must be met by a local authority, or did he mean equality in provision? Obviously, those are two very different things. Equality of provision does not necessarily allow that local discretion.

Neil Findlay: I think that the people on the ground want to ensure that they have equal access to what they actually receive. Ultimately, that is what they want; they want to receive an improved service. We can debate whether that would be better done nationally or locally, but what ends up happening in those people’s lives is most important.

Plans that incorporate education and training are a good thing. I am very positive about the role of advocacy and counselling, and income maximisation is a huge issue. Those are all very relevant to the lives of people who are carers. Much of that support should be being provided already but cannot be because such things cost money. We cannot provide such services on fresh air and crossed fingers on a steeply declining budget in local government.

The main concerns are about the financial provisions in the bill, as Rhoda Grant, Johann Lamont, Jackie Baillie and other members said. The bill will place additional duties and responsibilities on councils. Assessments alone will cost money and will need to be fully funded, but the consequences of assessment will place additional funding pressures on councils that are already at breaking point. Councils are not just down to the bone but well through the marrow and almost out the other side. The social care system,
social work departments and support workers are drowning under intense pressure, while budget cuts year on year threaten the services that civilise us as a society.

Jackson Carlaw talked about good practice in Motherwell. Good practice is going on and is welcome but at times that is happening despite the system, not because of it. My local authority, West Lothian Council, has had £89 million taken from it in the past six or seven years. Its budget is only £400 million but it has lost £89 million.

If there is not full funding for what the bill proposes and funding to replace what we have already lost, how can we provide the support services that carers, people who are cared for and their families need? Councils across Scotland are staring at more job losses and more service cuts. The Scottish Government has to get real about the crisis in local government finance; it has to stop pretending that that crisis will somehow go away and that we can give councils more responsibility while giving them less money.

A vital area that members mentioned is breaks. The debate on the issue will continue as the bill progresses through Parliament.

Members mentioned their local carers organisations, and I put on record my support for Carers of West Lothian, which has just moved into new premises. The organisation has helped thousands of carers across the county.

We will of course support the bill, but as it goes through the parliamentary process it must be strengthened and the financial issues must be resolved. As Johann Lamont said, a right is not a right if it is not enforceable. I whole-heartedly agree with her.

16:50

Jamie Hepburn: I thank all members for their contributions. This has been a very thoughtful debate. I agree with Jackson Carlaw that the debate has been very good, although I will try to be a little less technical in my summation than I was in my opening remarks. In the 10 minutes or so that is available to me, I am unlikely to be able to respond to every point that has been made, so I apologise for that in advance, but I will try to respond to as many points as I can.

The Government’s vision is for a flourishing, optimistic and innovative Scotland, and tackling inequalities and promoting equality of opportunity remain our major challenge. We want a Scotland where people have control over their lives and are empowered to make choices. Scotland’s carers have to be involved in that, I am sure that that is a common aspiration for us all.

In his thoughtful opening remarks, Duncan McNeil made the point that caring can be life affirming, but it can also have a negative impact on some carers. Whatever the circumstances, carers should enjoy the same opportunities in life as people who do not have caring responsibilities and they should be able to achieve their full potential as citizens. Linda Fabiani gave the example of people who are carers and who might need to be supported to stay in employment. The Carers (Scotland) Bill should work to support carers and better enable them to maintain a life alongside caring.

Rhoda Grant spoke of individual carers having differing needs. I agree with that, and it is why our approach has to be person centred. Rhoda Grant also made the fundamentally important point that carers must have the choice to care, and I also agree with that. That is why, as well as identifying a carer’s personal outcomes and needs, information about the extent to which the carer is willing and able to provide care should be in any adult carer support plan and young carer statement.

We have introduced the bill because we want to accelerate the pace of change and build on what has already been achieved. As I said in my opening speech, the bill introduces a number of provisions that are aimed at achieving the vision of supporting carers having a life alongside caring by extending their rights in law.

Johann Lamont: On the point about carers being entitled to a life with their carer role, and my point about people falling out of work because of lack of flexibility, what discussions has the minister had with the Cabinet Secretary for Fair Work, Skills and Training about the role of the fair work convention and whether any input on the needs of carers is being recognised in any discussion about what work should look like and how people can be supported?

Jamie Hepburn: I have no doubt that the fair work convention will consider the role of carers, but I am happy to explore that further with ministerial colleagues. The point that I am making here is that each carer is an individual human being and the assessment should be focused on their individual circumstances. If support to maintain employment is an assessed need, it should be contained in the assessment.

I welcome the universal support for the bill that has been expressed today. A number of members have suggested that we need to change the bill to improve it. During my time in the Parliament, I cannot remember a single bill that has stayed the same as it was when it was introduced. I have already committed to some changes and I hope that I have demonstrated my willingness to continue to consider and accommodate further
changes. Jackson Carlaw picked up my demeanour correctly; I am open to listening to any amendments that might be suggested and if I agree with them and think that they will be effective, I will support them.

Sandra White picked up on carer involvement in local carer strategies. Carer involvement runs throughout the bill and it contains a specific duty to take steps to involve carers when preparing and reviewing any local carer strategy. The provision is also contained in regulations under the Public Bodies (Joint Working) (Scotland) Act 2014. The point is fundamental.

Some members talked about their concern about the impact of an increase in demand that is associated with the widening of the definition of a carer. Johann Lamont and Nanette Milne picked up on that. However, the increase in demand will be accompanied by a more streamlined assessment process to develop the adult carer support plan and young carer support statement, and additional resources for local authorities will accompany the bill.

Rhoda Grant asked whether there could be a role for the third sector carers centres in particular to be involved in the assessment process. There is nothing in the bill to prevent that approach; indeed, we want to see innovation in this area.

Duncan McNeil and others raised issues to do with local eligibility criteria. I reassert that we will ensure that local eligibility criteria are informed by regulations—there will be national matters that steer local criteria—and I will work with carers organisations to inform those regulations. Duncan McNeil said that if we continue with the approach that we have set out in the bill, an assessment of the efficacy of that approach will be important. Neil Findlay made the important point that the key issue is that the approach has to be effective. As I set out in my response to the Health and Sport Committee’s stage 1 report, the arrangements for monitoring and assessing the implementation of the bill, including support provided to carers under local eligibility criteria, will be agreed with COSLA, individual local authorities, the national carers organisations and other key interests.

Linda Fabiani and Richard Simpson raised the issue of emergency planning and future planning. I agree that that is very important to carers, which is why I will lodge an amendment at stage 2 to provide that information about emergency planning must be contained in the adult carer support plan or the young carer statement. I recognise the particular importance of future planning to older carers. Sandra White spoke about older carers’ needs in her contribution. I intend to lodge an amendment to provide that the information and advice service must provide information about future planning as well as emergency planning. I will consider carefully how that information is shared with general practitioners, which Richard Simpson mentioned.

Johann Lamont raised issues to do with kinship carers. The bill will apply to kinship carers. Bob Doris made a point about the funding that has been agreed with COSLA and is in place to support parity between kinship carer and foster carer allowances.

Duncan McNeil, Sandra White and Rhoda Grant raised issues to do with short breaks. I assure Duncan McNeil that the process for consultation on and scrutiny of the regulations that we put in place will be as important to me as it is to him. I want us to get that right. Rhoda Grant asked what can constitute a short break. We need to be flexible, because short breaks can constitute a great many things; they can mean different things to different people. I agree with the point that the Health and Sport Committee made in its stage 1 report that guidance regarding the provision of short breaks should make clear “the importance of ensuring short breaks are tailored to the needs of the carer.”

Graeme Dey and Nanette Milne raised the issue of the transition from the caring role when it ends, which I know is an issue of importance to Marie Curie. I recognise that it can be difficult—even devastating—for an individual when their caring role comes to an end. The bill deliberately focuses on providing access to an adult carer support plan or a young carer statement in order to sustain the caring role, but I am of course aware that some local carers centres continue to support carers after their caring role ends. Graeme Dey and Johann Lamont spoke about good work in their areas in that regard. I would be very happy to explore how good practice on this issue can be shared in guidance.

Graeme Dey, Jim Hume and Nanette Milne raised the issue of timescales and asked why there is no national limit on the time taken to prepare an adult carer support plan or young carer statement. I agree that it is important for carers to have an indication of how long it might take to prepare an adult carer support plan or a young carer statement, which is why I have made provision requiring each local authority to set out the intended timescales for preparing such plans or statements as part of their local carer strategy. I hear the calls for us to look at that further and I am very happy to consider any proposal that is brought forward at a subsequent stage.

Jackie Baillie: I am conscious that time is running out and that there were substantial financial questions that carers organisations wanted answered.
Jamie Hepburn: I hope that I have addressed some of those substantive issues. I am also conscious of time and I will try to get on with this as quickly as I can.

We have moved in relation to the timescales for preparing plans for those caring for the terminally ill. We set out that matter in our response to the stage 1 report. I will not have time to respond to the issues about the named person and discharge, but I am happy to respond further at another time.

On the financial issues, which Jackie Baillie was driving at, let me be clear that the estimates presented in the financial memorandum to the bill were informed by comprehensive information provided by local authorities to date. Taking into account the work of the finance group, I have established that there is no evidence to suggest that the financial memorandum represents anything other than a robust assessment of the likely costs of the bill’s provisions. By 2021-22, we will be providing £88 million, including £63 million for direct support to carers. That is a substantial commitment to carers across Scotland, as is the bill, which I commend to Parliament.

Carers (Scotland) Bill: Financial Resolution

17:00

The Presiding Officer (Tricia Marwick): The next item of business is consideration of motion S4M-12890, in the name of John Swinney, on the financial resolution to the Carers (Scotland) Bill.

Motion moved,

That the Parliament agrees to the general principles of the Carers (Scotland) Bill—[Jamie Hepburn.]

The Presiding Officer: The question on the motion will be put at decision time.
Decision Time

17:01

The Presiding Officer (Tricia Marwick): There are four questions to be put as a result of today’s business. The first question is, that motion S4M-14702, in the name of Jamie Hepburn, on the Carers (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament agrees to the general principles of the Carers (Scotland) Bill.

The Presiding Officer: The next question is, that motion S4M-12890, in the name of John Swinney, on the financial resolution to the Carers (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Carers (Scotland) Bill, agrees to any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament’s Standing Orders arising in consequence of the Act.
Carers (Scotland) Bill

Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 39 — Schedule
Sections 40 and 41 — Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 6

Jamie Hepburn

1 In section 6, page 3, line 2, at end insert—
   <(1A) If a responsible local authority identifies a person as an adult carer, the responsible local
   authority must offer the person an adult carer support plan.>

Rhoda Grant

70 In section 6, page 3, line 3, after <must> insert <before the end of the relevant period>

Jamie Hepburn

2 In section 6, page 3, line 4, leave out <subsection (3) or> and insert <—
   (a) the person accepts an offer under subsection (1A), or
   (b) subsection>

Jamie Hepburn

3 In section 6, page 3, line 5, leave out subsection (3)

Nanette Milne

92 In section 6, page 3, line 10, after first <carer> insert <who may be in need of support>

Jamie Hepburn

4 In section 6, page 3, line 12, leave out <adult carer> and insert <cared-for person>

Rhoda Grant

71 In section 6, page 3, line 12, at end insert—
   <( ) In this section the relevant period means the period—
   (a) beginning with the day on which the person—>
(i) accepts the offer of a plan under subsection (1A), or
(ii) requests a plan under subsection (4),

(b) ending—

(i) in the case of an adult carer of a terminally ill cared-for person, at the end of a period of 2 weeks,
(ii) in all other cases, at the end of a period of 12 weeks.

After section 6

Jamie Hepburn
5  After section 6, insert—

<Adult carers of terminally ill cared-for persons>
(1) The Scottish Ministers may by regulations prescribe timescales for the preparation of adult carer support plans in relation to adult carers of terminally ill cared-for persons.
(2) For the purposes of this section and section (Young carers of terminally ill cared-for persons), a cared-for person is terminally ill at any time if at that time the person suffers from a progressive disease and death in consequence of that disease can reasonably be expected within 6 months.

Section 8

Rhoda Grant
72  In section 8, page 3, line 34, at end insert <including, where appropriate, the number of hours of care in each week that the carer is able and willing to provide.>

Jamie Hepburn
6  In section 8, page 3, line 34, at end insert—

<(  ) information about whether the adult carer has arrangements in place for the provision of care to the cared-for person in an emergency.>

Rhoda Grant
73  In section 8, page 3, line 34, at end insert—

<(  ) information about whether the adult carer has arrangements in place for the future care of the cared-for person.>

Jamie Hepburn
7  In section 8, page 4, line 4, at end insert—

<(  ) if the adult carer does not reside in the responsible local authority’s area, information about the support available to adult carers in the area where the adult carer resides,>
Section 11

Jamie Hepburn
8 In section 11, page 5, line 11, at end insert—
  <(1A) If a responsible authority identifies a person as a young carer, the responsible authority
  must offer the person a young carer statement.>

Rhoda Grant
74 In section 11, page 5, line 12, after <must> insert <before the end of the relevant period>

Jamie Hepburn
9 In section 11, page 5, line 13, leave out <subsection (3) or> and insert <—
  (a) the person accepts an offer under subsection (1A), or
  (b) subsection>

Jamie Hepburn
10 In section 11, page 5, line 14, leave out subsection (3)

Nanette Milne
93 In section 11, page 5, line 19, after first <carer> insert <who may be in need of support>

Jamie Hepburn
11 In section 11, page 5, line 22, leave out subsection (6)

Jamie Hepburn
12 In section 11, page 5, line 32, leave out <young carer> and insert <cared-for person>

Rhoda Grant
75 In section 11, page 5, line 32, insert at end—
  <( ) In this section the relevant period means the period—
    (a) beginning with the day on which the person—
      (i) accepts the offer of a plan under subsection (1A), or
      (ii) requests a plan under subsection (4),
    (b) ending—
      (i) in the case of a young carer of a terminally ill cared-for person, at the end
          of a period of 2 weeks,
      (ii) in all other cases, at the end of a period of 12 weeks.>
After section 11

Jamie Hepburn

13 After section 11, insert—

<Young carers of terminally ill cared-for persons>

The Scottish Ministers may by regulations prescribe timescales for the preparation of young carer statements in relation to young carers of terminally ill cared-for persons.>

Section 13

Rhoda Grant

76 In section 13, page 6, line 18, at end insert <including, where appropriate, the number of hours of care in each week that the young carer is able and willing to provide,>

Jamie Hepburn

14 In section 13, page 6, line 20, at end insert—

<(  ) information about whether the young carer has arrangements in place for the provision of care to the cared-for person in an emergency,>

Rhoda Grant

77 In section 13, page 6, line 20, at end insert—

<(  ) information about whether the young carer has arrangements in place for the future care of the cared-for person,>

Jamie Hepburn

15 In section 13, page 6, line 28, at end insert—

<(  ) if the young carer does not reside in the responsible local authority’s area, information about the support available to young carers in the area where the young carer resides,>

Section 15

Rhoda Grant

94 In section 15, page 7, line 22, leave out <the persons mentioned in subsection (2)> and insert <—

(a) the young carer to whom the young carer statement relates>

Rhoda Grant

95 In section 15, page 7, line 23, at end insert—

<(b) the young carer’s named person with notification that a young carer statement or, as the case may be, revised statement has been prepared in relation to the young carer,>
In section 15, page 7, line 24, leave out subsection (2)

In section 15, page 7, leave out line 26

In section 15, page 7, line 29, after <information> insert <under subsection (1)(a)>

In section 15, page 7, line 30, leave out <is> and insert <and notification are>

After section 15

After section 15, insert—

<Young carer statement: provision of information to other persons>

(1) A responsible authority must provide such information contained in the young carer statement to such other person as the young carer requests.

(2) Subsection (1) does not apply to the extent that the responsible authority considers that provision of the information would not be appropriate.

After section 18

After section 18, insert—

<CHAPTER

PROCEDURE FOR REFERRAL

Procedure for referral

(1) The Scottish Ministers may by regulations make provision about the procedure for referral of a carer—

(a) in the case where a Scottish public authority other than the responsible local authority identifies a person as an adult carer, to the responsible local authority,

(b) in the case where a Scottish public authority other than the responsible authority identifies a person as a young carer, to the responsible authority.

(2) In this section—

“responsible authority” has the meaning given in sections 17 and 18,

“responsible local authority” has the meaning given in section 6(5),

“Scottish public authority” means a person listed in schedule 1 to the Freedom of Information (Scotland) Act 2002.>
Section 19

Rhoda Grant

In section 19, page 9, line 14, after <criteria> insert —

(a) ensure that all carers in its area falling within a description as the Scottish Ministers must by regulations specify are entitled to support,

(b)

Rhoda Grant

In section 19, page 9, line 15, after <such> insert <other>

Section 22

Jamie Hepburn

In section 22, page 10, line 17, leave out <assistance provided> and insert <assistance—

(a) provided to the cared-for person (other than care provided by virtue of section 23 in order to provide the carer with a break from caring), or

(b) provided>

Jamie Hepburn

In section 22, page 10, line 17, after <authority> insert <or, where the carer does not reside in the area of that authority, in the area where the carer resides>

Jamie Hepburn

In section 22, page 10, line 32, leave out <carer> and insert <cared-for person>

Section 23

Nanette Milne

In section 23, page 10, line 36, at end insert —

<( )> Each local authority must ensure that, so far as is reasonably practicable, it provides or makes arrangements for the provision of a sufficient range and extent of support services such that, where it considers that support to a carer should take the form of or include a break from caring, the carer receives sufficient short breaks to enable the carer to continue to provide care or to do so more effectively.>

Jamie Hepburn

In section 23, page 11, line 3, leave out <replacement care or other services or assistance to> and insert <care for>

Jamie Hepburn

In section 23, page 11, line 5, leave out <or those services or assistance are> and insert <is>
Jamie Hepburn
22 In section 23, page 11, leave out lines 7 and 8

Jamie Hepburn
23 In section 23, page 11, line 9, leave out <under> and insert <by virtue of>

Rhoda Grant
79 In section 23, page 11, line 10, at end insert—

<() In this section references to a break from caring are to a break the primary purpose of which is for the benefit of the carer.>

After section 24

Rhoda Grant
80 After section 24, insert—

<Eligibility for support: review>

(1) Subsection (2) applies where a responsible local authority determines under section 22(2) that all or any of a carer’s identified needs are not eligible needs.

(2) On the request of the carer, the responsible local authority must review the question of whether the carer’s identified needs as specified in the request are eligible needs.

(3) The Scottish Ministers may by regulations make provision about—

(a) how a request for review under subsection (2) is to be made,

(b) the timescales for—

(i) making a request for review,

(ii) determining a review, which must be a period of no more than 6 weeks,

(iii) an expedited procedure for determining a review in relation to carers of terminally ill cared-for persons, which must be a period of no more than 1 week.>

Rhoda Grant
81 After section 24, insert—

<Chapter
Scrubiny of support services provided to carers

Scruty of support services provided to carers

(1) Schedule 12 (care services: definitions) to the Public Services Reform (Scotland) Act 2010 is amended as follows.

(2) In paragraph 1—

(a) in sub-paragraph (1), for the words from “provided” to “that person” where it third occurs substitute “of a type mentioned in sub-paragraph (1A) provided”,

(b) after sub-paragraph (1) insert—
“(1A) The service types referred to in sub-paragraph (1) are—

(a) a service provided, by reason of a person’s vulnerability or need (other than vulnerability or need arising by reason only of that person being of a young age), to that person or to someone (‘a carer’) who cares for that person;

(b) a service provided to a carer, to enable the carer to provide or continue to provide care for that person.”.

Section 25

Nanette Milne

103 In section 25, page 11, line 36, at end insert—

<( ) Each health board must in particular take such steps as it considers appropriate to ensure—

(a) that when planning the discharge of a person from hospital it—

(i) informs any carer who provides, or intends to provide, care for that person of the planned discharge,

(ii) involves any such carer in planning the discharge, and

(iii) takes account of the views of any such carer in making decisions about the discharge of the person, and

(b) that such planning begins as soon as reasonably practicable after the admission of the person to hospital.>

Section 27

Jamie Hepburn

24 In section 27, page 12, line 24, leave out <of>

Section 28

Jamie Hepburn

25 In section 28, page 14, line 4, leave out <must> and insert <and relevant health board must jointly>

Jamie Hepburn

26 In section 28, page 14, line 5, leave out <prepared by a local authority>

Jamie Hepburn

27 In section 28, page 14, line 6, leave out <the authority’s>

Jamie Hepburn

28 In section 28, page 14, line 6, leave out <carers in its area> and insert <relevant carers>
Jamie Hepburn

29 In section 28, page 14, line 7, after second <provide> insert <to cared-for persons in the local authority’s area>

Jamie Hepburn

30 In section 28, page 14, line 8, leave out <the authority’s> and insert <an>

Jamie Hepburn

31 In section 28, page 14, line 8, leave out <carers in its area> and insert <relevant carers>

Jamie Hepburn

32 In section 28, page 14, line 9, after <to> insert <relevant>

Jamie Hepburn

33 In section 28, page 14, line 10, leave out <itself>

Jamie Hepburn

34 In section 28, page 14, line 12, leave out <local authority considers> and insert <authority and relevant health board consider>

Jamie Hepburn

35 In section 28, page 14, line 13, leave out <the authority’s> and insert <an>

Jamie Hepburn

36 In section 28, page 14, line 13, leave out <carers in its area> and insert <relevant carers>

Jamie Hepburn

37 In section 28, page 14, line 15, leave out <the authority’s>

Jamie Hepburn

38 In section 28, page 14, line 15, leave out <carers in its area> and insert <relevant carers>

Rhoda Grant

82 In section 28, page 14, line 15, at end insert—

<( ) plans for—

(i) contributing towards preventing or delaying the development by relevant carers of needs for support,

(ii) reducing the needs for support of relevant carers,>

Rhoda Grant

104 In section 28, page 14, line 15, at end insert—
<( ) plans for meeting the equality duty in making provision for relevant carers, including in assessing the needs of relevant carers who share a relevant protected characteristic,>

**Rhoda Grant**

83 In section 28, page 14, leave out lines 16 and 17

**Jamie Hepburn**

39 In section 28, page 14, line 16, leave out <authority’s>

**Jamie Hepburn**

40 In section 28, page 14, line 18, leave out <considers> and insert <and relevant health board consider>

**Jamie Hepburn**

41 In section 28, page 14, line 21, leave out <its local carer strategy, a local authority must> and insert <a local carer strategy, the local authority and the relevant health board must jointly>

**Jamie Hepburn**

42 In section 28, page 14, leave out line 23

**Rhoda Grant**

84 In section 28, page 14, line 23, at end insert—

<( ) a relevant post-16 education body,>

**Jamie Hepburn**

43 In section 28, page 14, line 24, leave out <the local authority considers> and insert <they consider>

**Jamie Hepburn**

44 In section 28, page 14, line 26, leave out <it considers> and insert <they consider>

**Jamie Hepburn**

45 In section 28, page 14, line 26, after <involve> insert <relevant>

**Jamie Hepburn**

46 In section 28, page 14, line 26, at end insert—

<(4A) In this section “relevant carers” means—

(a) carers who reside in the area of a local authority (whether or not they provide or intend to provide care for cared-for persons in that area), and

(b) carers who do not reside in the authority’s area but who provide or intend to provide care to cared-for persons in that area.>
Rhoda Grant

105 In section 28, page 14, line 27, after <Part> insert —
   “the equality duty” means the duty of a local authority and a health board to have, in the exercise of its functions, due regard to the needs mentioned in section 149(1) of the Equality Act 2010,>

Jamie Hepburn

47 In section 28, page 14, line 27, after <board”> insert <, in relation to a local authority,>

Rhoda Grant

85 In section 28, page 14, line 31, at end insert—
   <“relevant post-16 education body” means a body within the area of the local authority which is a “post-16 education body” for the purposes of the Further and Higher Education (Scotland) Act 2005.>

Rhoda Grant

106 In section 28, page 14, line 31, at end insert—
   “relevant protected characteristic” is to be construed in accordance with section 149(7) of the Equality Act 2010.>

Section 29

Jamie Hepburn

48 In section 29, page 14, line 33, leave out <its local carer strategy, a local authority> and insert <a local carer strategy, the local authority and the relevant health board>

Jamie Hepburn

49 In section 29, page 15, line 9, leave out <considers> and insert <and relevant health board consider>

Section 30

Jamie Hepburn

50 In section 30, page 15, line 11, leave out <must publish its> and insert <and relevant health board must jointly publish their>

Jamie Hepburn

51 In section 30, page 15, line 15, after <authority> insert <and relevant health board>

Jamie Hepburn

52 In section 30, page 15, line 16, leave out <review its> and insert <jointly review their>
In section 30, page 15, line 19, after <authority> insert <and relevant health board>.

In section 30, page 15, line 20, leave out <its> and insert <their>.

In section 30, page 15, line 22, leave out <its> and insert <their>.

In section 30, page 15, line 23, after <authority> insert <and relevant health board>.

In section 30, page 15, line 25, leave out <it does> and insert <they do>.

In section 31, page 15, line 33, after <maintain> insert <, or ensure the establishment and maintenance of,>.

In section 31, page 15, line 34, leave out <carers in its area> and insert <relevant carers>.

In section 31, page 15, line 36, at beginning insert <the carers’ charter, including>.

In section 31, page 16, line 3, at end insert —

<(  ) emergency care planning and future care planning for carers.>.

In section 31, page 16, line 3, at end insert —

<(  ) bereavement support for carers.>.

In section 31, page 16, line 5, at end insert —

<(  ) In this section “relevant carers” has the meaning given by section 28(4A).>.
After section 32

Rhoda Grant

88 After section 32, insert—

<Carers’ charter>

Carers’ charter

(1) The Scottish Ministers must prepare a carers’ charter.

(2) A carers’ charter is a document setting out the rights of carers as provided for—

(a) in or under this Act,

(b) under any other enactment.

(3) The Scottish Ministers may from time to time revise the charter prepared under subsection (1).

(4) The Scottish Ministers must—

(a) before preparing the charter under subsection (1) or revising it under subsection (3)—

(i) consult such persons and bodies representative of carers as the Scottish Ministers consider appropriate,

(ii) take such steps as they consider appropriate to involve carers,

(b) lay the charter or revised charter before the Scottish Parliament, and

(c) publish the charter or revised charter in such manner as they consider appropriate.

Rhoda Grant

107 After section 32, insert—

<Register of carers>

Register of carers

Each health board must make arrangements for—

(a) the development and maintenance of a register of carers in its area, and

(b) the offer and provision of an annual health check to each carer listed on the register.

After section 33

Jamie Hepburn

62 After section 33, insert—

<Guidance and directions to health boards and directing authorities>

(1) Each health board and each directing authority must have regard to any guidance issued by the Scottish Ministers about the exercise of functions conferred by this Act.

(2) The Scottish Ministers may issue directions to health boards and directing authorities, either individually or collectively, about the exercise of functions conferred by this Act.
(3) Each health board must comply with any direction issued to it under this section.
(4) Each directing authority must comply with any direction issued to it under this section.

Section 36

Jamie Hepburn

63 In section 36, page 17, leave out lines 29 to 34 and insert <, in relation to a carer, means the local 
authority for the area in which the cared-for person resides.>

Jamie Hepburn

64 In section 36, page 17, line 34, at end insert—
   <“terminally ill”, in relation to a cared-for person, has the meaning given by section
   (Adult carers of terminally ill cared-for persons)(2).>

Rhoda Grant

89 In section 36, page 17, line 38, at end insert—
   <( ) In this Act a cared-for person is terminally ill at any time if at that time the person
   suffers from a progressive disease and death in consequence of that disease can
   reasonably be expected within 6 months.>

Section 37

Jamie Hepburn

65 In section 37, page 18, line 7, at end insert—
   <( ) section 1(3).>

Jamie Hepburn

66 In section 37, page 18, line 7, at end insert—
   <( ) section (Adult carers of terminally ill cared-for persons)(1).>

Jamie Hepburn

67 In section 37, page 18, line 8, at end insert—
   <( ) section (Young carers of terminally ill cared-for persons).>

Rhoda Grant

90 In section 37, page 18, line 9, at end insert—
   <( ) section (Procedure for referral)(1).>
Jamie Hepburn

68 In section 37, page 18, line 11, at end insert—

<(  ) section 23(2),> 

Rhoda Grant

91 In section 37, page 18, line 11, at end insert—

<(  ) section (Eligibility for support: review)(3),> 

Schedule

Jamie Hepburn

69 In the schedule, page 19, line 13, at end insert—

<Public Services Reform (Scotland) Act 2010

In schedule 13 of the Public Services Reform (Scotland) Act 2010, after the entry relating to the Adoption and Children (Scotland) Act 2007, insert—

“Carers (Scotland) Act 2015”>
Carers (Scotland) Bill

Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

**Groupings of amendments**

**Duty to offer and prepare adult carer support plan and young carer statement**
1, 2, 3, 92, 8, 9, 10, 93

**Timescales for preparation of adult carer support plan and young carer statement**
70, 71, 5, 74, 75, 13, 83, 64, 89, 66, 67

*Notes on amendments in this group*
Amendment 83 pre-empts amendment 39 in group “Responsibility for preparation of local carer strategy”

**Identity of responsible local authority where carer and cared-for person in different areas**
4, 7, 12, 15, 18, 19, 28, 29, 31, 32, 36, 38, 45, 46, 59, 61, 63

**Content of adult carer support plan and young carer statement: hours of care**
72, 76

**Emergency and future care planning**
6, 73, 14, 77, 60

**Provision of information in or about young carer statement**
11, 94, 95, 96, 16, 97, 98, 99

*Notes on amendments in this group*
Amendment 96 pre-empts amendment 16

**Referral of carers to appropriate authority**
78, 90
Local eligibility criteria
100, 101

Provision of support to carer: breaks from caring
17, 102, 20, 21, 22, 23, 79, 68

Eligibility for support: review
80, 91

Functions of the Care Inspectorate
81, 69

Carer involvement
103, 24

Responsibility for preparation of local carer strategy
25, 26, 27, 30, 33, 34, 35, 37, 39, 40, 41, 42, 43, 44, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57

Notes on amendments in this group
Amendment 39 is pre-empted by amendment 83 in group “Timescales for preparation of adult carer support plan and young carer statement”

Content of local carer strategy
82, 104, 105, 106

Local carer strategy: duty to consult post-16 education bodies
84, 85

Information and advice service for carers
58

Carers’ charter
86, 88

Information and advice service – bereavement support
87

Register of carers
107

Guidance and directions to health boards and directing authorities
62

Procedure for regulations under section 1(3)
65
HEALTH AND SPORT COMMITTEE

EXTRACT FROM THE MINUTES

32nd Meeting, 2015 (Session 4)

TUESDAY 24 NOVEMBER 2015

Present:

Malcolm Chisholm
Colin Keir
Mike MacKenzie
Nanette Milne
Rhoda Grant
Richard Lyle
Duncan McNeil (Convener)
Dennis Robertson

Apologies were received from Bob Doris (Deputy Convener).

Carers (Scotland) Bill: The Committee considered the Bill at Stage 2 (Day 1).

The following amendments were agreed to (without division): 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24.

Amendment 103 was agreed to (by division: For 4, Against 4, Abstentions 0; amendment agreed to on casting vote).

Amendment 100 was disagreed to (by division: For 4, Against 4, Abstentions 0; amendment disagreed to on casting vote).

The following amendments were moved and, no member having objected, withdrawn: 70, 72, 78, 80 and 81.

The following amendments were not moved: 92, 71, 73, 74, 93, 75, 76, 77, 94, 95, 96, 97, 98, 99, 101, 102 and 79.

The following provisions were agreed to without amendment: sections 1, 2, 3, 4, 5, 7, 9, 10, 12, 14, 16, 17, 18, 19, 20, 21, 24 and 26.

The following provisions were agreed to as amended: sections 6, 8, 11, 13, 15, 22, 23, 25 and 27.

The Committee ended consideration of the Bill for the day section 27 having been agreed to.
Scottish Parliament

Health and Sport Committee

Tuesday 24 November 2015

[The Convener opened the meeting at 09:30]

Carers (Scotland) Bill: Stage 2

The Convener (Duncan McNeil): Good morning and welcome to the 32nd meeting in 2015 of the Health and Sport Committee. As I usually do at this point, I ask everyone to switch off mobile phones, as they can interfere with the sound system. I also note that members are using tablet devices instead of hard copies of the papers.

We have received apologies from Bob Doris, and we expect Mike Russell to join the committee at some point.

The first item on the agenda is stage 2 consideration of the Carers (Scotland) Bill. We have with us the Minister for Sport, Health Improvement and Mental Health, Jamie Hepburn—I welcome him—and from the Scottish Government’s bill team Moira Oliphant, team leader; Lynn Lavery, delivery manager; Ruth Lunny, a lawyer; and Ian Young, depute Scottish parliamentary counsel.

Everyone should have with them a copy of the bill, as introduced, the marshalled list of amendments, which was published on Friday, and the groupings of amendments, which sets out the amendments in the order in which they will be debated.

There will be one debate on each group of amendments. I will call the member who lodged the first amendment in the group to speak to and move that amendment, and to speak to all the other amendments in the group. Members who have not lodged amendments in the group but who wish to speak should indicate in the usual way. The debate on the group will be concluded by my inviting the member who moved the first amendment in the group to wind up.

Given that we will not dispose of all the amendments at today’s meeting, I propose to finish this item around 11 am. Any outstanding amendments will be considered at next week’s meeting.

Only committee members are allowed to vote. Voting in any division is by show of hands. It is important that members keep their hands clearly raised until the clerk has recorded the vote. The committee is required to indicate formally that it has considered and agreed each section of and schedule to the bill, so I will put a question on each at the appropriate point.

Sections 1 to 5 agreed to.

Section 6—Duty to prepare adult carer support plan

The Convener: Amendment 1, in the name of the minister, is grouped with amendments 2, 3, 92, 8 to 10 and 93.

The Minister for Sport, Health Improvement and Mental Health (Jamie Hepburn): I am very happy to be here for stage 2 of the Carers (Scotland) Bill, and I place on record my thanks to the committee for all its work at stage 1.

As the provisions in sections 6 and 11 are currently drafted, they could imply that there are circumstances in which the duty to offer a person an adult carer support plan does not apply or does not have to be fulfilled. For example, if the responsible local authority or responsible authority is simply asked by a carer for direction to low-level support services that are available generally in an area, such as information and advice services, the duty to offer an adult carer support plan or young carer statement does not apply or require to be fulfilled.

Amendments 1 to 3 and 8 to 10 put beyond doubt that, once a person has been identified to or by a responsible local authority as a carer or young carer, that identification in itself triggers a separate duty on the authority to offer that carer an adult carer support plan. It is the acceptance of that offer of a support plan that triggers a subsequent duty to prepare the relevant support plan or young carer statement.

I turn to amendments 92 and 93. It was clear in the original consultation on the bill that the vast majority of respondents, including many local authorities, favoured the support plan being available to all carers. Even now, a number of local authorities do not use the test to see whether a carer offers regular and substantial care, which is the statutory requirement now, and offer the carer’s assessment to all carers. Therefore, we have removed what is called the regular and substantial test in the current legislation, whereby only carers who provide or intend to provide a substantial amount of care on a regular basis are eligible for the carer’s assessment.

I am not inclined to introduce another way to regulate demand, which would seem to be the intended effect of amendments 92 and 93. I understand that there will be increased demand for the adult carer support plan and the young carer statement, and that is a good thing. It is a preventive measure so that carers can be assessed early in the caring journey. Even if a carer does not require any support to meet the
identified needs, the process for a good-quality, empathetic support plan or statement is beneficial in itself.

The support plan and statement process also helps to identify carers who, even if they do not need support now, may need support in future. I do not think that amendments 92 and 93 would save resources, if that is why they have been lodged. There would have to be an assessment process in order to determine whether a carer is in need of support. On that basis, I respectfully ask Nanette Milne not to move amendments 92 and 93.

I move amendment 1.

Nanette Milne (North East Scotland) (Con): Amendment 92 applies to adult carers, and amendment 93 would have the same impact for young carers. The amendments, which have been suggested by the Convention of Scottish Local Authorities, aim to construct a means of ensuring that assessment and support are targeted at those for whom caring has the greatest impact on their ability to maintain their health and wellbeing and lead a life alongside caring. They would allow councils to manage demand for assessment, with reference to the eligibility criteria that the bill requires councils to publish in consultation with carers and carer organisations. That would ensure that assessment resources are targeted at those with the greatest need and would prevent resources from being lost on applicants who cannot be granted a support plan.

COSLA reasons that, as the bill is currently drafted, prioritising comes later, in sections 19 and 22. COSLA would like another layer of prioritising to be introduced, which would come earlier, at the assessment stage covered by sections 6 and 11. It would not replace sections 19 and 22 but would sit alongside them, giving a two-stage process. That would allow prioritisation of those who will receive the full adult carer support plan or young carer statement provided for in sections 6 and 11, if amended, followed by those who will be eligible for support services, as provided for in sections 19 and 22.

Rhoda Grant (Highlands and Islands) (Lab): I have sympathy with what Nanette Milne is trying to do but I am concerned that it would stop carers getting an assessment when they require it. A real issue that is not dealt with by the bill is how to prioritise carers. We all know, from casework, that there are carers who are on the verge of breakdown. They need to be given priority, especially in the early stages of implementation of the bill. If we do not give them priority, the risk is that some carers will break down, while others, who may not have the same need, are seen first.

At the same time, I am not minded to support Nanette Milne’s amendments because I think that they could be used as a loophole not to provide carers with the assessment that they may need. However, I am keen that, especially in the early stages of the bill, some kind of priority should be given to those in most need.

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): I, too, am not minded to support Nanette Milne’s amendments. However, I have talked to COSLA about them and I understand its concerns. It comes down to the financial implications. Although I cannot claim to be totally on top of the twists and turns of the financial memorandum, it would be useful to have a comment on the financial implications of assessing everyone, because I think that that is pretty central to COSLA’s concerns. Nevertheless, I will not support amendments 92 and 93 because they seem to contradict a fundamental principle of the bill.

The Convener: No other members want to speak but I have one small point that the minister might want to address in his response. Some carers also expressed concern that they would see a shift in priorities; it was not just COSLA and others. If you could say something about that, minister, that would be great.

Jamie Hepburn: I will pick up on what has been said. On Mr Chisholm’s comments, I have been clear through the entire process that, as far as we are concerned, the financial memorandum is the most robust estimate that we can make. It was based on all available information, much of which has come from local authorities. We have established a finance group to keep looking at the assumptions that have been made thus far. I am not aware of the group having brought forward any evidence that would cause me to question the assumptions in the financial memorandum.

I accept that case loads will still need to be prioritised once we have legislated, as I hope we will, albeit with my amendments to what is in the bill. I know that carers have raised the issue as well and that you, convener, have been pursuing it. It will be incumbent on us to make clear in guidance how prioritisation should be taken forward. It is not beyond local authorities to prioritise their case loads. We are already responding to certain circumstances and later will debate some amendments regarding carers for people who are deemed to be terminally ill and prioritisation in that respect. We can respond to such concerns.

It will come down to having robust guidance and I am happy to speak to any member about their particular concerns, as that could help to influence the guidance that we propose. We will also speak to the national carer organisations and COSLA.
At the end of the day, this comes down to the fundamental point that I made at the outset and that Nanette Milne’s amendments would move the bill away from, which is the importance of offering the process to all carers. That is our ethos in the bill.

On that basis, I urge the committee to support my amendments. I ask Nanette Milne not to move her amendments and, if she does, I ask the committee not to support them.

Amendment 1 agreed to.

The Convener: Amendment 70, in the name of Rhoda Grant, is grouped with amendments 71, 5, 74, 75, 13, 83, 64, 89, 66 and 67. If amendment 83 is agreed to, amendment 39 cannot be called.

Rhoda Grant: Amendments 70 and 71 would put into the bill the timescale within which an adult carer’s assessment must be completed. A different timescale would be set for people who are caring for someone who is terminally ill, which recognises that time is limited and carers will be facing a quickly changing situation that will also be emotionally stressful for them. It is important that they receive support quickly and that their support changes to meet their changing needs.

Amendments 74 and 75 would make similar amendments for the young carer statement, ensuring a timeframe for an assessment and an expedited process for those who are caring for someone who has a terminal illness.

The Government has lodged alternative amendments in respect of carers who are terminally ill only, giving them the power to set the timescales in guidance. I would like to learn what the Government thinks those timescales should be. I would also like to know why the Government has not put down a timescale for carers of people who are not terminally ill, because there should be a maximum wait.

Amendments 83 and 89 are consequential amendments that provide a definition of “terminally ill”, which is very similar to the one that the minister has proposed.

I move amendment 70.

The Convener: The minister will speak to amendment 5 and all other amendments in the group.

Jamie Hepburn: Thank you, convener, and I thank Ms Grant for lodging her amendments. I am concerned that setting timescales for the preparation of all adult carer support plans and young carer statements would result in local authorities having to use much of their resources to prepare plans within set timescales. That could limit the resources that might otherwise be available for the provision of support and there is also a risk that local authorities’ focus might shift from being on the completion of good-quality plans. For some carers, the preparation of a plan will be an iterative process, rather than a one-off intervention.

The discussion that we have just had about the need to prioritise case loads is germane to the present discussion about setting hard and fast timescales. Such timescales could cause local authorities difficulties.

09:45

I understand, however, that carers want to have an indication of approximately how long it will take to prepare an adult carer support plan. Ms Grant suggests that there is nothing on the face of the bill about that. That is not quite the case: there is a provision at section 28(2)(f) that a local carer strategy must set out

“the authority’s intended timescales for preparing adult carer support plans and young carer statements”.

I also agree with Ms Grant that there is merit in prioritising the preparation of an adult carer support plan or young carer statement for those carers who are caring for someone who is terminally ill. I thank Marie Curie for its suggestion about that.

I undertook in response to the committee’s stage 1 report to lodge amendments to legislate for that. Amendments 5 and 13 introduce additional regulation-making powers for Scottish ministers so that timescales can be set for the preparation of adult carer support plans and young carer statements where the cared-for person is terminally ill.

Amendments 66 and 67 add the regulation-making powers to the list at section 37(2). The regulations made under that power are subject to the affirmative procedure. There are a number of significant issues that need to be resolved and set out in both regulations and guidance. It is therefore right that the regulations are subject to the affirmative procedure so that they receive due parliamentary scrutiny.

Amendments 5 and 13 also introduce a definition of terminal illness. The definition is taken from that set out in section 66(2)(a) of the Social Security Contributions and Benefits Act 1992 on attendance allowance for the terminally ill. It states:

“a person is ‘terminally ill’ at any time if at that time he suffers from a progressive disease and his death in consequence of that disease can reasonably be expected within 6 months”.

Ms Grant asked about how we might use the regulations. It is important that we get them right. I have not got a specific timescale in mind. It is
important that the Administration consults those who will be interested in the matter, such as COSLA, individual local authorities and the national carers organisations. I am also committed to involving the committee in that process.

On that basis, I ask the committee to support amendment 5 and the other amendments in my name in the group and I urge Ms Grant to withdraw amendment 70 and not to move the other amendments in her name.

The Convener: I call Rhoda Grant to wind up and press or withdraw her amendment.

Rhoda Grant: I am grateful for the explanations given, although I am concerned that we do not have a timescale for the assessment of carers who are looking after someone who is terminally ill.

I seek leave to withdraw amendment 70. I will have further talks with the minister to try to get some reassurance on that point and to discuss the timescales for carer assessments for those who are not terminally ill.

Amendment 70, by agreement, withdrawn.

Amendments 2 and 3 moved—[Jamie Hepburn]—and agreed to.

Amendment 92 not moved.

The Convener: Amendment 4, in the name of the minister, is grouped with amendments 7, 12, 15, 18, 19, 28, 29, 31, 32, 36, 38, 45, 46, 59, 61 and 63.

Jamie Hepburn: The bill currently provides that in most cases the local authority for the area where the carer resides is responsible for preparing the adult carer support plan and young carer statement and for providing support under both.

During stage 1, the committee heard concerns from COSLA and local authorities that it would be difficult to consider the adult carer support plan and young carer statement alongside the cared-for person’s assessment, if the plan and statement were prepared and support was administered under them by different local authorities from those that were administering the cared-for person’s assessment. Taking that into account, I have lodged amendment 4 to amend the definition of “responsible local authority” so that responsibility for preparing the adult carer support plan will lie with the local authority where the cared-for person resides. With regard to young carers, in order to align with arrangements for the administration of the child’s plan as set out in the Children and Young People (Scotland) Act 2014, the local authority where the young carer resides, or in some cases the health board or directing authority, will continue to have responsibility for preparing the young carer statement.

Amendment 12 changes the “responsible local authority” referred to in section 11(7), which must agree and administer any support under a young carer statement, from the local authority where the young carer resides to the one where the cared-for person resides. That means that, for the small number of cases in which the young person and the person whom they care for do not live in the same local authority area, it is expected that both the responsible local authorities will work with each other to ensure a co-ordinated approach. Both amendments will enable local authorities to create complementary packages of support that meet the support needs of both the adult carer or young carer and the person whom they care for.

Amendments 7 and 15, which are consequential on amendments 4 and 12, make it clear that where the adult carer or young carer does not reside in the same local authority area as the person whom they care for, information about support will be available to the adult carer or young carer in the area where they live, and will also be included in the adult carer support plan or young carer statement. Amendments 18 and 19 are also consequential on amendments 4 and 12.

Amendments 28, 29, 31, 32, 36, 38 and 45, which make amendments to section 28 on local carer strategies, are consequential on the changes to sections 6 and 11 made by amendments 4 and 12. Those amendments will result in the local carer strategy being prepared for what are termed “relevant carers”—in other words, carers who reside in the area of a local authority, whether or not they provide or intend to provide care for cared-for persons in that area, and carers who do not reside in the authority’s area but who provide or intend to provide care to cared-for persons in that area. Amendment 46 provides the definition of “relevant carers”.

Amendment 59 has a similar effect to the amendments on local carer strategies by amending section 31(1), which relates to the information and advice service, to ensure that local authorities establish and maintain an information and advice service for relevant carers. Amendment 61 provides the definition of “relevant carers” for the purposes of section 31 by referring to the definition that I propose to insert into section 28 through amendment 46.

Finally, amendment 63 is consequential on amendments 4 and 12 and amends the definition of “responsible local authority” in section 36, which sets out how various terms in the bill are to be interpreted.

I move amendment 4.

Amendment 4 agreed to.
Amendment 71 not moved.

Section 6, as amended, agreed to.

After section 6

Amendment 5 moved—[Jamie Hepburn]—and agreed to.

Section 7 agreed to.

Section 8—Content of adult carer support plan

The Convener: Amendment 72, in the name of Rhoda Grant, is grouped with amendment 76.

Rhoda Grant: Amendment 72 gives the adult carer control over their caring role by stipulating that the adult carer support plan must indicate the hours and time that the carer is willing to commit to caring, and amendment 76 gives similar control to young carers. Carers often tell me that they have no choice about their caring role—they are expected to take it on, often to the detriment of their own work or education—and these amendments will ensure that carers have choices about their caring commitments and will allow them to continue to work or attend school, college or university.

I move amendment 72.

Jamie Hepburn: I thank Rhoda Grant for lodging amendments 72 and 76. As she has explained, they stipulate that the number of hours a week for which the adult carer or young carer “is able and willing to provide care” must be included in the information contained in the adult carer support plan or the young carer statement. However, section 8(1)(b) and section 13(1)(b) of the bill already provide that the adult carer support plan and young carer statement must contain “information about the extent to which” the adult carer or young carer “is able and willing to provide care for the cared-for person”, which I believe takes account of the not unreasonable concerns that Rhoda Grant has expressed. Those particular sections already allow for the number of hours for which the carer is willing to provide care to be included in the adult carer support plan and young carer statement if that information is considered to be relevant and appropriate to the individual carer.

In any case, the adult carer support plan or young carer statement is personal to the carer and relevant to their personal circumstances, which can change in respect of the nature of the care provided and the amount of time devoted to caring. There might be circumstances in which the nature of the caring role makes it difficult to quantify the amount of time that is devoted to caring, such as where a person provides care to more than one person or where the circumstances of the cared-for person are such that the hours of care that they require differ from week to week. It is therefore not appropriate for a carer to have to specify the number of hours they are willing and able to provide care in each and every circumstance.

I recognise the concerns that have caused Rhoda Grant to lodge her amendments. However, the bill as worded should take account of them, because it already provides for the need to establish the extent to which the adult carer or young carer is willing and able to provide care for the cared-for person. I therefore ask Rhoda Grant to withdraw amendment 72 and not to move amendment 76, but in so doing, I make it clear that I am happy to speak to her on this matter to see whether I can reassure her about the provisions in the bill or, if some change is indeed needed, to discuss that with her to see whether we can agree a way forward.

Rhoda Grant: I think that everyone agrees that it is really important that carers have a choice about their caring role and that they are able to continue with their lives. However, I have heard what the minister has said, and I will take him up on his offer of further discussions on the issue.

I will therefore withdraw amendment 72 and not move amendment 76.

Amendment 72, by agreement, withdrawn.

The Convener: Amendment 6, in the name of the minister, is grouped with amendments 73, 14, 77 and 60.

Jamie Hepburn: Enable Scotland and others have raised concerns that the bill as worded does not take account of carers who might, for a number of reasons such as illness, find themselves unable to care for the person who usually relies on them for support. Understandably, that can be a huge source of anxiety and concern for carers, as the safety and support of the people for whom they care is of paramount importance.

In order to address that issue, as I said I would in response to the committee’s stage 1 report, I have lodged amendments 6 and 14, which amend sections 8(1) and 13(1) respectively to provide that the adult carer support plan and young carer statement must contain information about emergency planning. That means that as part of the adult carer support plan and young carer statement process the carer will be asked whether they have in place arrangements for the provision of care that they would normally provide to the cared-for person if an emergency should arise,
and that information will have to be recorded as part of the adult carer support plan or young carer statement.

Amendments 73 and 77, lodged by Rhoda Grant, seek to amend sections 8(1) and 13(1) to ensure that the adult carer support plan and young carer statement contain

“information about whether the adult carer has arrangements in place for the future care of the cared-for person”.

I believe that that approach has some merit. The bill might already allow for it, but I certainly agree that it is worth considering further. On that basis, I ask Ms Grant to withdraw amendments 73 and 77 and to meet me so that, together, we can consider and work on the matters further, potentially with a view to lodging at stage 3 amendments with similar effect.

10:00

Amendment 60 amends section 31(2) to ensure that the information and advice service for carers provided for in section 31 provides information and advice on

“emergency care planning and future care planning”

in addition to the other issues in section 31(2) on which information and advice must be provided. I know that emergency care and future care planning are important for carers, and I recognise that carers’ health and wellbeing can be affected if they are worried about how care will be provided to the cared-for person if, because of an emergency or other unforeseen circumstances, they are unable to provide the care that they normally provide or if they are no longer able and willing to provide care.

I move amendment 6.

Rhoda Grant: Amendment 73 ensures that the adult carer support plan includes transitional arrangements for circumstances in which the carer is unlikely to be able to continue their caring role, and amendment 77 has the same effect for the young carer statement. I support the Government’s amendments 6 and 14 with regard to emergency care planning, but I am concerned about the fact that future care planning will be left to the advice and information service.

Carers, especially elderly parents looking after offspring who are likely to outlive them, worry about what will happen to their loved ones when they are no longer able to care, and it is important that they know what will happen and that any transitions will be managed. The lives of many vulnerable people are changed beyond recognition while they deal with bereavement. Although occasionally that cannot be foreseen, it can on many occasions be planned for.

The same is true for young people who might want to go on to further and higher education; they need to know what will work for their loved ones and that they will be looked after in their absence. That is why future care planning should be part of support plans and statements. Such planning needs to be person centred and properly managed, and thought needs to be given to it.

Given what the minister has said, I am willing to withdraw amendments 73 and 77 and to discuss the matter further, but I point out that the provisions are really important and should be included in the bill.

Jamie Hepburn: I welcome Ms Grant’s comments, and I look forward to having that discussion. I am sure that we will be able to agree a way forward.

Amendment 6 agreed to.

Amendment 73 not moved.

Amendment 7 moved—[Jamie Hepburn]—and agreed to.

Section 8, as amended, agreed to.

Sections 9 and 10 agreed to.

Section 11—Duty to prepare young carer statement

Amendment 8 moved—[Jamie Hepburn]—and agreed to.

Amendment 74 not moved.

Amendments 9 and 10 moved—[Jamie Hepburn]—and agreed to.

Amendment 93 not moved.

The Convener: Amendment 11, in the name of the minister, is grouped with amendments 94 to 96, 16 and 97 to 99. If amendment 96 is agreed to, amendment 16 cannot be called.

Jamie Hepburn: I will address the two amendments that are in my name before turning to those that are in Ms Grant’s name. Several stakeholders have expressed concern about the provision at section 11(6) under which, when a young carer is offered or requests a young carer statement,

“the responsible authority must notify the young carer’s named person.”

Members will recall that that issue was a feature of the stage 1 debate. Similar concern was expressed about section 15(2)(b), which requires the responsible authority to provide the information that is contained in the young carer statement to

“the young carer’s named person”.

I fully sympathise with those concerns. I recognise that there will be circumstances where
the young carer will wish to protect his or her privacy. Equally, I expect that, in many cases, it will be helpful for the named person service provider to know that the young carer has been offered or has requested a young carer statement and that one has been put in place.

I have considered those issues carefully, and I lodged amendment 11 to remove section 11(6). That will remove the requirement for the responsible authority to notify the young carer’s named person if a young carer statement is offered or requested.

I lodged amendment 16 to remove section 15(2)(b). That will remove the requirement for the responsible authority to share with the named person the information that is contained in the young carer statement.

We do not require section 15(2)(b), because section 26 of the Children and Young People (Scotland) Act 2014 covers that area. Under that act, the information that is contained in a young carer statement can be shared with a young carer’s named person service provider only if that information is relevant to or necessary for the exercise of the named person’s functions. In effect, that means that the information can be shared with the young carer’s named person service provider, but that sharing is by no means automatic.

When deciding what information to share, the local authority or health board with the responsibility for the young carer statement must have regard to the views of the child or the young person, while bearing in mind his or her age and maturity. The young carer’s views must be sought where it is reasonably practicable to do so, and the responsible authority must have regard to those views. We will set it out in guidance that we fully expect the young carer’s views to be sought. However, it might not be reasonably practicable to do that if, for example, the young carer was out of the country.

There are further protections for young carers. The responsible authority will need to respect the common-law duty of confidentiality, the requirements of the Data Protection Act 1998 and the right to private and family life under article 8 of the European convention on human rights.

We have consulted young carers’ interests. They appear to support our proposal as a pragmatic way forward.

I will now respond to Rhoda Grant’s amendments. Her amendments have the same intention as the Government amendments in the group, so I argue that they are not required.

The substantive effect of amendments 94, 96 and 97 would be that the responsible authority no longer needed to provide the information that is in the young carer statement to the named person. However, amendments 95 and 98 would retain the requirement for the responsible authority to notify the named person that a young carer statement or revised statement had been prepared.

Amendment 95 would duplicate section 11(6) of the bill, which the committee should note that I propose to remove with amendment 11. I have made the case to the committee that we do not require a provision that requires the named person to be notified of the preparation of the young carer statement, because that will be covered by the information-sharing provision that is set out in section 26 of the Children and Young People (Scotland) Act 2014.

Amendment 99 is a consequence of amendment 96 and would in effect reinstate as a new section provisions that amendment 96 seeks to remove. Amendment 99 would provide that the information that is contained in the young carer statement could be shared with any other person the young carer requested that it be shared with. However, the proposed new section has no equivalent of section 15(4), which requires the information to be provided as soon as practicable after the statement or revised statement is prepared.

I ask the committee to support the Government amendments in the group and I urge Rhoda Grant not to move her amendments.

I move amendment 11.

Rhoda Grant: I listened carefully to what the minister said. The difference between my amendments and his amendments is that my amendments would put in the hands of the young carer control of who has information about them. The only piece of information that they would not control would be about whether a young carer statement existed. It is important that the named person is informed that a young carer statement exists, because the named person is normally a headteacher, who needs to know that the young person is a young carer so that they can put measures in place in school to ensure that the young person has access to education. It would be very much down to the young carer to decide who had access to any other information, which would give them comfort.

My understanding of the Government’s amendments is that information would not be automatically shared with the named person but, if it was deemed important to share information, it would be shared with the named person regardless of whether the young carer wished that to happen. That would improve the situation under the bill at the moment, but it would not go far enough to give the young carer full control. I ask
the minister to have further discussions to see whether we could give young carers more control of who has access to the content of their statement. If I got reassurance on that, I would not move my amendments.

**Dennis Robertson (Aberdeenshire West) (SNP):** I am pleased that the Government has lodged amendments 11 and 16. The minister’s explanation of them shows respect to young carers and shows that the amendments will give them more control. As I said, his interpretation is respectful to young carers.

**Jamie Hepburn:** I think that we are all on the same page on the issue. I reassure Ms Grant that I share her perspective, because it is important that the named person is informed that a young carer statement exists. The provisions under the Children and Young People (Scotland) Act 2014 that I set out should allow for that.

I am happy to discuss the matter further with Ms Grant, and that offer is open to any committee member at any time as we move towards stage 3. In having that discussion with her, I hope that I can reassure her that the approach that we are taking through amendments 11 and 16 will address all the concerns that she expressed.

Amendment 11 agreed to.

Amendment 12 moved—[Jamie Hepburn]—and agreed to.

Amendment 75 not moved.

Section 11, as amended, agreed to.

After section 11

Amendment 13 moved—[Jamie Hepburn]—and agreed to.

Section 12 agreed to.

**Section 13—Content of young carer statement**

Amendment 76 not moved.

Amendment 14 moved—[Jamie Hepburn]—and agreed to.

Amendment 77 not moved.

Amendment 15 moved—[Jamie Hepburn]—and agreed to.

Section 13, as amended, agreed to.

Section 14 agreed to.

**Section 15—Young carer statement: provision of information to carer etc**

10:15

Amendments 94 to 96 not moved.

Amendment 16 moved—[Jamie Hepburn]—and agreed to.

Amendments 97 and 98 not moved.

Section 15, as amended, agreed to.

After section 15

Amendment 99 not moved.

Sections 16 to 18 agreed to.

After section 18

**The Convener:** Amendment 78, in the name of Rhoda Grant, is grouped with amendment 90.

**Rhoda Grant:** The amendments would ensure that all public authorities had to identify carers and would mean that, if a carer was identified by a general practitioner, a hospital, a school or a nursery, the authorities had to act to ensure that the carer was getting the support and the healthcare that they needed. We hear too often of GPs who are caring for a cared-for person not being aware of who looks after them and whether the carer is getting the support that they require. All our local authorities need to take a holistic approach to the people they deal with, to look below the surface and to take responsibility for carers. We need to make sure that a referral is made and that carers receive support. Amendment 90 is consequential to amendment 78.

I move amendment 78.

**Jamie Hepburn:** Rhoda Grant’s amendment 78 aims to introduce a new regulation-making power about how public authorities should refer an adult carer or a young carer to a responsible local authority or a responsible authority. Many public authorities are listed in schedule 1 to the Freedom of Information (Scotland) Act 2002. They include health boards, national health service trusts and primary medical services—including GPs—and many other bodies such as procurators fiscal and the National Library of Scotland. On the face of it, it would not make sense to impose such a duty on many of those public authorities.

The bill sets out provisions that relate to carer identification. Section 28(2)(a) provides that local authorities must set out their plans for identifying carers in the context of their local carer strategy and must consult health boards before preparing that strategy. Government amendments are being lodged to place a duty on each local authority to
prepare a local carer strategy for its area jointly with health boards. That is the appropriate way forward, rather than conferring a general power on all public bodies to identify carers. I ask the member to withdraw amendment 78 and not to move amendment 90.

Rhoda Grant: I did not really receive comfort from the minister’s comments. The issue that has been raised in evidence is that the NHS is quite often at fault. Last week, some MSPs met a group of carers who talked about the NHS involving carers when someone was about to leave hospital, to ensure that they were referred to services and were receiving support. That made a huge difference to the lives of carers, and that was contrasted with the position of carers who had not received that level of support.

I am really concerned that what the minister said does not address that problem. However, I take on board the point that some of the organisations listed might not deal with carers, so I will withdraw amendment 78. However, I may come back at stage 3 with an amendment that would put a duty on at least the NHS, because that is sometimes where things fall down.

Amendment 78, by agreement, withdrawn.

Section 19—Duty to set local eligibility criteria

The Convener: Amendment 100, in the name of Rhoda Grant, is grouped with amendment 101.

Rhoda Grant: The committee took conflicting evidence about whether eligibility criteria should be set nationally or locally. COSLA was concerned that that should be done locally and cited the lack of funding to implement the bill. My understanding is that the funding for the bill, other than that for replacement care, is around £3 million. Carers believe that the criteria should be set nationally, as there would otherwise be a postcode lottery for the support that they get.

Amendments 100 and 101 would strike a balance between those two conflicting concerns by giving the Scottish Government the power to set a level of need at which carers would be entitled to support. The form that that support took would be decided locally, but carers would know that they would receive support. Carers who are at risk of having to give up their caring role should be in that category; they need support before their caring role breaks down, so they must have a nationally set entitlement to support.

I move amendment 100.

Jamie Hepburn: I thank Rhoda Grant for lodging her amendments. I recognise that, as she said, this has been the subject of much debate. Members will know that the arguments on local versus national eligibility criteria are finely balanced, and I think that I am right in recalling that the committee’s stage 1 report reflected that, although it did not make a recommendation either way.

There is an argument for national eligibility criteria. However, individual local authorities, as democratic bodies that are accountable to their own electorates, should be able to make decisions that are based on the needs of their caring population and the resources that they have available to meet those needs. I want to ensure that there is consistency across the country, which I believe can be achieved through the national matters that we will set out in regulations and which will underpin local eligibility criteria.

The issue is of paramount importance for carers and for the national carer organisations, which I thank again for their input. I assure them and the committee that the work that they have undertaken will be fully considered as we develop the regulations on national matters. As we move towards that position, I am inclined to include in the regulations the specific indicators that are set out in those organisations’ draft framework. That approach would mean that a local authority had to have regard to the importance of those indicators in assessing the impact of caring on a carer’s wellbeing and day-to-day life and in deciding whether it was required to provide support, although the local authority would retain control over the exact level of impact that would lead to a duty to provide support and the nature of the support to be provided. That would encourage the setting of local thresholds for support that are creative and take into account similar factors across the country.

I draw the committee’s attention to the fact that the intended effect of amendment 100 is not entirely clear. It is not linked to the duties to provide support to meet carers’ eligible needs, which are set out in section 22, so it is not clear whether the amendment would introduce a requirement for the local authority to support the types of carers covered by the amendment. Regardless of the issues that relate to the amendment’s practical application, I am persuaded that the eligibility criteria for supporting carers should be determined by individual local authorities but with consistency brought to that approach through the national matters set out in regulations that will be produced in partnership with the national carer organisations, COSLA, local authorities and health boards. I expect and appreciate that the committee will take an interest in what might be in those regulations.

I remind committee members that the committee asked clearly about how we will monitor the efficacy of local eligibility criteria. I responded
clearly that we will monitor how effective that approach is. We have the provision in the bill to introduce national eligibility criteria by way of regulation if that is felt necessary in the future.

Neil Findlay made the point in the stage 1 debate that what is important is not whether there are local eligibility criteria or national eligibility criteria but whether the approach on the ground for carers is effective. The committee can be assured that we will take the greatest interest in the approach that is taken and that, if it is not effective, we will respond accordingly. I therefore ask Ms Grant to withdraw amendment 100 and not to move amendment 101.

Rhoda Grant: I am glad that the minister acknowledged that the issue is about resourcing and that local authorities are really concerned about the resourcing of the bill. I believe that carers who are in critical need of support should get that support, which should be a national entitlement. I will therefore press amendment 100.

The Convener: The question is, that amendment 100 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Grant, Rhoda (Highlands and Islands) (Lab)
McNeill, Duncan (Greenock and Inverclyde) (Lab)
Milne, Nanette (North East Scotland) (Con)

Against
Keir, Colin (Edinburgh Western) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Robertson, Dennis (Aberdeenshire West) (SNP)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0.

The vote is tied. I will use my casting vote against the amendment, on the basis that the committee has not made a specific recommendation on the matter. I do that in the hope that further, meaningful discussions can take place with members who support the proposal, to get a resolution to this difficult issue.

Amendment 100 disagreed to.
Amendment 101 not moved.
Section 19 agreed to.
Sections 20 and 21 agreed to.

Section 22—Duty to provide support

The Convener: Amendment 17, in the name of the minister, is grouped with amendments 102, 20 to 23, 79 and 68.

Jamie Hepburn: I will address the amendments in my name first before I turn to the amendments that were lodged by Nanette Milne and Rhoda Grant.

Section 23, on “Provision of support to carers: breaks from caring”, was included in the bill, as introduced, in order that the local authority must consider in particular whether the support that is provided to a carer should take the form of or include a break from caring. We also introduced a regulation-making power principally to deal with the issue of the waiving of charges for replacement care that meets the identified needs of the carer. I made it clear to the committee that the requirement to waive charges will be made through minimal amendments to the existing regulations on the waiving of charges, and that remains the case. My clear policy intention is that neither the carer nor the cared-for person will be charged for what we called replacement care meeting the carer’s assessed needs. Members will recall that, in stage 1 evidence, Mr Lyle in particular was interested in pursuing that issue with me.

Amendment 20 means that the terminology “replacement care” will no longer be used in the bill. I thought that it was confusing; instead, I prefer the wording “provision of care for the cared-for person”, which is provided to enable the carer to have a break from caring. That describes exactly what is being provided to enable the carer to have a break from caring.

Amendment 17 provides that the power and duty to provide support to a carer do not apply where the carer’s needs can be met through the provision of services or assistance to the cared-for person. Therefore, if a carer’s needs could be met by, for example, a bath hoist for the cared-for person, that should be agreed through the community care assessment for the cared-for person. However, there is an exception to that rule in circumstances in which care is provided to the cared-for person in order to give the carer a break from caring.

Amendments 20 and 21 give further effect to that policy by amending the regulation-making power so that it focuses specifically on circumstances in which care is provided to the cared-for person in order to give the carer a break from caring.

Amendment 22 removes section 23(2)(b)(ii), as it is no longer necessary given the other amendments to sections 22 and 23.

10:30

Amendment 23 corrects a technical problem in the drafting of section 23(3) to make it clear that any support that is provided to a carer in order to
provide a break from caring is provided under section 22 and not under section 23. Support is provided under section 22, albeit that it is provided following specific consideration of whether the carer requires a break from caring, which is required under section 23.

A further policy intention is to secure the involvement of the cared-for person in relation to decisions about the provision of care to the cared-for person to enable the carer to have a break from caring. I believe that that is important, as it would be inappropriate for a cared-for person to be forced to receive care that could involve personal or intimate care without being involved in that decision-making process.

There are, however, a number of practical issues to be considered regarding the involvement of the cared-for person in decision making about the provision of care that enables the carer to have a break from caring. Those include, in particular, whether the cared-for person should have to provide their express consent. I propose that regulations on those matters will be made using the powers at section 23(2)(b)(i). I want the procedure for those regulations to be affirmative. Amendment 68 gives effect to that.

Turning to amendment 102, in the name of Nanette Milne, I fully understand just how beneficial breaks from caring are in supporting carers. A break from caring can allow the carer to get some rest and recharge their batteries. Those breaks can make all the difference for carers being able to maintain their caring role. Through the bill, the outcomes that carers would like to achieve and the support that is required to meet those outcomes will be identified. That is the core purpose of the bill. In many cases, that will include a break from caring.

The intention behind amendment 102 appears to be that carers should have access to a market that provides a range of short breaks to meet the individual needs of carers. However, existing provision, under section 19 of the Social Care (Self-directed Support) (Scotland) Act 2013, already requires local authorities to promote a variety of support and support providers to deliver short breaks. As a result of amendments that are being made by the schedule to the bill, it is clear that the reference to support in that section covers support to both adult and young carers under this bill.

Amendment 102 appears also to place a duty on local authorities to ensure individual carers are provided with sufficient short breaks. The person-centred approach to adult carer support plans, young carer statements and subsequent support will ensure that individual carers are provided with adequate support to meet their needs. That would include short breaks. However, I would like to get a better understanding of the issues underlying the amendments in the name of Nanette Milne. On that basis, I ask her not to move amendment 102 and to meet me to discuss the issue ahead of stage 3. If necessary, the issue can be returned to then with a similar amendment.

I do not believe that amendment 79, which was lodged by Rhoda Grant, is required to section 23(1). It already makes it clear that support may be provided in the form of a break from caring where that is to meet the carer’s identified needs rather than those of the cared-for person. The framework of the adult carer support plan and young carer statement schemes—in particular the personal outcomes approach and obligation to identify the nature and extent of caring—should make it easier to identify whether support is to meet the needs of the carer or the cared-for person. I ask the member not to move amendment 79.

I move amendment 17.

Nanette Milne: The first part of amendment 102 provides for an obligation that must be fulfilled by the local authority in the context of thinking about the services that a person may or must receive. The second part specifies short breaks. Overall, the amendment provides a sufficient duty to ensure that short breaks are used not just as a crisis intervention. It promotes collaborative working between local authorities and other stakeholders to provide more capacity and choice, taking into account available resources. However, having listened to the minister, I would be happy to meet him between now and stage 3 and, on that promise, I am prepared not to move amendment 102 at this stage.

Rhoda Grant: Amendment 79 makes it clear that the break from caring has to be for the needs of the carer, and indeed has to be to the benefit of the carer. Too often, we have heard that carers are given a respite break to allow them to attend to their urgent medical needs. That should, of course, be catered for, but it should not be about somebody’s entitlement to a short break. The minister said that the bill says that the short break is about the carer’s identified needs. That could be for the carer to go to work or hospital and the like. We should make it clear in the bill that this is a break from caring for the carer. It is not for them to attend to something else; it is for them to have some time off in which to rest and recuperate.

I hope that the minister will discuss that further before stage 3. If he is willing to do that, I will not move amendment 79 but will come back with another amendment at stage 3. It should be clear that the break is for the carer’s benefit so that they can have a rest and do something different from attending to other identified needs.
Dennis Robertson: Could the minister indicate that there is already clear legislation to protect carers and to provide the breaks that Rhoda Grant is referring to? If we go ahead with her amendments, would it not create a complicated situation for the health and social care joint boards when they are progressing their local needs and identifying what works best for carers and the people for whom they care? If the minister can outline existing legislation, there will be no need to pass Rhoda Grant’s amendment.

Jamie Hepburn: On Mr Robertson’s point, in my opening remarks I made the point about the provisions that exist in the Social Care (Self-directed Support) (Scotland) Act 2013. On top of any legislative provision, we have invested a considerable amount in the provision of and support for short breaks. I hope that that indicates the great importance that we invest in ensuring that carers are provided with a short break.

Rhoda Grant’s point about it being necessary to make it clear that a break is for the benefit of the carer rather than the person who is being cared for should be taken account of in the way in which the bill is drafted. However, I hear her point and I am happy to meet her, as I have already agreed previously, to discuss this further issue.

I also thank Nanette Milne for providing clarity about her thinking on where she wanted her amendment 102 to take us. We can use that as the basis for discussion in advance of stage 3.

Amendment 17 agreed to.

Amendments 18 and 19 moved—[Jamie Hepburn]—and agreed to.

Section 22, as amended, agreed to.

Section 23—Provision of support to carers: breaks from caring

Amendment 102 not moved.

Amendments 20 to 23 moved—[Jamie Hepburn]—and agreed to.

Amendment 79 not moved.

Section 23, as amended, agreed to.

Section 24 agreed to.

After section 24

The Convener: Amendment 80, in the name of Rhoda Grant, is grouped with amendment 91.

Rhoda Grant: Amendment 80 will allow a carer who has had an assessment to appeal the outcome of that assessment. The timescales are different for carers who are looking after terminally ill people, which acknowledges that their time is limited. The timescales are shorter than the time taken to carry out the assessment—which was covered in amendment 70, which I withdrew—because the work will already have been done. It is a shorter review period. It is important that carers have the ability to appeal the outcome of their assessment if they do not agree with it. That is in line with other legislation that deals with assessments.

I move amendment 80.

Jamie Hepburn: Carers and carer organisations are concerned about circumstances in which the local authority determines that the carer does not have eligible needs and therefore the duty to provide support does not apply. As Rhoda Grant set out, amendment 80 seeks to introduce a separate decision review mechanism for carers who face that situation.

I do not believe that it is necessary for carers to have a separate, specific method for raising a complaint that is distinct from existing systems. We are in the process of changing the complaints procedures that apply to social work decisions. The changes that are being made to complaints procedures will benefit all service users, including carers, in order to improve accessibility and deliver real outcomes. We are consulting on a draft order for social work complaints that will extend the role of the Scottish Public Services Ombudsman to investigate complaints involving the professional judgment of social work staff, as well as maladministration.

If agreed to by Parliament, the changes to social work complaints will mean a shorter, more person-centred complaints procedure. No matter who a person complains to, their complaint should be handled in a joined-up manner. The person who is making the complaint will receive a co-ordinated response. The ombudsman will have the power to make recommendations to a local authority on a decision that has been made, and it will be able to lay a special report to the Scottish Parliament should its recommendations not be acted on. We aim to have the new procedures for social work complaints up and running by early April 2017, when this bill’s provisions will come into effect.

As Ms Grant set out, amendment 91 is a consequence of amendment 80. Again, I say that I would be happy to meet Ms Grant to reassure her that what we have in mind with the order that we are consulting on takes account of her concerns. On that basis, I ask her to withdraw amendment 80 and not move amendment 91.

Rhoda Grant: I would like more detail about what the minister is proposing. My understanding is that the ombudsman currently looks at procedure. The minister said that the ombudsman will also look at professional judgment. It is not clear whether that means that decision making
and the outcome of decision making will be looked at. It is also not clear whether the ombudsman will be able to overturn an assessment decision and entitle a carer to support. The aim of amendment 80 is that, if a carer does not agree with the level of support that they are being given, they will be able to appeal and overturn the decision.

Given the offer of further discussion, I will seek to withdraw amendment 80 and I will not move amendment 91. It is important that someone reviews decision making. Given the financial situation surrounding the bill, there is concern that decisions will be driven by finance rather than need, so we need robust systems in place to ensure that carers get the support they need.

Amendment 80, by agreement, withdrawn.

10:45

The Convener: Amendment 81, in the name of Rhoda Grant, is grouped with amendment 69.

Rhoda Grant: Amendment 81 seeks to bring services for carers under the inspection regime of the Care Inspectorate. It is right that an independent body can review the services and ensure that they are fit for purpose. The Care Inspectorate carries out that role for services for the cared-for person, so it is familiar with the situations that carers find themselves in and would be best placed to inspect services for carers. It is important that such services are high quality and that carers receive the support they require.

I move amendment 81.

Jamie Hepburn: I thank Rhoda Grant for introducing amendment 81. My officials have been in contact with the Care Inspectorate, and I agree that there might indeed be merit in amending schedule 12 to bring more services that support carers into the registration regime. However, there are significant policy considerations to be resolved before doing so at present. Services that support carers caring for cared-for persons because of age, disability or drug and alcohol dependency issues have to be registered with the Care Inspectorate. Those services might cover training or other support that is focused particularly on the vulnerability of the cared-for person—for example, a service that trains carers in how to lift the elderly or a support group helping those with alcohol-dependent partners.

I therefore want to consider the implications for service providers and, indeed, the impact on the Care Inspectorate in terms of its resources and expertise before deciding whether it is appropriate to make all such services subject to registration requirements. The Care Inspectorate has made recommendations to Scottish ministers about a number of changes that it considers could be made to the scope of care services under the bill. I have agreed that that should be considered as part of the wider review of care services that the Care Inspectorate has been considering. If it is decided that more services to carers should be brought within the definition of care services, it will be possible to do that using order-making powers in the Public Services Reform (Scotland) Act 2010.

In my view, amendment 81 is therefore not required, so I ask Ms Grant to withdraw it at this stage. I would be happy, of course, to discuss the matter further with her to set out in greater detail the work that will be under way.

Scottish Government officials have also discussed amendment 69 with the Care Inspectorate. I have introduced amendment 69 to add functions under the bill to the list of social work service functions in schedule 13 to the 2010 act. I want to ensure that any services provided by a local authority in undertaking the functions listed in schedule 13 and any service that is provided with others, such as third sector providers, in connection with arrangements with a local authority will be social work services and social services within the meaning of part 5 of the 2010 act.

Amendment 69 will give the Care Inspectorate a power to inspect services that are provided by, or on behalf of, local authorities in the exercise of functions under the bill, most significantly the adult carer support plan and the young carer statement, the local carer strategy and information and advice service functions. Amendment 69 will also require local authorities to provide information to the public on request about the services that are provided in the exercise of those functions. I hope that the committee will agree that those are sensible arrangements.

Rhoda Grant: I will wait to find out more information about the minister's thinking on that. Perhaps he can give me some written thoughts ahead of a meeting, because otherwise it will be a very long meeting. It would be good to have those thoughts before a meeting so that I can discuss them with stakeholders and then discuss with him the best way to take the issue forward.

Amendment 81, by agreement, withdrawn.

Section 25—Duty to involve carers in carer services

The Convener: Amendment 103, in the name of Nanette Milne, is grouped with amendment 24.

Nanette Milne: Amendment 103, on hospital discharge, would strengthen the bill by focusing on patient outcomes. It would mean that patients would be consulted and involved in designing the patient’s care plan and would ensure that adequate time was taken to design the care plan
so that it was in place before the patient was discharged from hospital. That would result in the avoidance of the sort of dreadful experience that I heard about just last week from a carer whose husband was discharged, on oxygen, with only two hours’ notice. The gas cooker in their home had had to be disconnected and the family was without cooking facilities for a week after his return home. Such appalling situations should not be allowed to happen. They would not happen with proper discharge planning while the patient was in hospital.

My amendment aims to cover the general carer involvement. It differs from Rhoda Grant’s amendment to section 8, which would require information about hospital admission and discharge to be discussed in an adult care support plan.

I move amendment 103.

**Jamie Hepburn:** Amendment 24 is a minor drafting point that removes an unnecessary “of” from section 27.

I thank Nanette Milne for her points on amendment 103. I fully support the involvement of carers in hospital admission and discharge processes, as I also support taking account of carers’ views when making decisions about the discharge from hospital of the people they care for. I agree that planning for discharge should begin as soon as it is reasonably practicable to do so after a person’s admission to hospital. Carers can then be supported when the patient is back home.

I have considered this important issue carefully, but I am not inclined to support amendment 103 for two reasons. First, we cannot delay hospital discharge. Evidence clearly demonstrates that delaying discharge when someone in hospital is ready to go home is harmful to their wellbeing and that is why we are investing considerable effort in improving the effectiveness of discharge arrangements in local systems. Amendment 103, which would require carers to be identified and consulted in every circumstance, could inadvertently cause some delays in hospital discharge. That would not do anyone any good. Secondly, this Government will take forward a comprehensive package of measures that is intended to tackle carer identification and carer involvement in hospital admission and discharge processes.

We agree on the issues, but not on how to deal with them. From 2016, we will implement project work with the aim of changing attitudes and culture, and adopting positive practice in the health workforce. The work will be locally led and will involve carers and other key stakeholders, with local solutions shared nationally. The work will be developed within the living well in communities portfolio led by Healthcare Improvement Scotland, which is about reducing hospital bed days and delayed discharge. That will benefit from working in partnership with carers to find the best way forward.

In 2016, we will update and reissue statutory guidance on hospital discharge, with a particular emphasis on carer identification and involvement in hospital discharge. We will follow up with integrated joint boards the role for carers in the strategic planning of services and discussions at local level, in localities acknowledged as the engine room of the integration reform agenda where the greatest impact and outcomes can be achieved. It will include discharge from most in-patient hospital services.

In 2017-18 and 2018-19 we will continue and enhance the work with further workforce development.

In 2017, before commencement of the bill’s provisions, as part of the statutory guidance on the Carers (Scotland) Bill, we will include sections on the content of the adult carer support plan and the young carer statement concerning the circumstances in which the plan is to be reviewed. If individual carers want the adult carer support plan or the young carer statement to be reviewed when the cared-for person is discharged from hospital, then that will happen.

In light of the substantial effort that we are making, I invite the member to withdraw amendment 103.

**Rhoda Grant:** I want to speak in support of Nanette Milne’s amendment 103. I was at the meeting when the situation she mentioned was discussed. It was not only the gas cooker but the gas fire that was disconnected, so the family had no heating or cooking facilities for a fortnight. They were given only two hours’ notice about the disconnection. You would not want anyone to return home to that situation, far less to have a carer having to deal with the matter.

We have heard about situations arising when vulnerable people have been sent home in the middle of the night in a taxi without it even being checked whether a carer is at home to meet and look after them. It is important that a duty is placed on health services to ensure that admission and discharge planning is carried out properly, and especially to ensure that needs are met and adaptations are in place. There are far too many horror stories going around. We need to do something about the situation.

**Dennis Robertson:** I believe that the duty is already there and I am not sure that amendment 103 would change what is perhaps bad practice.
I acknowledge that the integrated joint boards and the work that they will do with the health and social care services will address the particular issues that Nanette Milne and Rhoda Grant raised. I suspect that the situation that they identified was more to do with poor practice than something that can be addressed through legislation.

**The Convener:** Minister, you have an opportunity to respond to what members have said.

**Jamie Hepburn:** That is very kind of you, convener. It is obviously very difficult to speak about individual circumstances without having all the information. Clearly, the specific case that Ms Milne and Ms Grant referred to was not acceptable, but the point that Mr Robertson made is germane to our discussion. There is already a set of procedures out there that should be adhered to. We have ahead of us a range of work: I have set out what we will do in the coming months and years to further improve performance on the ground.

I assure the committee that I think that it is essential and vital that carers are involved as far as they possibly can be in the admission and discharge process, but we cannot do anything that would inadvertently exacerbate delayed discharge, because that would have a negative impact on the person who has been admitted to hospital.

On that basis, given the range of work that is under way and the reasonable point that Mr Robertson made, I ask Nanette Milne to withdraw amendment 103.

**Nanette Milne:** There are far too many cases of bad practice, as we heard from Rhoda Grant. I feel strongly that there should be a real emphasis on discharge planning almost as soon as the patient is admitted to hospital, when that is possible. Many of the problems with delayed discharge are a result of the fact that that discharge planning does not get going soon enough.

Although I hear what the minister says, I feel quite strongly about the issue, so I will press amendment 103.

**The Convener:** The question is, that amendment 103 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

For
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
Grant, Rhoda (Highlands and Islands) (Lab)  
McNeil, Duncan (Greenock and Inverclyde) (Lab)  
Milne, Nanette (North East Scotland) (Con)

Against
Keir, Colin (Edinburgh Western) (SNP)  
Lyle, Richard (Central Scotland) (SNP)

MacKenzie, Mike (Highlands and Islands) (SNP)  
Robertson, Dennis (Aberdeenshire West) (SNP)

**The Convener:** The result of the division is: For 4, Against 4, Abstentions 0.

We have a tie, and I have a casting vote. I recall that our stage 1 report recommended “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.”

On that basis, I support amendment 103.

Amendment 103 agreed to.

Section 25, as amended, agreed to.

Section 26 agreed to.

Section 27—Care assessments: duty to take account of care and views of carers

Amendment 24 moved—[Jamie Hepburn]—and agreed to.

Section 27, as amended, agreed to.

**The Convener:** I previously indicated that we would not conclude our consideration of amendments today, and I think that this would be an appropriate point at which to break.

I thank the minister and his colleagues. We will continue our stage 2 consideration of the bill next week.

10:58
Meeting suspended.
Carers (Scotland) Bill

2nd Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

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<th>Sections 1 to 39</th>
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Amendments marked * are new (including manuscript amendments) or have been altered.

**Section 28**

**Jamie Hepburn**

25 In section 28, page 14, line 4, leave out <must> and insert <and relevant health board must jointly>

**Jamie Hepburn**

26 In section 28, page 14, line 5, leave out <prepared by a local authority>

**Jamie Hepburn**

27 In section 28, page 14, line 6, leave out <the authority’s>

**Jamie Hepburn**

28 In section 28, page 14, line 6, leave out <carers in its area> and insert <relevant carers>

**Jamie Hepburn**

29 In section 28, page 14, line 7, after second <provide> insert <to cared-for persons in the local authority’s area>

**Jamie Hepburn**

30 In section 28, page 14, line 8, leave out <the authority’s> and insert <an>

**Jamie Hepburn**

31 In section 28, page 14, line 8, leave out <carers in its area> and insert <relevant carers>

**Jamie Hepburn**

32 In section 28, page 14, line 9, after <to> insert <relevant>
Jamie Hepburn
33 In section 28, page 14, line 10, leave out <itself>

Jamie Hepburn
34 In section 28, page 14, line 12, leave out <local authority considers> and insert <authority and relevant health board consider>

Jamie Hepburn
35 In section 28, page 14, line 13, leave out <the authority’s> and insert <an>

Jamie Hepburn
36 In section 28, page 14, line 13, leave out <carers in its area> and insert <relevant carers>

Jamie Hepburn
37 In section 28, page 14, line 15, leave out <the authority’s>

Jamie Hepburn
38 In section 28, page 14, line 15, leave out <carers in its area> and insert <relevant carers>

Rhoda Grant
82 In section 28, page 14, line 15, at end insert—
<( ) plans for—

(i) contributing towards preventing or delaying the development by relevant carers of needs for support,

(ii) reducing the needs for support of relevant carers,>

Rhoda Grant
104 In section 28, page 14, line 15, at end insert—
<( ) plans for meeting the equality duty in making provision for relevant carers, including in assessing the needs of relevant carers who share a relevant protected characteristic,>

Rhoda Grant
83 In section 28, page 14, leave out lines 16 and 17

Jamie Hepburn
39 In section 28, page 14, line 16, leave out <authority’s>

Jamie Hepburn
40 In section 28, page 14, line 18, leave out <considers> and insert <and relevant health board consider>
In section 28, page 14, leave out <its local carer strategy, a local authority must> and insert <a local carer strategy, the local authority and the relevant health board must jointly>.

In section 28, page 14, leave out line 23.

In section 28, page 14, line 23, at end insert—

<( ) a relevant post-16 education body.>

In section 28, page 14, line 24, leave out <the local authority considers> and insert <they consider>.

In section 28, page 14, line 26, leave out <it considers> and insert <they consider>.

In section 28, page 14, line 26, after <involve> insert <relevant>.

In this section “relevant carers” means—

(a) carers who reside in the area of a local authority (whether or not they provide or intend to provide care for cared-for persons in that area), and

(b) carers who do not reside in the authority’s area but who provide or intend to provide care to cared-for persons in that area.>

In section 28, page 14, line 27, after <Part> insert <—

“the equality duty” means the duty of a local authority and a health board to have, in the exercise of its functions, due regard to the needs mentioned in section 149(1) of the Equality Act 2010.>

In section 28, page 14, line 27, after <board”> insert <, in relation to a local authority.>

In section 28, page 14, line 31, at end insert—
“relevant post-16 education body” means a body within the area of the local authority which is a “post-16 education body” for the purposes of the Further and Higher Education (Scotland) Act 2005.

Rhoda Grant

106 In section 28, page 14, line 31, at end insert—

“relevant protected characteristic” is to be construed in accordance with section 149(7) of the Equality Act 2010.

Section 29

Jamie Hepburn

48 In section 29, page 14, line 33, leave out <its local carer strategy, a local authority> and insert <a local carer strategy, the local authority and the relevant health board>

Jamie Hepburn

49 In section 29, page 15, line 9, leave out <considers> and insert <and relevant health board consider>

Section 30

Jamie Hepburn

50 In section 30, page 15, line 11, leave out <must publish its> and insert <and relevant health board must jointly publish their>

Jamie Hepburn

51 In section 30, page 15, line 15, after <authority> insert <and relevant health board>

Jamie Hepburn

52 In section 30, page 15, line 16, leave out <review its> and insert <jointly review their>

Jamie Hepburn

53 In section 30, page 15, line 19, after <authority> insert <and relevant health board>

Jamie Hepburn

54 In section 30, page 15, line 20, leave out <its> and insert <their>

Jamie Hepburn

55 In section 30, page 15, line 22, leave out <its> and insert <their>

Jamie Hepburn

56 In section 30, page 15, line 23, after <authority> insert <and relevant health board>
In section 30, page 15, line 25, leave out <it does> and insert <they do>

In section 31, page 15, line 33, after <maintain> insert <, or ensure the establishment and maintenance of,>

In section 31, page 15, line 34, leave out <carers in its area> and insert <relevant carers>

In section 31, page 15, line 36, at beginning insert <the carers’ charter, including>

In section 31, page 16, line 3, at end insert —

<(  ) emergency care planning and future care planning for carers.>

In section 31, page 16, line 3, at end insert —

<(  ) bereavement support for carers.>

In section 31, page 16, line 5, at end insert—

<(  ) In this section “relevant carers” has the meaning given by section 28(4A).>

After section 32

After section 32, insert—

<Carers’ charter>

The Scottish Ministers must prepare a carers’ charter.

A carers’ charter is a document setting out the rights of carers as provided for—

(a) in or under this Act,

(b) under any other enactment.

The Scottish Ministers may from time to time revise the charter prepared under subsection (1).

The Scottish Ministers must—
(a) before preparing the charter under subsection (1) or revising it under subsection (3)—
   (i) consult such persons and bodies representative of carers as the Scottish Ministers consider appropriate,
   (ii) take such steps as they consider appropriate to involve carers,
(b) lay the charter or revised charter before the Scottish Parliament, and
(c) publish the charter or revised charter in such manner as they consider appropriate.

Rhoda Grant
107 After section 32, insert—

<Register of carers

Register of carers
Each health board must make arrangements for—
(a) the development and maintenance of a register of carers in its area, and
(b) the offer and provision of an annual health check to each carer listed on the register.>

After section 33

Jamie Hepburn
62 After section 33, insert—

<Guidance and directions to health boards and directing authorities

(1) Each health board and each directing authority must have regard to any guidance issued by the Scottish Ministers about the exercise of functions conferred by this Act.
(2) The Scottish Ministers may issue directions to health boards and directing authorities, either individually or collectively, about the exercise of functions conferred by this Act.
(3) Each health board must comply with any direction issued to it under this section.
(4) Each directing authority must comply with any direction issued to it under this section.>

Section 36

Jamie Hepburn
63 In section 36, page 17, leave out lines 29 to 34 and insert <, in relation to a carer, means the local authority for the area in which the cared-for person resides,>

Jamie Hepburn
64 In section 36, page 17, line 34, at end insert—

<“terminally ill”, in relation to a cared-for person, has the meaning given by section (Adult carers of terminally ill cared-for persons)(2).>
Rhoda Grant

89 In section 36, page 17, line 38, at end insert—

<( ) In this Act a cared-for person is terminally ill at any time if at that time the person suffers from a progressive disease and death in consequence of that disease can reasonably be expected within 6 months.>

Section 37

Jamie Hepburn

65 In section 37, page 18, line 7, at end insert—

<( ) section 1(3),>

Jamie Hepburn

66 In section 37, page 18, line 7, at end insert—

<( ) section (Adult carers of terminally ill cared-for persons)(1),>

Jamie Hepburn

67 In section 37, page 18, line 8, at end insert—

<( ) section (Young carers of terminally ill cared-for persons),>

Rhoda Grant

90 In section 37, page 18, line 9, at end insert—

<( ) section (Procedure for referral)(1),>

Jamie Hepburn

68 In section 37, page 18, line 11, at end insert—

<( ) section 23(2),>

Rhoda Grant

91 In section 37, page 18, line 11, at end insert—

<( ) section (Eligibility for support: review)(3),>

Schedule

Jamie Hepburn

69 In the schedule, page 19, line 13, at end insert—

<Public Services Reform (Scotland) Act 2010>
In schedule 13 of the Public Services Reform (Scotland) Act 2010, after the entry relating to the Adoption and Children (Scotland) Act 2007, insert—

“Carers (Scotland) Act 2015”.
Carers (Scotland) Bill

2nd Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- a list of any amendments already debated;
- the text of amendments to be debated on the second day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

**Groupings of amendments**

**Responsibility for preparation of local carer strategy**
25, 26, 27, 30, 33, 34, 35, 37, 39, 40, 41, 42, 43, 44, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57

*Notes on amendments in this group*
Amendment 39 is pre-empted by amendment 83 in group “Timescales for preparation of adult carer support plan and young carer statement” (debated on Day 1)

**Content of local carer strategy**
82, 104, 105, 106

**Local carer strategy: duty to consult post-16 education bodies**
84, 85

**Information and advice service for carers**
58

**Carers’ charter**
86, 88

**Information and advice service – bereavement support**
87

**Register of carers**
107

**Guidance and directions to health boards and directing authorities**
62
**Procedure for regulations under section 1(3)**
65

**Amendments already debated**

**Identity of responsible local authority where carer and cared-for person in different areas**
With 4 - 28, 29, 31, 32, 36, 38, 45, 46, 59, 61, 63

**Timescales for preparation of adult carer support plan and young carer statement**
With 70 - 83, 64, 89, 66, 67

**Emergency and future care planning**
With 6 - 60

**Referral of carers to appropriate authority**
With 78 - 90

**Provision of support to carer: breaks from caring**
With 17 - 68

**Eligibility for support: review**
With 80 - 91

**Functions of the Care Inspectorate**
With 81 - 69
HEALTH AND SPORT COMMITTEE

EXTRACT FROM THE MINUTES

33rd Meeting, 2015 (Session 4)

TUESDAY 1 DECEMBER 2015

Present:

Malcolm Chisholm        Rhoda Grant
Colin Keir              Richard Lyle
Mike MacKenzie          Duncan McNeil (Convener)
Nanette Milne           Dennis Robertson
Michael Russell (Committee Substitute

Apologies were received from Bob Doris (Deputy Convener).

Carers (Scotland) Bill: The Committee considered the Bill at Stage 2 (Day 2).

The following amendments were agreed to (without division): 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68 and 69.

The following amendments were disagreed to (by division)–

104 (For 4, Against 5, Abstentions 0)
84 (For 4, Against 5, Abstentions 0)
107 (For 4, Against 5, Abstentions 0)

The following amendments were moved and, no member having objected, withdrawn: 82 and 87.

The following amendments were not moved: 83, 105, 85, 106, 89, 90 and 91.

The following provisions were agreed to without amendment: sections 32, 33, 34, 35, 38, 39, 40 and 41 and the long title.

The following provisions were agreed to as amended: sections 28, 29, 30, 31, 36 and 37 and the schedule.

The Committee completed Stage 2 consideration of the Bill.
Scottish Parliament

Health and Sport Committee

Tuesday 1 December 2015

[The Convener opened the meeting at 09:47]

Carers (Scotland) Bill: Stage 2

09:49

The Convener: We now move to the Carers (Scotland) Bill.

Section 28—Duty to prepare local carer strategy

The Convener: Amendment 25, in the name of the minister, is grouped with amendments 26, 27, 30, 33 to 35, 37, 39 to 44 and 47 to 57.

The Minister for Sport, Health Improvement and Mental Health (Jamie Hepburn): This group of amendments concerns responsibility for the preparation of the local carer strategy. Health boards have a vital role in identifying and supporting carers. I agree with the Health and Sport Committee’s recommendation that the Carers (Scotland) Bill should complement the new integrated health and social care arrangements. To that end, we will make provision so that all functions under the bill that relate to the delivery of services to adult carers will require to be delegated under integration schemes under the Public Bodies (Joint Working) (Scotland) Act 2014. For young carers, all functions are capable of being delegated to the local authority and the health board. To further recognise the key role of health boards in identifying and supporting carers, I have lodged amendment 25, which amends section 28(1) of the bill so that the duty on local authorities to prepare a local carer strategy for each local authority area will be placed jointly on the local authority and the relevant health board.

There are a number of amendments that follow on from that key amendment. Amendment 47 amends section 28(5) to set out the definition of “relevant health board” in relation to a local authority. Amendments 48 and 49 make the existing duty on local authorities to have regard to the factors set out at paragraphs (a) to (e) of section 29 in preparing the local carer strategy a joint duty on local authorities and health boards. Amendments 50 to 57 are also consequential to amendment 25. They modify section 30, on publication and review of the local carer strategy, so that the duties on local authorities set out in that section are placed jointly on the local authority and the relevant health board.

I ask members to support the amendments in the group.

I move amendment 25.

The Convener: Thank you. No members have indicated that they wish to speak. Do you have anything to add, minister?
Jamie Hepburn: Indeed not.

Amendment 25 agreed to.

Amendments 26 to 38 moved—[Jamie Hepburn]—and agreed to.

The Convener: Amendment 82, in the name of Rhoda Grant, is grouped with amendments 104 to 106.

Rhoda Grant (Highlands and Islands) (Lab): This group of amendments concerns the local carer strategy. Amendment 82 ensures that the strategy looks at preventative support in order to decrease the number of carers who break down in their role. A good preventative strategy will also cut down the number of people who will require an assessment. It is really important to value the work that carers do and to support them to continue that work. The carer strategy must deal with that issue.

Amendments 104 to 106 deal with equality issues by ensuring that the strategy takes into account protected characteristics and considers how people in those groups can be supported in their caring role. The situation in which they find themselves and their ability to access services can be affected by language, culture and relationships. It is important that the strategy recognises those differences and makes sure that services are person centred and delivered in a way that is accessible to all who need them.

I move amendment 82.

Jamie Hepburn: I thank Rhoda Grant for lodging the amendments. I see the preventative approach as important: as the policy memorandum sets out, it is one of the key principles underpinning the bill, which contains provisions that aim to promote such an approach. For example—as I mentioned to the committee last week—we are removing the regular and substantial test for someone to be recognised as a carer, so that all carers will have access to an adult carer support plan or a young carer statement.

Enabling people to request an adult carer support plan or a young carer statement as soon as they become a carer, or offering one to adult carers and young carers as soon as they are identified, should mean that a plan can be put in place at an early stage. That should reduce the need to deal with crisis situations. Less critical support needs will also be considered as part of the adult carer support plan process or the young carer statement process. Nonetheless, prevention is important and I can see that there could be merit in local carer strategies setting out plans for supporting carers on a preventative basis, which is the main thrust of Ms Grant’s amendment 82.

However, I think that we need to consider the amendment further. As it stands, there are questions about whether it would be possible for a local authority to “reduce” a carer’s support needs once they have arisen, other than by providing them with support. There might also be a compliance issue with regard to the way in which the bill is drafted. I therefore ask Rhoda Grant to withdraw amendment 82 so that we can work together on a stage 3 amendment that achieves the aim of having local carer strategies that set out preventative plans without there being any unintended consequences.

I also consider it important that the provisions set out in the bill meet the needs of carers with one or more protected characteristics, but I believe that amendments 104 to 106 are not required to achieve that aim. Local authorities and health boards already have a general public sector equality duty under the Equality Act 2010, and it would be unnecessary and wasteful of local authorities’ compliance resources to duplicate an existing legal duty. To the extent that amendment 104 might ask for more than the current duty in section 149 of the 2010 act, it could give rise to legislative competence concerns. If compliance needs to be addressed, the 2010 act already contains powers to do that.

As the statutory duty already exists, I ask Ms Grant not to move amendments 104 to 106 and to meet me to have further discussions about amendment 82.

Rhoda Grant: I am happy to meet the minister to discuss amendment 82 and will therefore seek to withdraw it.

However, I am concerned that the minister sees no need for amendments 104 to 106. When the committee took evidence, it was made quite clear to us that if such provisions were not in the bill the issues might be overlooked when the strategies were drawn up. Having listened to the minister’s comments, I do not believe that he is willing to have further discussions on the matter, so I might well move those amendments when the time comes.

Amendment 82, by agreement, withdrawn.

Amendment 104 moved—[Rhoda Grant].

The Convener: The question is, that amendment 104 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Grant, Rhoda (Highlands and Islands) (Lab)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
Milne, Nanette (North East Scotland) (Con)
Against
Keir, Colin (Edinburgh Western) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Robertson, Dennis (Aberdeenshire West) (SNP)
Russell, Michael (Argyll and Bute) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 104 disagreed to.

Amendment 83 not moved.

Amendments 39 to 42 moved—[Jamie Hepburn]—and agreed to.

The Convener: Amendment 84, in the name of Rhoda Grant, is grouped with amendment 85.

Rhoda Grant: Amendment 84 seeks to ensure that colleges and universities are consulted in the development of carer strategies. Schools are already included in the bill as part of the local authority, but young carers are also concerned about the support that they receive from colleges and universities, and amendments 84 and 85 will ensure that these institutions look at how they support carers and allow them to access further and higher education.

I move amendment 84.

10:00

Jamie Hepburn: I am not entirely clear that amendments 84 and 85 are necessary. If they are seeking to ensure that the needs of young carers approaching the transition to adult carers are taken into account when the local carer strategy is prepared, I advise Rhoda Grant that the bill already contains provisions to that effect. The provision in section 28(4)(a) provides that local authorities and health boards must involve whichever carer representative bodies they consider appropriate in the preparation of their local carer strategy, while section 28(4)(b) provides that they must take such steps as they consider appropriate to involve carers. The list is not exclusive. If a local authority and a health board believe that it is necessary to consult any educational body in the area, they can choose to do so. I am therefore not convinced that it is necessary to legislate for that.

On that basis, I ask the member to withdraw amendment 84 and not to move amendment 85.

Rhoda Grant: I do not think that colleges and universities are seen as bodies that represent carers. There is a real issue about young people accessing education. I think that the bill will deal with the issues in schools, but there are also issues to deal with in colleges and universities. Indeed, young carers are often penalised for not attending as often as they should, and quite often they do not get the support that they should get from colleges and universities.

I believe that the bill requires to be amended in this way, so I press amendment 84.

The Convener: The question is, that amendment 84 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Grant, Rhoda (Highlands and Islands) (Lab)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
Milne, Nanette (North East Scotland) (Con)

Against
Keir, Colin (Edinburgh Western) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Robertson, Dennis (Aberdeenshire West) (SNP)
Russell, Michael (Argyll and Bute) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 84 disagreed to.

Amendments 43 to 46 moved—[Jamie Hepburn]—and agreed to.

Amendment 105 not moved.

Amendment 47 moved—[Jamie Hepburn]—and agreed to.

Amendments 85 and 106 not moved.

Section 28, as amended, agreed to.

Section 29—Preparation of local carer strategy

Amendments 48 and 49 moved—[Jamie Hepburn]—and agreed to.

Section 29, as amended, agreed to.

Section 30—Publication and review of local carer strategy

Amendments 50 to 57 moved—[Jamie Hepburn]—and agreed to.

Section 30, as amended, agreed to.

Section 31—Information and advice service for carers

The Convener: Amendment 58, in the name of the minister, is in a group on its own.

Jamie Hepburn: Third sector organisations and carers have raised a concern that the bill as currently drafted may be interpreted as imposing a requirement on local authorities to establish a new information and advice service where such a service, or part of it, is already provided by
organisations other than the local authority. Members will recall that the committee picked up on that issue during its consideration of the bill at stage 1.

Amendment 58 will add wording to section 31(1) to clarify the policy intention. Although local authorities will have a duty to establish and maintain an information and advice service, it is not envisaged that that duty will require local authorities themselves to provide every aspect of the information and advice that is required to be made available under section 31(2); rather, it is expected that local authorities will understand, coordinate and make effective use of other statutory or voluntary sector resources that can and do provide information and advice to carers within their respective areas.

I want the existing information and advice services that are provided so expertly by organisations such as carers centres, young carers projects and health boards to remain in place. I would expect each local authority, in establishing and maintaining an information and advice service or in ensuring the establishment and maintenance of such a service, to make the best possible use of what already exists.

Amendment 58 will make clear that where sources of information and advice for carers are already available within the local authority area, there is no requirement for the authority to create an additional information and advice service. That will also be made clear in the guidance that will be issued to local authorities about information and advice services.

I move amendment 58.

Amendment 58 agreed to.

Amendment 59 moved—[Jamie Hepburn]—and agreed to.

The Convener: Amendment 86, in the name of Rhoda Grant, is grouped with amendment 88.

Rhoda Grant: Amendment 88 proposes a carers charter. I am aware that work to draw up a charter is on-going and that carers groups are keen that the charter be enshrined in legislation. Amendment 88 does not prescribe what should be in the charter, but it ensures that carers will be involved in drawing it up. It is important that when the charter is in place carers are aware of it and the rights that it will enshrine. Consequently, amendment 86 places a duty on advice and information services to make carers aware of the charter and its content.

I move amendment 86.

Jamie Hepburn: As Ms Grant alluded to, a carers’ rights charter is not a new concept and such a charter is under development, although it has been somewhat delayed. The charter arose out of the carers strategy and was intended for adult carers only. Although a young carers’ rights charter was not required under the strategy, we commissioned separate work on such a strategy. That work is also on-going and we expect to receive the latest draft of a young carers’ rights charter from the Scottish young carers services alliance later this month.

The charter that is currently under development will include expectations—what carers can expect—which will be derived from guidance, and it will consolidate existing rights. The charter that is envisaged in amendment 88 is a bit narrower in scope than the charter that we are preparing.

There is not necessarily a burning requirement to have the charter set out in legislation. I am happy to support Ms Grant’s amendments 86 and 88, but in doing so I say that her proposals will require some finessing at stage 3.

I will indicate to the committee some of the areas that may require further amendment. Amendment 86 refers to “any other enactment”, which would include United Kingdom legislation, but the Scottish Government may not be in the best position to provide up-to-date information on such legislation. It is important to be clear that the charter will collate and set out rights that have been conferred elsewhere and that it should not create new rights itself, because that would mean that there would not be proper parliamentary scrutiny if any future Government sought to bring forward new rights for carers in the charter; it would not be right to establish new rights in such a document on that basis.

Having set out the key areas that will require further attention at stage 3, I reiterate that I am happy to support Rhoda Grant’s amendments that seek to put a carers’ rights charter in statute.

The Convener: I ask Rhoda Grant whether she would like to wind up and whether she will press or seek to withdraw amendment 86.

Rhoda Grant: I will press amendment 86 and quit while I am ahead.

Amendment 86 agreed to.

Amendment 60 moved—[Jamie Hepburn]—and agreed to.

The Convener: Amendment 87, in the name of Rhoda Grant, is in a group on its own.

Rhoda Grant: Amendment 87 would place a duty on advice and information services to make carers aware of bereavement support. Too often, carers feel abandoned at a time of bereavement. They are often given little time to find their feet and adapt to their new circumstances. There can be quite intensive intervention in the final days of life;
a carer will be used to having people in and out of the house at that time but might find that all that suddenly stops with bereavement, which means that they can become very isolated. Carers have quite often given up work and neglected friendships in order to carry out their caring role, so they need to be supported through the transition.

I move amendment 87.

Nanette Milne (North East Scotland) (Con): I support Rhoda Grant's amendment. I have heard from Marie Curie that a significant number of people feel totally bereft, quite apart from their proper bereavement, once the person whom they are caring for has died. It is very important to look after those people at what is a time of pretty great need for them.

Jamie Hepburn: I recognise that, as Nanette Milne has said, it can be difficult—even devastating—when a carer's caring role comes to an end. I am aware that some local carers centres continue to support carers after their caring role ends, which a number of members spoke about during the stage 1 debate. There is provision for carers when their caring role ends. Following a death, bereavement care is provided to relatives and carers throughout Scotland in ways that are responsive to their needs and which reflect their spiritual, religious and cultural requirements. The information pack, "When someone has died—information for you", which was developed to help people through the first few days of a bereavement, is widely used across the national health service in Scotland, and the bereavement zone on the NHS inform website offers a lot of practical advice on what to do after a death and on coping with grief. Both those resources offer specific advice for children and young people, which young carers may find particularly helpful. Information on how to access local services can be found on NHS board websites or obtained directly from NHS staff, and national services such as the breathing space service and support from Cruse Bereavement Care Scotland are available for those who need someone to talk to.

The caring role may also come to an end for a reason other than the death of the cared-for person. The cared-for person may, for instance, have been admitted to a care home, which may be difficult for the carer. The bill is focused on providing carers with access to support in order to sustain their caring role. The person-centred outcomes approach will ensure that carers are supported at the right time. As part of that it is critical to review outcomes to ensure the continued relevance of support services for carers. That is important when carers are caring for someone who is coming to the end of their life. The information and advice service provided by each local authority must provide information and advice about health and wellbeing, including counselling services for carers, which we envisage might include bereavement counselling. Despite the good range of services that exist, I recognise that carers might face particular issues and challenges, such as coming to terms with not having a caring role for their loved one or trying to get back into work after not being in employment.

However, Rhoda Grant's amendment, is very wide in scope. It looks as if it covers the provision of information and advice on bereavement support for carers when people other than the cared-for person dies, which I do not think is necessarily the intention behind the amendment. I would like to work with Rhoda Grant so that she can lodge an alternative amendment at stage 3. On that basis, I ask her to withdraw amendment 87 so that we can discuss the matter and get it right for stage 3.

Rhoda Grant: It is really important that carers get bereavement support, which perhaps should form part of the assessment of how they will be supported when their caring role ends. I take on board what the minister said about the breadth of the amendment. I do not want it to be that wide; I want it to provide for support when somebody's caring role ends. With that in mind, I will have further discussions with the minister and will lodge an alternative amendment at stage 3.

Amendment 87, by agreement, withdrawn.

Amendment 61 moved—[Jamie Hepburn]—and agreed to.

Section 31, as amended, agreed to.

Section 32 agreed to.

After section 32

Amendment 88 moved—[Rhoda Grant]—and agreed to.

10:15

The Convener: Amendment 107, in the name of Rhoda Grant, is in a group on its own.

Rhoda Grant: Amendment 107 would ensure that the NHS identifies carers and would ensure that their health needs are attended to. Often, carers, especially young carers, have general practitioners and healthcare staff coming and going from their home but are never asked how they are coping and whether they are getting the support that they require. NHS staff are ideally placed to identify carers of every age and to refer them to support services. There are instances when that has happened and it has proved a godsend to the carers involved. However, often it does not happen and carers feel ignored and abandoned, without help or support.
I move amendment 107.

**Jamie Hepburn:** I understand and fully appreciate the need to promote carers’ health and wellbeing. All the provisions in the bill are designed to ensure that carers can continue to care, if they wish to do so, in good health. The identification of carers’ personal outcomes within the context of the adult carer support plan and the young carer statement is central to that.

The focus of the specific integration national health and wellbeing outcome relating to carers is on ensuring that carers are supported to look after their own health and wellbeing and reduce any negative impact of their caring role on their health and wellbeing.

I would like to take a little time to outline the new way forward for the GP contract, which is relevant to supporting carers. The Scottish Government has set a direction of travel around the future arrangements for the GP contract in Scotland, which is designed to reduce bureaucracy and to free up GP time for face-to-face contact with patients. We will be moving towards a more integrated GP contract that supports the GP’s role in the wider community.

As I have said, the whole purpose of the bill is to support carers’ health and wellbeing. The new way ahead for the GP contract will enable GPs to have more contact with carers, which will enable carers to ask for health checks when appropriate. Carers can also be encouraged, through the adult carer support plan and the young carer statement, to visit their GP to maintain their own health and wellbeing.

The national review of out-of-hours primary care services led by Sir Lewis Ritchie, which reported yesterday, recommends a multidisciplinary team-based approach to the delivery of urgent care services. That proposed new model of care will help to mitigate issues such as the recruitment and retention of GPs. It will also encourage health and social care staff to work together better. Having a person-centred and joined-up approach will help to improve the management of staff availability, especially during peak holiday times, the consistency of the service and the public’s expectations of it. All those crucial wider developments will support carers’ health and wellbeing.

Under future arrangements, GPs will have a focus on supporting the planning of services locally through clusters of GP practices coming together to plan and develop services for the community. The work to develop and support GP clusters will be a key strand of work for the health and social care partnerships and integration joint boards. Crucially, carers are to be represented on integration joint boards and, together with GPs, they will be able to influence the work to plan and develop GP services for the local community.

The new direction of travel for GPs will free up GP time to deal with patients with complex needs, including time to support their carers. I propose to write to NHS boards to encourage them to continue to identify carers and to support them in health settings. Those health settings include GP practices, but other health settings such as hospitals and community pharmacists are just as important in supporting carers’ health and wellbeing.

There are a number of provisions in the bill to support carer identification more generally. A key one is that each local authority and relevant health board must prepare a local carer strategy that sets out their plans for identifying carers in the area and obtaining information about the care that they provide or intend to provide. That will support carer identification by GPs.

In light of all that I have set out, I ask Rhoda Grant to withdraw amendment 107.

**Rhoda Grant:** Although I welcome everything that the minister said, he set out only small changes. There is a culture out there that does not recognise carers. Some carers do not recognise themselves as carers and do not ask for help, because they are so taken up with their caring role that they feel that they need to continue it.

Health professionals are in a great place to identify carers, but they often do not do so. Some years ago, I wrote to GPs to ask how many young carers they had in their practices. I was surprised by the number of responses that came back saying that they had none. We know that about 25 per cent of young people are carers, and I do not think that that figure has changed hugely between then and now.

I will press amendment 107, because it is important that we make it a duty for everybody to identify and support young carers, especially those who are best placed to identify them.

**The Convener:** The question is, that amendment 107 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

For

Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Grant, Rhoda (Highlands and Islands) (Lab)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
Milne, Nanette (North East Scotland) (Con)

Against

Keir, Colin (Edinburgh Western) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Robertson, Dennis (Aberdeenshire West) (SNP)
Russell, Michael (Argyll and Bute) (SNP)
The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 107 disagreed to.

Section 33 agreed to.

After section 33

The Convener: Amendment 62, in the name of the minister, is in a group on its own.

Jamie Hepburn: Section 33 confers powers on the Scottish ministers to issue guidance to local authorities in respect of their functions under the bill. It also allows the Scottish ministers to issue directions to local authorities on the manner in which they are to exercise their functions. There is currently no equivalent provision in relation to the functions conferred by the bill on health boards and directing authorities of schools.

Amendment 62 will address that. It will allow the Scottish ministers to issue guidance and directions to health boards and directing authorities in respect of their functions under the bill, for example in respect of the preparation of young carer statements by health boards for young carers who are pre-school children. The provision will require health boards and directing authorities to have regard to any such guidance and directions when performing their functions under the bill.

I move amendment 62.

Amendment 62 agreed to.

Sections 34 and 35 agreed to.

Section 36—Interpretation

Amendments 63 and 64 moved—[Jamie Hepburn]—and agreed to.

Amendment 89 not moved.

Section 36, as amended, agreed to.

Section 37—Regulations

The Convener: Amendment 65, in the name of the minister, is in a group on its own.

Jamie Hepburn: The power in section 1(3) and the regulations that will be made under it are intended to give effect to the policy that kinship care agreements under the Looked After Children (Scotland) Regulations 2009 are not to be regarded as contracts under the bill. The intention is also to put it beyond doubt that similar agreements that exist between foster carers and local authorities are to be regarded as contracts for purposes of the bill. Section 1(3)(b) is intended to make provision for those people who in policy terms are referred to as “mixed carers”. Mixed carers are carers who undertake both unpaid care and paid care for the same family member.

In its letter to the Scottish Government on 31 March 2015, the Delegated Powers and Law Reform Committee asked for further justification as to the choice of the negative procedure for the exercise of the power in section 1(3) and why the affirmative procedure was not considered to be more appropriate for the power. I have considered that committee’s concern that the power in section 1(3) could potentially expand or restrict the reach of the bill’s provisions on providing support to carers, depending on the manner in which it is exercised. It is certainly the case that unpaid caring is a complex area that could become more so in the future. For example, it is possible that as use of the Social Care (Self-directed Support) (Scotland) Act 2013, which is in the early stages of implementation, becomes more prevalent, further types of mixed carer may emerge.

In light of the Delegated Powers and Law Reform Committee’s concerns, I have lodged amendment 65 to make the power at section 1(3) subject to the affirmative procedure.

I move amendment 65.

Amendment 65 agreed to.

Amendments 66 and 67 moved—[Jamie Hepburn]—and agreed to.

Amendment 90 not moved.

Amendment 68 moved—[Jamie Hepburn]—and agreed to.

Amendment 91 not moved.

Section 37, as amended, agreed to.

Sections 38 and 39 agreed to.

Schedule—Consequential modifications

Amendment 69 moved—[Jamie Hepburn]—and agreed to.

Schedule, as amended—[Jamie Hepburn]—and agreed to.

Sections 40 and 41 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. Members should note that the bill will now be reprinted as amended. The Parliament has not yet determined when stage 3 will take place, but members can lodge stage 3 amendments with the legislation team at any time. Members will be informed of the deadline for amendments once it has been determined.

10:27

Meeting suspended.
Carers (Scotland) Bill
[AS AMENDED AT STAGE 2]

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Carers (Scotland) Bill  
[AS AMENDED AT STAGE 2]

An Act of the Scottish Parliament to make provision about carers, including the identification of carers’ needs for support through adult carer support plans and young carer statements; the provision of support to carers; the enabling of carer involvement in certain services; the preparation of local carer strategies; the establishment of information and advice services for carers; and for connected purposes.

**PART 1**

**KEY DEFINITIONS**

“Carer”, “young carer” and “adult carer”

1 Meaning of “carer”

10 (1) In this Act “carer” means an individual who provides or intends to provide care for another individual (the “cared-for person”).

(2) But subsection (1) does not apply—

(a) in the case of a cared-for person under 18 years old, to the extent that the care is or would be provided by virtue of the person’s age, or

(b) in any case, to the extent that the care is or would be provided—

(i) under or by virtue of a contract, or

(ii) as voluntary work.

(3) The Scottish Ministers may by regulations—

(a) provide that “contract” in subsection (2)(b)(i) does or, as the case may be, does not include agreements of a kind specified in the regulations,

(b) permit a relevant authority to disregard subsection (2)(b) where the authority considers that the relationship between the carer and the cared-for person is such that it would be appropriate to do so.

(4) In this Part “relevant authority” means a responsible local authority or a responsible authority (see section 36(1)).
Carers (Scotland) Bill

Part 2—Adult carer support plans and young carer statements

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2 Meaning of “young carer”
In this Act “young carer” means a carer who—
(a) is under 18 years old, or
(b) has attained the age of 18 years while a pupil at a school, and has since attaining that age remained a pupil at that or another school.

3 Meaning of “adult carer”
In this Act “adult carer” means a carer who is at least 18 years old but is not a young carer.

"Personal outcomes” etc.

4 Meaning of “personal outcomes”
(1) In this Act “personal outcomes”, in relation to carers, includes outcomes which would, if achieved, enable carers to provide or continue to provide care for cared-for persons.
(2) The Scottish Ministers may by regulations make further provision about personal outcomes, including provision about—
(a) which outcomes may be personal outcomes,
(b) the matters to which a relevant authority is to have regard in considering which outcomes may be personal outcomes.

5 Meaning of “identified personal outcomes” and “identified needs”
(1) In this Act “identified personal outcomes”, in relation to a carer, means the personal outcomes which are identified as relevant to the carer.
(2) In this Act “identified needs”, in relation to a carer, means the needs for support (if any) which are identified in order to meet the carer’s identified personal outcomes.
(3) In this section “identified” means identified by virtue of section 7 or 12.

PART 2

ADULT CARER SUPPORT PLANS AND YOUNG CARER STATEMENTS

CHAPTER 1

ADULT CARER SUPPORT PLANS

Duty to prepare adult carer support plan

6 Duty to prepare adult carer support plan
(1) In this Act an “adult carer support plan” means a plan prepared by a responsible local authority setting out—
(a) an adult carer’s identified personal outcomes,
(b) an adult carer’s identified needs (if any), and
Part 2—Adult carer support plans and young carer statements

Chapter 1—Adult carer support plans

(c) the support (if any) to be provided by the responsible local authority to an adult carer to meet those needs.

(1A) If a responsible local authority identifies a person as an adult carer, the responsible local authority must offer the person an adult carer support plan.

(2) The responsible local authority must prepare an adult carer support plan in relation to a person if—

(a) the person accepts an offer under subsection (1A), or
(b) subsection (4) applies.

(4) This subsection applies if a person who appears to the responsible local authority to be an adult carer requests an adult carer support plan.

(5) For the purposes of this Chapter the “responsible local authority”, in relation to an adult carer, means the local authority for the area in which the cared-for person resides.

6A Adult carers of terminally ill cared-for persons

(1) The Scottish Ministers may by regulations prescribe timescales for the preparation of adult carer support plans in relation to adult carers of terminally ill cared-for persons.

(2) For the purposes of this section and section 11A, a cared-for person is terminally ill at any time if at that time the person suffers from a progressive disease and death in consequence of that disease can reasonably be expected within 6 months.

7 Adult carers: identification of outcomes and needs for support

The Scottish Ministers may by regulations make provision about the identification of adult carers’ personal outcomes and their needs for support, including—

(a) how personal outcomes and needs for support are to be identified,
(b) the process for doing so (including arrangements for the involvement of adult carers and cared-for persons),
(c) who may carry out identification,
(d) the sharing of information about adult carers and cared-for persons for the purpose of identifying personal outcomes and needs for support,
(e) the factors to be taken into account in identifying adult carers’ personal outcomes and needs for support,
(f) the circumstances in which adult carers’ personal outcomes and needs for support should be reviewed.

Content and review of adult carer support plan

8 Content of adult carer support plan

(1) An adult carer support plan must contain—

(a) information about the adult carer’s personal circumstances at the time of preparation of the plan, including—
   (i) the nature and extent of the care provided or to be provided,
(ii) the impact of caring on the adult carer’s wellbeing and day-to-day life,
(b) information about the extent to which the adult carer is able and willing to provide care for the cared-for person,

(ba) information about whether the adult carer has arrangements in place for the provision of care to the cared-for person in an emergency,

(c) information about the identification of the adult carer’s personal outcomes, including about the carer’s identified personal outcomes,

(d) information about the identification of the adult carer’s needs for support, including—

(i) if the adult carer has identified needs, those needs,

(ii) if no needs for support are identified, that fact,

(e) information about the support available to adult carers and cared-for persons in the responsible local authority’s area,

(ea) if the adult carer does not reside in the responsible local authority’s area, information about the support available to adult carers in the area where the adult carer resides,

(f) if the adult carer’s identified needs meet the local eligibility criteria, information about the support which the responsible local authority provides or intends to provide to the adult carer to meet those needs,

(g) if the adult carer’s identified needs do not meet the local eligibility criteria, information about the support which the responsible local authority provides or intends to provide to the adult carer,

(h) information about whether support should be provided in the form of a break from caring,

(i) information about the circumstances in which the plan is to be reviewed.

(2) Each second and subsequent adult carer support plan must also contain information about the extent to which any support provided under a previous plan has assisted in the achievement of the adult carer’s identified personal outcomes.

(3) The Scottish Ministers may by regulations make provision about—

(a) other information which an adult carer support plan must (or must not) contain,

(b) the form of adult carer support plans.

9 Review of adult carer support plans
The Scottish Ministers may by regulations make provision about the review of adult carer support plans, including—

(a) the circumstances in which plans are to be reviewed,

(b) the frequency of review,

(c) the procedure for review,

(d) arrangements for obtaining the views of adult carers and cared-for persons.
Part 2—Adult carer support plans and young carer statements

Chapter 2—Young carer statements

Provision of information about plan

10 Adult carer support plan: provision of information to carer etc.

(1) The responsible local authority must provide the persons mentioned in subsection (2) with the information contained in the adult carer support plan.

(2) Those persons are—

(a) the adult carer to whom the plan relates, and
(b) any other persons the adult carer requests.

(3) Subsection (1) does not apply to the extent that the responsible local authority considers that provision of the information would not be appropriate.

(4) The information is to be provided as soon as practicable after—

(a) the plan is prepared, or
(b) in the case of a revised plan, the revised plan is prepared.

CHAPTER 2

YOUNG CARER STATEMENTS

15 Duty to prepare young carer statement

11 Duty to prepare young carer statement

(1) In this Act a “young carer statement” means a statement prepared by a responsible authority setting out—

(a) a young carer’s identified personal outcomes,
(b) a young carer’s identified needs (if any), and
(c) the support (if any) to be provided by the responsible local authority to a young carer to meet those needs.

(1A) If a responsible authority identifies a person as a young carer, the responsible authority must offer the person a young carer statement.

(2) The responsible authority must prepare a young carer statement in relation to a person if—

(a) the person accepts an offer under subsection (1A), or
(b) subsection (4) applies.

(4) This subsection applies if a person who appears to the responsible authority to be a young carer requests a young carer statement.

(5) Subsection (2) applies whether or not the young carer requires a child’s plan in accordance with section 33 of the 2014 Act.

(7) Where the responsible authority, in relation to a young carer, is not the responsible local authority, the responsible authority must not provide the young carer statement to the young carer without the approval of the responsible local authority.

(8) For the purposes of this Chapter—

“responsible authority” has the meaning given by sections 17 and 18,
“responsible local authority” means the local authority for the area in which the cared-for person resides.

11A Young carers of terminally ill cared-for persons

The Scottish Ministers may by regulations prescribe timescales for the preparation of young carer statements in relation to young carers of terminally ill cared-for persons.

12 Young carers: identification of outcomes and needs for support

The Scottish Ministers may by regulations make provision about the identification of young carers’ personal outcomes and their needs for support, including—

(a) how personal outcomes and needs for support are to be identified,

(b) the process for doing so (including arrangements for the involvement of young carers and cared-for persons),

(c) who may carry out identification,

(d) the sharing of information about young carers and cared-for persons for the purpose of identifying personal outcomes and needs for support,

(e) the factors to be taken into account in identifying young carers’ personal outcomes and needs for support,

(f) the circumstances in which young carers’ personal outcomes and needs for support should be reviewed.

Content and review of young carer statement

13 Content of young carer statement

(1) A young carer statement must contain—

(a) information about the young carer’s personal circumstances at the time of the preparation of the statement, including—

(i) the nature and extent of the care provided or to be provided,

(ii) the impact of caring on the young carer’s wellbeing and day-to-day life,

(b) information about the extent to which the young carer is able and willing to provide care for the cared-for person,

(c) information about the extent to which the responsible authority considers that the nature and extent of the care provided by the young carer is appropriate,

(ca) information about whether the young carer has arrangements in place for the provision of care to the cared-for person in an emergency,

(d) information about the identification of the young carer’s personal outcomes, including about the young carer’s identified personal outcomes,

(e) information about the identification of the young carer’s needs for support, including—

(i) if the young carer has identified needs, those needs,

(ii) if no needs for support are identified, that fact,
(f) information about the support available to young carers and cared-for persons in the responsible local authority’s area,

(fa) if the young carer does not reside in the responsible local authority’s area, information about the support available to young carers in the area where the young carer resides,

(g) if the young carer’s identified needs meet the local eligibility criteria, information about the support which the responsible local authority provides or intends to provide to the young carer to meet those needs,

(h) if the young carer’s identified needs do not meet the local eligibility criteria, information about the support which the responsible local authority provides or intends to provide to the young carer to meet those needs,

(i) information about whether support should be provided in the form of a break from caring,

(j) information about the circumstances in which the young carer statement is to be reviewed.

(2) Each second and subsequent young carer statement must also contain information about the extent to which any support provided under a previous statement has assisted in the achievement of the young carer’s identified personal outcomes.

(3) For the purpose of subsection (1)(a)(ii), the responsible authority is—

(a) to assess the wellbeing of a young carer by reference to the extent to which the matters listed in section 96(2) of the 2014 Act are or, as the case may be, would be satisfied in relation to the young carer, and

(b) in doing so, to have regard to the guidance issued under section 96(3) of the 2014 Act.

(4) The Scottish Ministers may by regulations make provision about—

(a) other information which a young carer statement must (or must not) contain,

(b) the form of young carer statements.

14 Review of young carer statements

The Scottish Ministers may by regulations make provision about the review of young carer statements, including—

(a) the circumstances in which statements are to be reviewed,

(b) the frequency of review,

(c) the procedure for review,

(d) arrangements for obtaining the views of young carers and cared-for persons.

15 Young carer statement: provision of information to carer etc.

(1) A responsible authority must provide the persons mentioned in subsection (2) with the information contained in the young carer statement.
(2) Those persons are—
   (a) the young carer to whom the young carer statement relates,
   (c) any other person the young carer requests.

(3) Subsection (1) does not apply to the extent that the responsible authority considers that provision of the information would not be appropriate.

(4) The information is to be provided as soon as practicable after—
   (a) the statement is prepared, or
   (b) in the case of a revised statement, the revised statement is prepared.

Continuation of young carer statement

Despite the fact that a young carer has attained the age of 18 years, any young carer statement prepared in relation to that carer continues to have effect until the carer is provided with an adult carer support plan.

Meaning of responsible authority: young carers

(1) For the purposes of this Chapter the “responsible authority”, in relation to a young carer, is—
   (a) where the young carer is a pre-school child, the health board for the area in which the child resides,
   (b) where the young carer is not a pre-school child, the local authority for the area in which the child resides.

(2) Subsection (1) is subject to section 18.

(3) In this section and section 18 “pre-school child” has the meaning given by section 36(3) of the 2014 Act.

Responsible authority: special cases

(1) Where in pursuance of a decision of a local authority or health board a young carer who is a pre-school child resides in the area of a health board which is different to that in which the young carer would otherwise reside, the health board for the area in which the young carer would otherwise reside is the responsible authority in relation to the young carer.

(2) Where the young carer is a pupil at a public school which is managed by a local authority other than the one for the area in which the young carer resides, that other authority is the responsible authority in relation to the young carer.

(3) Where the young carer is a pupil at a grant-aided school or an independent school, the directing authority of that school is the responsible authority in relation to the young carer.

(4) Subsection (3) does not apply where the young carer is such a pupil by virtue of a placement by the local authority for the area in which the young carer resides.
(5) In this section “grant-aided school”, “independent school” and “public school” have the meanings given by section 135 of the Education (Scotland) Act 1980.

PART 3
PROVISION OF SUPPORT TO CARERS

CHAPTER 1
ELIGIBILITY CRITERIA

Local eligibility criteria

19 Duty to set local eligibility criteria

(1) Each local authority must set the local eligibility criteria which it is to apply in its area.

(2) Local eligibility criteria are the criteria by which the local authority must determine whether it is required to provide support to carers to meet carers’ identified needs.

(3) Before setting its local eligibility criteria, a local authority must—
   (a) consult such persons and bodies representative of carers as the local authority considers appropriate, and
   (b) take such steps as it considers appropriate to involve carers.

(4) A local authority must, when setting its local eligibility criteria, have regard among other things to such matters as the Scottish Ministers may by regulations specify.

20 Publication and review of criteria

(1) Each local authority must publish its local eligibility criteria.

(2) The first local eligibility criteria must be published before the end of the period of 6 months beginning with the day prescribed by the Scottish Ministers by regulations.

(3) Each local authority must carry out a first review of its local eligibility criteria before the end of the period, prescribed by the Scottish Ministers by regulations, beginning with the day on which the criteria are published.

(4) Each local authority—
   (a) must thereafter review its local eligibility criteria before the end of the relevant period,
   (b) may from time to time carry out such a review.

(5) The relevant period is the period of 3 years beginning with whichever is the later of the day on which the local authority last published—
   (a) its local eligibility criteria, or
   (b) a statement under subsection (6)(b).

(6) Following a review under subsection (3) or (4), the local authority—
   (a) may set revised local eligibility criteria,
   (b) must, where it does not set revised criteria, publish a statement to that effect.
Subsection (1) and section 19(4) apply to revised local eligibility criteria set under this section as they apply to criteria set under section 19.

**National eligibility criteria**

21 National eligibility criteria

(1) The Scottish Ministers may make regulations setting out national eligibility criteria.

(2) National eligibility criteria are the criteria by which each local authority must assess whether it is required to provide support to carers to meet carers’ identified needs.

(3) Where regulations under this section are made and have not been revoked—

(a) the national eligibility criteria set out in them apply in place of any local eligibility criteria published under section 20,

(b) sections 19 and 20 do not apply, and

(c) references in sections 8(1)(f) and (g), 13(1)(g) and (h) and 22(3) to local eligibility criteria are to be read as references to national eligibility criteria.

(4) Regulations under this section may modify any enactment (including this Act).

**Duty to provide support**

22 Duty to provide support

(1) This section applies where a carer has identified needs which cannot be met by services or assistance—

(a) provided to the cared-for person (other than care provided by virtue of section 23 in order to provide the carer with a break from caring), or

(b) provided generally to persons in the area of the responsible local authority or, where the carer does not reside in the area of that authority, in the area where the carer resides.

(2) The responsible local authority must determine whether any of those needs are eligible needs.

(3) A carer’s eligible needs are the carer’s identified needs which meet the local eligibility criteria.

(4) The responsible local authority—

(a) must provide support to the carer to meet the carer’s eligible needs, and

(b) may provide support to the carer to meet the carer’s other identified needs.

(5) Subsection (4)(a) applies—

(a) in the case of an adult carer, whether or not the carer’s eligible needs may also, following assessment under section 12A(1) of the 1968 Act, call for the provision of community care services to the carer under that section,

(b) in the case of a young carer, whether or not the carer’s eligible needs may also be met by the provision of services to the carer under section 22(1) of the 1995 Act.
(6) In this section the “responsible local authority”, in relation to a carer, means the local authority for the area in which the cared-for person resides.

23 **Provision of support to carers: breaks from caring**

(1) A local authority, in determining which support to provide to a carer under section 22(4), must consider in particular whether the support should take the form of or include a break from caring.

(2) The Scottish Ministers may by regulations make provision—
   (a) about the form of support that may be provided as a break from caring,
   (b) where the regulations provide for a break from caring to take the form of the provision of care for the cared-for person, the role of the cared-for person in relation to how that care is provided.

(3) Support provided by virtue of subsection (1) may be provided on a regular basis or on a temporary basis and may be provided for varying periods of time.

24 **Charging for support provided to carers**

In section 87 of the 1968 Act (power of local authority to charge for services and accommodation provided under certain enactments)—

   (a) in subsection (1), for “section 3(4) of the Social Care (Self-directed Support) (Scotland) Act 2013 (asp 1)” substitute “section 22(4) of the Carers (Scotland) Act 2015”,
   (b) in subsection (1A)(a), for “section 3(4) of the Social Care (Self-directed Support) (Scotland) Act 2013 (asp 1)” substitute “section 22(4) of the Carers (Scotland) Act 2015”.

**PART 4**

**CARER INVOLVEMENT**

25 **Duty to involve carers in carer services**

(1) Each local authority must take such steps as it considers appropriate to involve the persons mentioned in subsection (3) in carer services of that local authority.

(2) Each health board must take such steps as it considers appropriate to involve the persons mentioned in subsection (3) in carer services of that health board.

(3) Those persons are—
   (a) carers in the area of the local authority or, as the case may be, the health board, and
   (b) such persons and bodies representative of carers as the local authority or, as the case may be, the health board considers appropriate.

(4) “Carer services” means services provided, or to be provided, by the local authority or, as the case may be, the health board to—
   (a) carers in relation to the care they provide, or intend to provide, for cared-for persons,
   (b) cared-for persons in relation to the care they receive.
(4A) Each health board must in particular take such steps as it considers appropriate to ensure—

(a) that when planning the discharge of a person from hospital it—

(i) informs any carer who provides, or intends to provide, care for that person of the planned discharge,

(ii) involves any such carer in planning the discharge, and

(iii) takes account of the views of any such carer in making decisions about the discharge of the person, and

(b) that such planning begins as soon as reasonably practicable after the admission of the person to hospital.

(5) Subsection (4) does not apply to—

(a) services which are contained in a children’s services plan (within the meaning of section 8 of the 2014 Act) if the persons mentioned in subsection (3) have been consulted in relation to the preparation of that plan,

(b) services provided by virtue of functions which have been delegated under an integration scheme (within the meaning of section 1(3) of the Public Bodies (Joint Working) (Scotland) Act 2014) or which are to be carried out in conjunction with those functions.

(6) “Involvement”, in relation to carer services, includes involvement in considering—

(a) what needs might call for the provision of services,

(b) what services might be provided to meet those needs,

(c) how those services might be provided, and

(d) how the provision of those services might be evaluated.

26 Involvement of, assistance to and collaboration with carers

In section 1(1) of the Social Care (Self-directed Support) (Scotland) Act 2013 (general principles applicable in carrying out certain care functions), after paragraph (c) insert—

“(d) Part 2 or 3 of the Carers (Scotland) Act 2015.”.

27 Care assessments: duty to take account of care and views of carers

(1) Section 12A of the 1968 Act (duty of local authority to assess needs) is amended in accordance with subsections (2) to (4).

(2) In subsection (1)(b)—

(a) for sub-paragraph (i) substitute—

“(i) if an adult carer provides, or intends to provide, care for that person, of the care provided by that carer,

(ia) if a young carer provides, or intends to provide, care for that person, of the care provided by that carer,”,

(b) in sub-paragraph (ii)—

(i) “both” is repealed,

(ii) “and of the views of the carer” is repealed,
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(iii) “, in either case,” is repealed.

(3) After subsection (1) insert—

“(1A) In subsection (1)(b)(i) and (ia), the reference to the care provided by a carer means—

(a) in the case of an adult carer who has an adult carer support plan, the information about that care set out in that plan,
(b) in the case of a young carer who has a young carer statement, the information about that care set out in that statement.

(1B) In—

(a) assessing the needs of a person for services under subsection (1)(a),
(b) deciding under subsection (1)(b) whether those needs call for the provision of any services, and
(c) deciding how any such services are to be provided,

a local authority must take account of the views of the carer, in so far as it is reasonable and practicable to do so.”.

(4) In subsection (8)—

(a) before the definition of “community care services” insert—

““adult carer” and “adult carer support plan” have the meanings given by the Carers (Scotland) Act 2015,”,
(b) after the definition of “person” insert—

““young carer” and “young carer statement” have the meanings given by the Carers (Scotland) Act 2015.”.

(5) Section 23 of the 1995 Act (children affected by disability) is amended in accordance with subsections (6) and (7).

(6) In subsection (4)—

(a) for paragraph (a) substitute—

“(a) if an adult carer provides, or intends to provide, care for the child, of the care provided by that carer,
(aa) if a young carer provides, or intends to provide, care for the child, of the care provided by that carer,”,
(b) in paragraph (b)—

(i) sub-paragraph (ii) is repealed (together with the “and” immediately before it),
(ii) for “child or carer” substitute “or child”.

(7) After subsection (4) insert—

“(5) In subsection (4)(a) and (aa), the reference to the care provided by a carer means—

(a) in the case of an adult carer who has an adult carer support plan, the information about that care set out in that plan,
(b) in the case of a young carer who has a young carer statement, the information about that care set out in that statement.

(6) In—

(a) determining the needs of a child under subsection (3),
(b) deciding whether to provide any services under section 22(1), and
(c) deciding how any such services are to be provided,

a local authority must take account of the views of the carer, in so far as it is reasonable and practicable to do so.

(7) In this section—

“adult carer” and “adult carer support plan” have the meanings given by the Carers (Scotland) Act 2015,
“young carer” and “young carer statement” have the meanings given by the Carers (Scotland) Act 2015.”.

PART 5

LOCAL CARER STRATEGIES

28 Duty to prepare local carer strategy

(1) Each local authority and relevant health board must jointly prepare a local carer strategy.

(2) A local carer strategy means a document setting out—

(a) plans for identifying relevant carers and obtaining information about the care they provide or intend to provide to cared-for persons in the local authority’s area,
(b) an assessment of the demand for support to relevant carers,
(c) the support available to relevant carers in the authority’s area from—

(i) the authority,
(ii) the relevant health board,
(iii) such other persons and bodies as the authority and relevant health board consider appropriate,
(d) an assessment of the extent to which demand for support to relevant carers is currently not being met,
(e) plans for supporting relevant carers,
(f) the intended timescales for preparing adult carer support plans and young carer statements,
(g) such other information as the authority and relevant health board consider appropriate.

(3) A local carer strategy must contain information relating to the particular needs and circumstances of young carers.

(4) Before preparing a local carer strategy, the local authority and the relevant health board must jointly—
(a) consult such persons and bodies representative of carers as they consider appropriate, and
(b) take such steps as they consider appropriate to involve relevant carers.

(4A) In this section “relevant carers” means—

(a) carers who reside in the area of a local authority (whether or not they provide or intend to provide care for cared-for persons in that area), and
(b) carers who do not reside in the authority’s area but who provide or intend to provide care to cared-for persons in that area.

(5) In this Part “relevant health board”, in relation to a local authority, means—

(a) if the area of the local authority is the same as that of a health board, that health board,
(b) if the area of the local authority is not the same as that of a health board, the health board within whose area the area of the local authority falls.

29 Preparation of local carer strategy

In preparing a local carer strategy, the local authority and the relevant health board must have regard among other things to—

(a) any plans for the provision of services relevant to young carers which are set out in the children’s services plan prepared for the area of the local authority under section 8 of the 2014 Act,
(b) the aims set out in section 9(2) of the 2014 Act,
(c) the criteria for assessing the wellbeing of children and young people set out in section 96 of the 2014 Act,
(d) any national health and wellbeing outcomes prescribed under section 5 of the Public Bodies (Joint Working) (Scotland) Act 2014,
(e) any arrangements for the carrying out of integration functions relevant to carers which are set out in the strategic plan prepared for the area of the local authority under section 29 of the Public Bodies (Joint Working) (Scotland) Act 2014,
(f) any other local or national plans relating to the provision of social work services and health services as the authority and relevant health board consider appropriate.

30 Publication and review of local carer strategy

(1) Each local authority and relevant health board must jointly publish their local carer strategy.

(2) The first local carer strategy is to be published before the end of the relevant period (within the meaning of section 37(10) of the Public Bodies (Joint Working) (Scotland) Act 2014) during which section 28 comes into force.

(3) Each local authority and relevant health board—

(a) must jointly review their strategy before the end of the period mentioned in subsection (4),
(b) may from time to time carry out such a review.
(4) That period is the period of 3 years beginning with whichever is the later of the day on which the local authority and relevant health board last published—
   (a) their local carer strategy, or
   (b) a statement under subsection (6)(b).

(5) In reviewing their local carer strategy, section 28(4) applies.

(6) Following a review under subsection (3), the local authority and relevant health board—
   (a) may prepare a revised local carer strategy,
   (b) must, where they do not prepare a revised strategy, publish a statement to that effect.

(7) Subsection (1) and section 29 apply to a revised local carer strategy prepared under this section as they apply to a local carer strategy prepared under section 28.

**PART 6**

**INFORMATION AND ADVICE FOR CARERS**

*Information and advice service*

15  **Information and advice service for carers**

(1) Each local authority must establish and maintain, or ensure the establishment and maintenance of, an information and advice service for relevant carers.

(2) The service must provide information and advice in particular about—
   (a) the carers’ charter, including the rights of carers,
   (b) income maximisation for carers,
   (c) education and training for carers,
   (d) advocacy for carers,
   (e) health and wellbeing (including counselling) for carers,
   (f) emergency care planning and future care planning for carers.

(3) The information and advice must be accessible to, and proportionate to the needs of, the persons to whom it is provided.

(4) In this section “relevant carers” has the meaning given by section 28(4A).

*Short breaks services statements*

32  **Short breaks services statements**

(1) Each local authority must prepare and publish a short breaks services statement.

(2) A short breaks services statement means a statement of information about the short breaks services available in Scotland for carers and cared-for persons.

(3) The information must be accessible to, and proportionate to the needs of, the persons to whom it is provided.

(4) The Scottish Ministers may by regulations make further provision about the preparation, publication and review of short breaks services statements.
32A **Carers’ charter**

(1) The Scottish Ministers must prepare a carers’ charter.

(2) A carers’ charter is a document setting out the rights of carers as provided for—

(a) in or under this Act,

(b) under any other enactment.

(3) The Scottish Ministers may from time to time revise the charter prepared under subsection (1).

(4) The Scottish Ministers must—

(a) before preparing the charter under subsection (1) or revising it under subsection (3)—

(i) consult such persons and bodies representative of carers as the Scottish Ministers consider appropriate,

(ii) take such steps as they consider appropriate to involve carers,

(b) lay the charter or revised charter before the Scottish Parliament, and

(c) publish the charter or revised charter in such manner as they consider appropriate.

**PART 7**

**GENERAL PROVISION**

**Guidance and directions**

33 **Guidance and directions to local authorities**

(1) Section 5 of the 1968 Act (powers of the Scottish Ministers) is amended as follows.

(2) In subsection (1), after “Children’s Hearings (Scotland) Act 2011 (asp 1)” insert “and the Carers (Scotland) Act 2015”.

(3) In subsection (1B), after paragraph (t) insert—

“(u) the Carers (Scotland) Act 2015.”.

33A **Guidance and directions to health boards and directing authorities**

(1) Each health board and each directing authority must have regard to any guidance issued by the Scottish Ministers about the exercise of functions conferred by this Act.

(2) The Scottish Ministers may issue directions to health boards and directing authorities, either individually or collectively, about the exercise of functions conferred by this Act.

(3) Each health board must comply with any direction issued to it under this section.

(4) Each directing authority must comply with any direction issued to it under this section.
Assistant to and by voluntary organisations etc.

34  Financial and other assistance to voluntary organisations etc.

In section 10(1) of the 1968 Act (financial and other assistance to voluntary organisations etc.), for “and (p)” substitute “, (p) and (u)”.

35  Assistance by voluntary organisations etc.

In section 4 of the 1968 Act (provisions relating to performance of functions by local authorities), after “Children’s Hearings (Scotland) Act 2011 (asp 1)” insert “or Part 2, 3, 4, 5 or 6 of the Carers (Scotland) Act 2015”.

PART 8

FINAL PROVISIONS

36  Interpretation

(1) In this Act—

“1968 Act” means the Social Work (Scotland) Act 1968,

“1995 Act” means the Children (Scotland) Act 1995,

“2014 Act” means the Children and Young People (Scotland) Act 2014,

“adult carer” has the meaning given by section 3,

“adult carer support plan” has the meaning given by section 6,

“carer” has the meaning given by section 1,

“directing authority” has the meaning given by section 45 of the 2014 Act,

“grant-aided school” has the meaning given by section 18(5),

“health board” means a health board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978,

“identified needs”, in relation to a carer, has the meaning given by section 5(2),

“identified personal outcomes”, in relation to a carer, has the meaning given by section 5(1),

“independent school” has the meaning given by section 18(5),

“local eligibility criteria” has the meaning given by section 19(2),

“named person”, in relation to a young carer, has the meaning given by section 32 of the 2014 Act,

“national eligibility criteria” has the meaning given by section 21(2),

“personal outcomes” has the meaning given by section 4,

“public school” has the meaning given by section 18(5),

“relevant authority” has the meaning given by section 1(4),

“responsible authority”, for the purposes of Chapter 2 of Part 2 (young carer statements), has the meaning given by sections 17 and 18,
“responsible local authority”, in relation to a carer, means the local authority for the area in which the cared-for person resides,
“terminally ill”, in relation to a cared-for person, has the meaning given by section 6A(2),
“young carer” has the meaning given by section 2,
“young carer statement” has the meaning given by section 11.

(2) In this Act references to the provision of support by a responsible local authority include references to support the provision of which is secured by the authority.

37 Regulations

(1) Any power of the Scottish Ministers to make regulations under this Act includes power to make—
(a) different provision for different purposes,
(b) incidental, supplementary, consequential, transitional, transitory or saving provision.

(2) Regulations under—
(za) section 1(3),
(zb) section 6A(1),
(a) section 7,
(aa) section 11A,
(b) section 12,
(c) section 19(4),
(d) section 21(1),
(da) section 23(2),
(e) section 38(1) which add to, replace or omit the text of an Act,
are subject to the affirmative procedure.

(3) All other regulations under this Act are subject to the negative procedure.

(4) This section does not apply to regulations under section 40.

38 Ancillary provision

(1) The Scottish Ministers may by regulations make such incidental, supplementary, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes of, or in connection with, any provision made by or under this Act.

(2) Regulations under subsection (1) may modify any enactment (including this Act).

39 Consequential modifications

The schedule contains modifications consequential on the provisions of this Act.
40 Commencement

(1) This section and sections 36 to 38 and 41 come into force on the day after Royal Assent.

(2) The remaining provisions of this Act come into force on such date as the Scottish Ministers may by regulations appoint.

(3) Different days may be appointed for different purposes.

(4) Regulations under subsection (2) may include transitional, transitory or saving provision.

41 Short title

The short title of this Act is the Carers (Scotland) Act 2015.
SCHEDULE
(introduced by section 39)

CONSEQUENTIAL MODIFICATIONS

Social Work (Scotland) Act 1968
1 (1) The Social Work (Scotland) Act 1968 is amended as follows.
   (2) Sections 12AA and 12AB are repealed.

Children (Scotland) Act 1995
2 (1) The Children (Scotland) Act 1995 is amended as follows.
   (2) Sections 24 and 24A are repealed.

Community Care and Health (Scotland) Act 2002
3 (1) The Community Care and Health (Scotland) Act 2002 is amended as follows.
   (2) Section 9(2) is repealed.
   (3) Sections 11 and 12 are repealed.

Public Services Reform (Scotland) Act 2010
15 3A In schedule 13 of the Public Services Reform (Scotland) Act 2010, after the entry relating to the Adoption and Children (Scotland) Act 2007, insert—
   “Carers (Scotland) Act 2015”.

Social Care (Self-directed Support) (Scotland) Act 2013
4 (1) The Social Care (Self-directed Support) (Scotland) Act 2013 is amended as follows.
   (2) In section 1 (general principles)—
      (a) in subsection (1)(b), for “to 24” substitute “and 23”,
      (b) in subsection (6)(a)—
         (i) for “or, as the case may be, section 12AA of that Act or section 23(3) or 24” substitute “, section 23(3)”,
         (ii) after “1995 Act” insert “or by virtue of section 7 or 12 of the Carers (Scotland) Act 2015,”,
      (c) in subsection (6)(b), for “section 3(4)” substitute “section 22 of the Carers (Scotland) Act 2015”.
   (3) Section 3 (support for adult carers) is repealed.
   (4) In section 7 (choice of options: adult carers)—
      (a) in subsection (1), for “(the “supported person”) under section 3(4)” substitute “an adult carer or, as the case may be, a young carer under section 22(4) of the Carers (Scotland) Act 2015”,
      (b) after subsection (4) insert—
“(4A) Subsection (4B) applies where the supported person is an appropriate person in relation to the young carer.

(4B) Before making a choice in pursuance of subsection (2) or (3)(b), the supported person must, so far as practicable and taking account of the maturity of the young carer—

(a) give the young carer an opportunity to indicate whether the young carer wishes to express the young carer’s views,

(b) if the young carer wishes to do so, give the young carer an opportunity to express them, and

(c) have regard to any views expressed by the young carer.”,

(c) after subsection (6) insert—

“(7) In this section—

“the 1989 Act” means the Children Act 1989,


“adult carer” has the meaning given by section 3 of the Carers (Scotland) Act 2015,

“appropriate person”, in relation to a young carer, means—

(a) a parent or guardian having parental responsibilities or parental rights in relation to the young carer under Part 1 of the 1995 Act,

(b) a person in whom parental responsibilities or parental rights are vested by virtue of section 11(2)(b) of the 1995 Act,

(c) a person having parental responsibilities or parental rights by virtue of section 11(12) of the 1995 Act,

(d) a parent having parental responsibility for the young carer under Part 1 of the 1989 Act,

(e) a person having parental responsibility for the young carer by virtue of—

(i) section 12(2) of the 1989 Act,

(ii) section 14C of the 1989 Act, or

(iii) section 25(3) of the Adoption and Children Act 2002,

(f) a parent having parental responsibility for the young carer under Part 2 of the 1995 Order,

(g) a person having parental responsibility for the young carer under Article 12(2) of the 1995 Order,

(h) a person in whom parental responsibilities or parental rights are vested by virtue of a permanence order (as defined in section 80(2) of the Adoption and Children (Scotland) Act 2007),

“supported person” means—

(a) where the support is to be provided to an adult carer, the adult carer,
(b) where the support is to be provided to a young carer—

(i) if the young carer is under 16 years of age, an appropriate
person,

(ii) if the young carer is 16 years of age or over, the young carer,

“young carer” has the meaning given in section 2 of the Carers (Scotland) Act 2015.”,

(d) the title to that section becomes “Choice of options: adult carers and young
   carers”.

(5) In section 10 (provision of information: children under 16)—

(a) in subsection (1), for “section 8” substitute “section 7 or 8”,

(b) in subsection (2)—

   (i) before first “child” insert “young carer or, as the case may be,”,
   (ii) before second “child” insert “young carer or”,

(c) in subsection (3), before “child” insert “young carer or”,

(d) in subsection (4), after “meaning” insert “—

   (a) in relation to a young carer, as in section 7(7),
   (b) in relation to a child.”.

(6) In section 11(3) (local authority functions), after “1968 Act” insert “, section 22 of the
Carers (Scotland) Act 2015”.

Public Bodies (Joint Working) (Scotland) Act 2014

(1) The Public Bodies (Joint Working) (Scotland) Act 2014 is amended as follows.

(2) In Part 1 of the schedule—

(a) in the entry for the Social Work (Scotland) Act 1968, “12AA, 12AB,” is repealed,

(b) in the entry for the Children (Scotland) Act 1995, after “19” insert “to 23, 25”,

(c) after the entry relating to the Social Care (Self-directed Support) (Scotland) Act
2013, insert—

“Sections 6, 11, 19, 22, 23, 28, 31 and 32 of the Carers (Scotland) Act 2015.”.
An Act of the Scottish Parliament to make provision about carers, including the identification of carers’ needs for support through adult carer support plans and young carer statements; the provision of support to carers; the enabling of carer involvement in certain services; the preparation of local carer strategies; the establishment of information and advice services for carers; and for connected purposes.

Introduced by: Shona Robison
On: 9 March 2015
Bill type: Government Bill
INTRODUCTION

1. As required under Rule 9.7.8A of the Parliament’s Standing Orders, these revised Explanatory Notes are published to accompany the Carers (Scotland) Bill (introduced in the Scottish Parliament on 9 March 2015) as amended at Stage 2. Text has been added or amended as necessary to reflect amendments made to the Bill at Stage 2 and these changes are indicated by sidelining in the right margin.

2. These revised Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

3. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

THE BILL

4. The Bill comprises 45 sections and is divided into eight parts as follows—
   - Part 1 – Key definitions
   - Part 2 – Adult carer support plans and young carer statements
   - Part 3 – Provision of support to carers
   - Part 4 – Carer involvement
   - Part 5 – Local carer strategies
   - Part 6 – Information and advice for carers
   - Part 7 – General provision
   - Part 8 – Final provisions

5. The Bill also includes one schedule setting out consequential modifications and repeals of other enactments.
BACKGROUND

6. The Scottish Government published, on 22 January 2014, its formal consultation for proposed legislation to support carers and young carers in Scotland. The consultation was open for 12 weeks and closed on 16 April 2014. The Bill takes forward many of the issues that were raised in the consultation document. Explanation of the policy rationale behind the Bill can be found in the Policy Memorandum. The Bill makes provision in relation to the planning and provision of support for carers, about information and advice for carers and to facilitate carer involvement in certain services.

7. Part 1 of the Bill defines key expressions used in the Bill, such as carer, young carer and adult carer, and what is meant by personal outcomes, identified personal outcomes, and identified needs.

8. Part 2 is divided into two chapters. Chapter 1 places a duty on the responsible local authority to prepare an adult carer support plan. In this chapter the responsible local authority is the local authority in whose area the cared-for person resides. The chapter also makes provision about what an adult carer support plan must contain and how this information should be provided to the adult carer.

9. Chapter 1 also introduces regulation-making powers so that the Scottish Ministers may prescribe timescales for the preparation of adult carer support plans in relation to adult carers of cared-for persons with a terminal illness.

10. It also gives power to the Scottish Ministers to make regulations about the identification of adult carers’ personal outcomes and needs for support, for the purpose of preparing adult carer support plans, and about the review of adult carer support plans.

11. Chapter 2 places a duty on the responsible authority to prepare a young carer statement. It provides information on which is the responsible authority is in the case of a particular young carer (which may be the local authority, health board or directing authority of a school, depending on the circumstances of the young carer), what a young carer statement must contain and how this information should be provided to the young carer. Provision is also made to allow for any existing young carer statement to continue having effect until the carer is provided with an adult carer support plan.

12. Chapter 2 also introduces regulation-making powers so that Scottish Ministers may prescribe timescales for the preparation of the young carer statement in relation to young carers of cared-for persons with a terminal illness.

13. It also gives the Scottish Ministers power to make regulations about how young carers’ personal outcomes and needs for support should be identified and the process by which this should be undertaken, for the purpose of preparing young carer statements, and about the review of young carer statements.

14. Part 3 is divided into two chapters. Chapter 1 places a duty on local authorities to set out the local eligibility criteria by which it must determine whether it is required to provide support
to a carer to meet the carer’s identified needs. The chapter places a duty on the local authority so that they must consult and involve carers and bodies representative of carers before setting the local eligibility criteria. Local authorities must also have regard to any matters relevant to setting the local eligibility criteria as set out by the Scottish Ministers in regulations. The chapter also places a duty on the local authority to publish the local eligibility criteria and review them every three years.

15. This chapter also confers a power on the Scottish Ministers to set national eligibility criteria in place of local eligibility criteria set by local authorities.

16. Chapter 2 places a duty on local authorities to support carers whose identified needs cannot be met by services generally available and which meet the local eligibility criteria. The local authority also has power to provide support to meet other identified needs. When determining which support to provide to a carer, the local authority must consider whether the support should take the form of a break from caring. In this section, the responsible local authority, in relation to a carer, means the local authority for the area in which the cared-for person resides.

17. Part 4 requires each local authority and each health board to take appropriate steps to involve individual carers and bodies representative of carers in the design, development and delivery of carer services provided by that local authority or health board.

18. It also requires that each health board must take such steps it considers appropriate to inform any carer who provides or intends to provide carer for the cared-for person of the planned discharge, involve any such carer in planning the discharge and take account of the views of carers in making decisions about the discharge of the person from hospital.

19. Part 5 places a duty on local authorities and health boards jointly to prepare a local carer strategy, in consultation with any other persons and bodies representative of carers and involving carers in such ways as they consider appropriate. It sets out what is meant by a local carer strategy and what the document should contain. It also requires the local authority and health board jointly to publish and review the local carer strategy and to consult with carers and carers’ representative bodies during the review process.

20. Part 6 requires each local authority to establish and maintain an information and advice service for relevant carers in its area, or ensure the establishment and maintenance of, an information and advice service. It also specifies particular information that must be provided. Part 6 also provides that local authorities must prepare and publish a short breaks services statement, setting out details of the short breaks services available across Scotland, which may include information about the services available in the local authority’s area as well as in other areas of Scotland.

21. Part 6 also provides that Scottish Ministers must prepare, lay before Parliament and publish a carers’ charter, (or revised carers’ charter) setting out the rights of carers under the Bill or any other enactment, consulting such persons and bodies representative of carers as the Scottish Ministers consider appropriate.
22. Part 7 contains general provisions relating to guidance and directions and to financial and other assistance to and by voluntary organisations in relation to carers.

23. Part 8 contains final provisions, including general interpretation and commencement.

24. The schedule contains minor and consequential amendments and repeals of other enactments made necessary by the provision made by the Bill.

COMMENTARY ON PARTS

PART 1 – KEY DEFINITIONS

Meanings of “carer”, “young carer” and “adult carer”

Section 1 - Meaning of “carer”

25. Section 1(1) defines a “carer” as an individual who provides or intends to provide care for another individual (a “cared-for person”). Subsection (2)(a) stipulates that subsection (1) will not apply, in the case of a cared-for person under 18 years old, to the extent to that the care is or would be provided by virtue of the person’s age. This is to ensure that parents are not regarded as carers for the purposes of the Bill, except where they are the caring for that child for a reason other than the child’s age. This will include parents of disabled children. Subsection (2)(b) stipulates that subsection (1) will not apply if the care is provided by virtue of a contract or as voluntary work.

26. Subsection (3) gives the Scottish Ministers a regulation-making power to set out what is meant by a contract for the purposes of subsection (2)(b)(i). For instance, this power might be used to provide that an agreement between a local authority and a kinship carer under the Looked After Children (Scotland) Regulations 2009 is not a “contract” for the purposes of subsection (2)(b)(i). That would mean that care provided under such an agreement would fall within the meaning of subsection (1) and the kinship carer would be a carer for the purposes of the Bill.

27. Subsection (3) also allows regulations to permit a relevant authority to disregard subsection (2)(b) if the authority considers it appropriate. For instance, this power may be used to provide clarification in relation to carers who provide elements of both paid care, by way of a contract with the person they care for, and unpaid care to the same person. Regulations under this subsection will be subject to the affirmative procedure (see section 37(2)).

28. Subsection (4) defines “relevant authority” for the purposes of subsection (3) and of section 4 as including a responsible local authority which may be required to prepare adult carer support plans, and also a responsible authority which may be required to prepare young carer statements, under Part 2 Chapter 1 and Part 2 Chapter 2 of the Bill respectively: namely local authorities, health boards and, where applicable, directing authorities of grant-aided or independent schools.
Section 2 - Meaning of young carer

29. This section defines a “young carer” as a carer under 18 years old or who has reached 18 years while a pupil at school and remains a pupil at that or another school. This mirrors the definition of “young person” in section 22 of the Children and Young People (Scotland) Act 2014 so that the “named person service” under that Act and the provisions for young carers under this Bill can be coordinated. See, for instance, section 15 of the Bill which requires the young carer’s named person to be provided with information contained in the young carer statement.

Section 3 - Meaning of adult carer

30. This section defines an “adult carer” as a carer who is at least 18 years old but who is not a young carer.

Meanings of “personal outcomes” etc.

Section 4 – Meaning of “personal outcomes”

31. Subsection (1) defines “personal outcomes”, in relation to carers, as including outcomes which would, if achieved, enable carers to provide or continue to provide care for the cared-for persons. Personal outcomes are relevant to the assessment of a carer’s needs for support under Part 2 of the Bill.

32. Under subsection (2), the Scottish Ministers have power to make further provision about personal outcomes, including about the things that the relevant authority is to have regard to in deciding which outcomes may count as personal outcomes for the purposes of the Bill. Regulations under this subsection will be subject to the negative procedure (see section 37).

Section 5 - Meaning of “identified personal outcomes” and “identified needs”

33. Subsection (1) defines “identified personal outcomes”, in relation to a carer, as the personal outcomes identified by virtue of the assessment process in Part 2 of the Bill and which are relevant to the carer.

34. Subsection (2) defines “identified needs”, in relation to carer, as the needs for support (if any) which are identified by virtue of the assessment process in Part 2 of the Bill in order to meet the carer’s identified personal outcomes.

35. Subsection (3) defines “identified” with reference to sections 7 and 12 (under which the Scottish Ministers have powers to regulate the assessment process for identifying carers’ personal outcomes and needs for support).
PART 2 – ADULT CARER SUPPORT PLANS AND YOUNG CARER STATEMENTS

Chapter 1 – Adult carer support plans

Duty to prepare adult carer support plan

Section 6 - Duty to prepare adult carer support plan

36. Subsection (1) defines what an “adult carer support” plan is, namely a plan prepared by a responsible local authority that sets out an adult carer’s identified personal outcomes, identified needs and any support to be provided by the responsible local authority to meet those needs. The assessment process for identifying those outcomes and needs will be set out in regulations under section 7. Section 8 gives more information about the content of the adult carer support plan.

37. Subsection (1A) places a duty on the responsible local authority so that where they identify a person as an adult carer, the responsible local authority must offer the person an adult carer support plan.

38. Subsection (2) states that a responsible local authority is required to prepare an adult carer support plan for a person if the person accepts an offer made under subsection (1A) or the person requests a plan in accordance with subsection (4).

39. Subsection (4) applies if a person who appears to the responsible local authority to be an adult carer requests an adult carer support plan: that is, if an adult self-identifies as a carer and the responsible local authority agrees that the adult comes within the definition of carer under section 1 of the Bill.

40. Subsection (5) defines the “responsible local authority”, in relation to an adult carer, as the local authority for the area in which the cared-for person lives. This will still be the case where the adult carer lives in a different local authority area to the one in which the cared-for person lives.

Section 6A – Adult carers of terminally ill cared-for persons

41. This section confers a power on the Scottish Ministers so that they may, by regulations, prescribe timescales for the preparation of adult carer support plans in relation to adult carers of terminally ill cared-for persons. This section also sets out a definition of terminally ill cared for persons. The power is subject to the affirmative procedure (see section 37(2)).

Section 7 – Adult carers: identification of outcomes and needs for support

42. Under this section, the Scottish Ministers may make regulations about the identification of adult carers’ personal outcomes and need for support. Such regulations could include provision about—

- how personal outcomes and needs for support are to be identified;
- the process for doing so (including arrangements for the involvement of adult carers and cared-for persons);
• who may carry out identification;
• the sharing of information about adult carers and cared-for persons for the purpose of identifying personal outcomes and needs for support;
• the factors to be taken into account in identifying adult carers’ personal outcomes and needs for support; and
• the circumstances in which adult carers’ personal outcomes and needs for support should be reviewed.

43. Regulations under this section will be subject to the affirmative procedure (see section 37(2)).

Content and review of adult carer support plan

Section 8 - Content of adult carer support plan

44. Subsection (1) sets out what information the adult carer support plan must contain, namely information about—
• the adult carer’s personal circumstances at the time of preparation of the plan;
• the extent to which the adult carer is able and willing to provide care for the cared-for person;
• whether the adult carer has arrangements in place for the provision of care to the cared-for person in an emergency;
• the adult carer’s personal outcomes, including personal outcomes identified in the assessment process;
• the adult carer’s needs for support, included needs identified in the assessment process, to meet those outcomes. If no needs are identified, this should be stated;
• the support available to adult carers and the cared-for persons in the area of the responsible local authority;
• information about the support available to adult carers in the area where the adult carer resides if the adult carer does not reside in the responsible local authority’s area;
• the support that the responsible local authority provides or intends to provide to the adult carer to meet such of the adult carer’s identified needs as meet the local eligibility criteria (set under Part 3 of the Bill);
• the support the responsible local authority provides or intends to provide to the adult carer to meet the adult carer’s other identified needs (that is, the identified needs that do not meet the local eligibility criteria but which the responsible local authority nevertheless plans to meet by virtue of section 22(4)(b))
• whether support provided should take the form of a short break from caring for the cared-for person; and
• the circumstances in which the plan is to be reviewed.
45. Subsection (2) provides that the second and subsequent adult carer support plan prepared for a carer must contain information on the extent to which any support provided under a previous plan has assisted in achieving the carer’s identified personal outcomes.

46. Subsection (3) gives the Scottish Ministers power to make regulations about any other information an adult carer support plan must (or must not) contain, and the form adult carer support plans should take. Such regulations will be subject to the negative procedure (see section 37).

Section 9 - Review of adult carer support plans

47. This section enables the Scottish Ministers to make regulations about the review of adult carer support plans, including circumstances for review; frequency of review; procedure for review; and arrangements for obtaining the views of adult carers and cared for persons. Such regulations could for example include provision for review when the cared-for person is going to be discharged from hospital. Regulations under this subsection will be subject to the negative procedure (see section 37).

Provision of information about plan

Section 10 - Adult carer support plan: provision of information to carer etc.

48. Subsections (1) and (2) require the responsible local authority to provide the information contained in the adult carer support plan to the adult carer to whom the plan relates and to any other person(s) at the carer’s request.

49. Subsection (3) provides that subsection (1) does not apply where the responsible local authority considers that provision of the information would not be appropriate. For instance, the local authority may remove sensitive information relating to the carer or the persons they care for, before providing the adult carer support plan to someone other than the carer.

50. Subsection (4) provides that the information provided under subsection (1) is to be provided as soon as practicable after the plan is prepared or, in the case of a revised plan, as soon as practicable after the revised plan is prepared.

Chapter 2 – Young carer statements

Duty to prepare young carer statement

Section 11 - Duty to prepare young carer statement

51. This section creates an equivalent in relation to young carers as section 6 does in relation to adult carers. Subsection (1) defines what a “young carer statement” is, namely a statement prepared by the responsible authority that sets out a young carer’s identified personal outcomes, identified needs and any support to be provided by the responsible local authority to the young carer to meet those needs. Subsection (1A) places a duty on the responsible authority so that where they identify a person as a young carer, the responsible authority must offer the person a young carer statement. The process for identifying those outcomes and needs will be set out in regulations under section 12. Section 13 gives more information about the content of the young
carer statement. Sections 17 and 18 determine who the responsible authority is in relation to a young carer.

52. Subsection (2) requires the responsible authority to prepare a young carer statement if the person accepts an offer made under subsection (1A) or the person requests a plan in accordance with subsection (4).

53. Subsection (4) applies where a person who appears to the responsible authority to be a young carer requests a young carer statement.

54. Subsection (5) provides that subsection (2) will apply whether or not the young carer also requires a child’s plan in accordance with section 33 of the Children and Young People (Scotland) Act 2014. So a young carer, who may have a child’s plan under that Act because he or she has a wellbeing need which requires a targeted intervention, will always have a young carer statement as well, focusing distinctly on the young carer’s needs as a carer.

55. Subsection (7) provides that where the responsible authority, in relation to a young carer, is not the responsible local authority, the responsible authority must not provide the young carer statement to the young carer without the approval of the responsible local authority. This is because it is the responsible local authority which would actually provide support to the young carer to meet any needs that are identified.

56. Subsection (8) defines “responsible authority” for the purposes of Chapter 2 as having the meaning given by sections 17 and 18. It also defines “responsible local authority” for the purposes of Chapter 2 as the local authority for the area in which the cared-for person resides.

Section 11A – Young carers of terminally ill cared-for persons

57. This section confers a power on the Scottish Ministers so they may by regulations prescribe timescales for the preparation of young carer statements in relation to young carers of cared-for persons with a terminal illness. This power is subject to the affirmative procedure (see section 37(2)).

Section 12 – Young carers: identification of outcomes and needs for support

58. This section is equivalent to section 7 in relation to adult carer support plans. Under this section, the Scottish Ministers may make regulations about the identification of young carers’ personal outcomes and their needs for support. Such regulations could include provision about—

- how personal outcomes and needs for support are to be identified;
- the process for doing so (including arrangements for the involvement of young carers and cared-for persons);
- who may carry out identification;
- the sharing of information about young carers and cared-for persons for the purpose of identifying personal outcomes and needs for support;
• the factors to be taken into account in identifying young carers’ personal outcomes and needs for support;
• the circumstances in which young carers’ personal outcomes and needs for support should be reviewed.

59. Regulations under this section will be subject to the affirmative procedure (see section 37(2)).

Content and review of young carer statement

Section 13 – Content of young carer statement

60. This section is equivalent to section 8 in relation to adult carer support plans. Subsection (1) sets out what information the young carer statement must contain, namely information about—

• the young carer’s personal circumstances at the time of the preparation of the statement, including the impact on the young carer’s wellbeing of caring for the cared-for person;
• the extent to which the young carer is able and willing to provide support for the cared-for person;
• the extent to which the responsible authority considers that the nature and extent of the care provided by the young carer is appropriate;
• whether the young carer has arrangements in place for the provision of care to the cared-for person in an emergency;
• the young carer’s personal outcomes, including personal outcomes identified in the assessment process;
• the young carer’s needs for support, included needs identified in the assessment process, to meet those outcomes. If no needs are identified, this should be stated;
• the support generally available to the young carer and the cared-for person in the responsible local authority’s area;
• the support available to young carers in the area where the young carer resides if the young carer does not reside in the responsible local authority’s area;
• the support which the responsible local authority provides or intends to provide to the young carer to meet such of the young carer’s identified needs as meet the local eligibility criteria (set under Part 3 of the Bill);
• the support which the responsible local authority provides or intends to provide to the young carer to meet the carer’s other identified needs (that is, the identified needs that do not meet the local eligibility criteria but which the responsible local authority nevertheless plans to meet by virtue of section 22(4)(b));
• whether support should be provided in the form of a break from caring for the cared-for person;
• the circumstances in which the young carer statement is to be reviewed.
61. Subsection (2) provides that the second and subsequent young carer statement prepared for the young carer must contain information on the extent to which any support provided under a previous statement has assisted in achieving the young carer’s identified personal outcomes.

62. Subsection (3) provides that the responsible authority, in assessing the impact of a young carer’s caring role on the wellbeing of the young carer for the purposes of subsection (1)(a)(ii), must do so by reference to the matters listed in section 96(2) of the Children and Young People (Scotland) Act 2014 and have regard to any guidance issued under section 96(3) of that Act. The matters listed in section 96(2) are the extent to which a child or young person is—

- Safe,
- Healthy,
- Achieving
- Nurtured,
- Active,
- Respected,
- Responsible, and
- Included

63. Subsection (4) gives the Scottish Ministers a regulation-making power to make provision about other information which the young carer statement must (or must not) contain and the form the young carer statement should take. Regulations under this subsection will be subject to the negative procedure (see section 37).

**Section 14 - Review of young carer statements**

64. This section is equivalent to section 9 in relation to adult carer support plans. It enables the Scottish Ministers to make regulations about the review of young carer statements, including circumstances for review; frequency of review; procedure for review; and arrangements for obtaining the views of young carers and cared-for persons. Regulations under this subsection will be subject to the negative procedure (see section 37).

**Provision of information about statement**

**Section 15 - Young carer statement: provision of information to carer etc.**

65. This section is equivalent to section 10 in relation to adult carer support plans. Subsections (1) and (2) provide that the responsible authority must provide the information contained in the young carer statement to certain persons. They are—

- the young carer to whom the young carer statement relates, and
- any other person the young carer requests.

66. Subsection (3) provides that subsection (1) will not apply where the responsible authority considers that provision of the information would not be appropriate. As with section 10, this
could, for example, be a situation where the young carer requests certain information, possibly sensitive information, be removed from the young carer statement before it is provided to someone other than the young carer or their named person.

67. Subsection (4) requires the information to be provided as soon as practicable after the statement has been prepared, or in the case of a revised statement, after the revised statement is prepared.

Continuation of young carer statement

Section 16 - Continuation of young carer statement

68. This section provides that if a young carer has reached 18 years, any young carer statement prepared will continue to have effect until the carer is provided with an adult carer support plan. The purpose of this is to ensure that there will be no gap in statement/plan coverage or a break in the continuation of support where the young carer’s needs for support continue.

Meaning of responsible authority: young carers

Section 17 - Responsible authority: general

69. Subsection (1) sets out who the “responsible authority” is in relation to a young carer. Where the young carer is a pre-school child, the responsible authority will be the health board for the area in which the child resides. In any other case, the responsible authority will be the local authority for the area in which the young carer resides.

70. Subsection (2) provides that subsection (1) is subject to section 18 – Responsible authority: special cases.

71. Subsection (3) provides what this section and section 18 mean by “pre-school child”. This is defined by reference to section 36(3) of the Children and Young People (Scotland) Act 2014 and means—

- a child who has not commenced attendance at a primary school, or
- if the child is of school age, a child who has not commenced attendance at a primary school because the relevant local authority has consented to the child’s commencement at primary school being delayed.

72. A child is of school age if the child has attained the age of five years but is under the age of 16 years (see section 31 of the Education (Scotland) Act 1980).

Section 18 - Responsible authority: special cases

73. Subsection (1) provides that where a young carer who is a pre-school child resides in the area of a health board, by virtue of a placement by another health board or local authority, the health board for the area in which the young carer resided immediately before that placement is the responsible authority in relation to the young carer. “Pre-school child” has the meaning given by section 17(3).
74. Subsection (2) provides that where the young carer is a pupil at a public school which is managed by a local authority other than the one for the area in which the young carer lives, the other authority is the responsible authority in relation to the young carer.

75. Subsection (3) provides that where the young carer is a pupil at a grant-aided school or an independent school, the directing authority of that school is the responsible authority in relation to the young carer. “Directing authority” is defined in section 36(1) as having the same meaning as in section 45 of the Children and Young People (Scotland) Act 2014, that is the managers of a grant-aided school or the proprietor of an independent school.

76. Subsection (4) provides that subsection (3) will not apply where the young carer is a pupil by virtue of a placement by the local authority for the area in which the young carer lives.

77. Subsection (5) sets out that “grant aided school”, “independent school” and “public school” have the meanings given by section 135 of the Education Scotland Act 1980, as follows—

- “grant-aided school” means, with the exceptions specified there, a school in respect of which grants are made by the Scottish Ministers to the managers of the school;
- “independent school” means a school at which full-time education is provided for five or more pupils of school age (whether or not such education is also provided for pupils under or over that age), not being a public school, a grant-aided school, or a self-governing school under the Self-Governing Schools etc (Scotland) Act 1989;
- “public school” means any school under the management of an education authority, that is a local authority.

PART 3 – PROVISION OF SUPPORT TO CARERS

Chapter 1 – Eligibility Criteria

Local eligibility criteria

Section 19 - Duty to set local eligibility criteria

78. Subsection (1) requires the local authority to set the local eligibility criteria which it is to apply for its area. The local eligibility criteria are defined by subsection (2) as the conditions which a local authority must use to establish whether it is required to provide support to a carer to meet the carer’s identified needs.

79. Subsection (3) makes provision about who a local authority must involve and consult before setting its eligibility criteria. It must consult such persons and bodies representative of carers as considered appropriate by the local authority and it must take the steps it considers appropriate to involve carers.

80. Subsection (4) states that a local authority must have regard to such matters as the Scottish Ministers may by regulations specify, when setting its local eligibility criteria. Regulations under this section will be subject to the affirmative procedure (see section 37(2)).
Section 20 - Publication and review of criteria

81. Subsection (1) requires each local authority to publish its eligibility criteria. Publication must be in accordance with the timescales prescribed in regulations made under subsection (2). It is intended that they will be used to require local authorities to have eligibility criteria in place before section 22 (which imposes the duty to support) is commenced. Those regulations will be subject to the negative procedure.

82. The local authority is required to review its eligibility criteria in accordance with subsections (3) to (5). Regulations subject to the negative procedure will set the time frame within which the first review must be undertaken. It is intended that this will be used to bring timing of reviews of eligibility criteria into line with reviews of local carer strategies under Part 5 of the Bill. Following a review, the local authority may set revised local eligibility criteria or publish a statement explaining that it does not intend to revise the criteria on this occasion. If the local authority revises the local eligibility criteria, it must have regard to the matters specified in regulations under section 19 and must publish the revised criteria.

National eligibility criteria

Section 21 - National eligibility criteria

83. Subsection (1) confers a power on the Scottish Ministers to make regulations setting out national eligibility criteria. Regulations under this subsection will be subject to affirmative procedure (see section 37(2)).

84. Subsection (2) provides that the national eligibility criteria are the criteria by which each local authority must assess whether it is required to provide support to carers to meet their identified needs.

85. Subsection (3) sets out that, where regulations are made under this section and have not been revoked, the national eligibility criteria set out in them apply in place of any local eligibility criteria published under section 20. In such a situation, references elsewhere in the Bill to local eligibility criteria are to be read as references to the national eligibility criteria.

Chapter 2 – Duty to provide support to carers

Section 22 - Duty to provide support

86. Where a carer has needs which have been identified in the course of preparing an adult carer support plan or a young carer statement and which cannot be met by services or assistance provided to the cared-for person (other than care provided by virtue of section 23 in order to provide the carer with a break from caring) or cannot be met through the provision of general services in the responsible local authority’s area, for example information and advice, this section requires the authority to apply its local eligibility criteria. The needs which meet the local eligibility criteria are referred to as “eligible needs”.

87. Subsection (4)(a) places a duty on the responsible local authority to provide support to the carer to meet those eligible needs. The responsible local authority also has a power under subsection (4)(b) to provide support to meet needs which do not meet the eligibility criteria.
88. Subsection (5) applies where a carer’s eligible needs might also be met through community care services provided to the carer and assessed under section 12A of the Social Work (Scotland) Act 1968 or services for children and their families provided to the carer under section 22 of the Children (Scotland) Act 1995. If the needs meet the eligibility criteria, then the duty in subsection (4)(a) applies regardless of whether the carer’s needs may also be met directly under the 1968 or 1995 Acts.

89. Subsection (6) sets out that the “responsible local authority” in relation to a carer, means the local authority for the area in which the cared-for person resides.

Section 23 - Provision of support to carers: breaks from caring

90. Subsection (1) requires a local authority to consider whether any support provided under section 22 should include support which provides a break from caring.

91. Subsection (2) confers a power on the Scottish Ministers to make regulations (subject to the affirmative procedure (see section 37(2)) about the forms of support that would constitute a break from caring. Where the regulations provide for a break from caring to take the form of provision of care for the cared-for person, they may also make provision about the role of the cared-for person in relation to how that care is provided.

Section 24 - Charging for support provided to carers

92. This provision amends section 87 of the 1968 Act. It allows local authorities to make charges when providing services which support carers under section 22(4) of the Bill. Such charges cannot exceed what is practicable for a person to pay if the person satisfies the local authority that the person’s means are insufficient to meet the charge that would otherwise be made. Charges are also subject to any regulations made by the Scottish Ministers under section 87(5) of the 1968 Act. Such regulations are subject to the negative procedure. They may modify or adjust charges or require them to be waived altogether.

PART 4 – CARER INVOLVEMENT

Section 25 - Duty to involve carers in carer services

93. Subsections (1) and (2) require each local authority and health board to take steps to involve the persons mentioned in subsection (3) in carer services.

94. Subsection (3) defines those persons as carers in the area of the local authority or health board, and such persons and bodies representatives of carers as the local authority or health board considers appropriate.

95. Subsection (4) defines what is meant by “carer services” provided by the local authority or health board. It covers all services provided by the local authority or health board to carers (in their role as such) and cared-for persons (in relation to care which they receive).

96. Subsection (4A) applies where a person who has a carer is to be discharged from hospital. It states that health boards must take such steps as they consider appropriate to inform any carer
who provides or intends to provide, care for that person of the planned discharge, involve any such carer in planning the discharge and take account of the views of any carer, in making decisions about the discharge of the person. It also requires that such planning begins as soon as reasonably practicable after the admission of the person to hospital.

97. Subsection (5) makes two exceptions. Subsection (4) does not cover services set out in a children’s services plan under the Children and Young People (Scotland) Act 2014, provided that consultation with the same persons has been carried out in connection with that plan. Nor does it cover services which are provided in pursuance of functions included in an integration scheme under the Public Bodies (Joint Working) (Scotland) Act 2014. That Act places other obligations on integration authorities about carrying out such functions which include obligations to involve carers and organisations representing carers.

98. Subsection (6) sets out what amounts to “involvement” in relation to carer services.

Section 26 - Involvement of, assistance to and collaboration with carers

99. This section requires a local authority to have regard to the general principles in section 1 of the Social Care (Self-directed Support) (Scotland) Act 2013 when exercising functions under Part 2 (adult carer support plans and young carer statements) and Part 3 (provision of support to carers) of this Bill.

100. These general principles are that the carer must have as much involvement as he or she wishes in relation to the preparation of the adult carer support plan or young carer statement and the provision of support under section 22 of the Bill, and that the local authority must collaborate with the carer in respect of those matters. The carer must also be provided with any assistance reasonably required in order to be able to express views or make an informed choice about options for self-directed support.

Section 27 - Care assessments: duty to take account of care and views of carers

101. This section makes consequential amendments to section 12A of the 1968 Act and section 23 of the 1995 Act, which concern assessments of people in need of community care services and of children affected by disability respectively. The amendments require the authority preparing such assessments to take into account the care which is provided, or to be provided by any carer. Where the carer has an adult carer support plan or young carer statement, that care is to be identified by reference to the information contained in the plan or statement.

102. This section also inserts a new subsection (1B) into section 12A of the 1968 Act and a new subsection (6) into section 23 of the 1995 Act. Those new subsections require the local authority to take into account the views of the carer, so far as it is reasonable and practicable to do so, when determining the needs of the person being assessed and deciding what services to provide and how to provide them. These new subsections replace narrower obligations about taking a carer’s views into account in the current assessment provisions.
PART 5 – LOCAL CARER STRATEGIES

Section 28 - Duty to prepare local carer strategy

103. Subsection (1) provides that each local authority and relevant health board must jointly prepare a local carer strategy.

104. Subsection (2) sets out what the strategy is and what information it must contain. This must include—

- plans for identifying relevant carers and obtaining information about the care they provide or intend to provide to cared-for persons in the local authority’s area;
- an assessment of the demand for support to carers in the authority’s area;
- the support which is available to carers in the authority’s area, whether from the authority itself, the relevant health board or any other persons or bodies that the local authority and relevant health board consider appropriate;
- an assessment of the extent to which demand for support to relevant carers is currently not being met;
- plans for supporting relevant carers;
- the intended timescales for preparing adult carer support plans and young carer statements; and
- any other information as the authority and relevant health board consider appropriate.

105. Subsection (3) requires that a local carer strategy must contain information relating to the particular needs and circumstances of young carers in its area.

106. Subsection (4) requires that, before preparing its local carer strategy, a local authority and relevant health board must jointly consult with such persons and bodies representatives of carers they consider appropriate. They must also take such steps as they consider appropriate to involve carers. Subsection (4A) defines what is meant by “relevant carers”: these are carers who reside in the authority’s area (regardless of where they provide care), and carers who live outwith the authority’s area but provide care to a cared-for person in the area.

107. Subsection (5) defines what is meant by “relevant health board”.

Section 29 - Preparation of local carer strategy

108. This section sets out a non-exhaustive list of factors to which the local authority and relevant health board must have regard in preparing its local carer strategy. For instance, this includes the aims set out in section 9(2) of the 2014 Act. They are—

(a) that children’s services are provided in a way which—
- best safeguards, supports and promotes the wellbeing of children in the area concerned,
ensures that any action to meet needs is taken at the earliest appropriate time and that, where appropriate, action is taken to prevent needs arising,

- is most integrated from the point of view of recipients, and

- constitutes the best use of available resources, and

(b) that services are provided in a way which, so far as consistent with the objects and proper delivery of the service concerned, safeguards, supports and promotes the wellbeing of children in the area concerned.

109. The list of factors also includes, amongst other things, the national health and wellbeing outcomes that are prescribed under section 5 of the Public Bodies (Joint Working) (Scotland) Act 2014.

Section 30 - Publication and review of local carer strategy

110. Subsection (1) requires each local authority and relevant health board to jointly publish the local carer strategy.

111. Subsection (2) sets the date by which the first local carer strategy must be published. This is the date by which the integration authority relevant to the local authority in question must publish its next strategic plan under the Public Bodies (Joint Working) (Scotland) Act 2014. The timing for the publication of the strategic plans under that Act is determined by reference to the date (the “integration start day”) on which the health and social care integration arrangements take effect: this date has been prescribed by the Public Bodies (Joint Working) (Prescribed Days) (Scotland) Regulations 2014\(^1\) as 1 April 2016 at the latest, but the integration start day for individual areas may be earlier than that.

112. Subsection (3) requires the local authority and relevant health board to jointly review their local carer strategy at least every three years. By virtue of subsection (5), the same obligations to consult and involve carers set out in section 28(4) also apply when the local authority and relevant health board reviews their strategy. Following a review, subsection (6) provides that the local authority and relevant health board may decide to prepare a revised strategy or to publish a statement to the effect that it is not revising the strategy. Where the local authority and relevant health board prepare a revised strategy, subsection (7) requires them to take into account the factors specified in section 29 and to publish the revised strategy.

PART 6 – INFORMATION AND ADVICE FOR CARERS

Information and advice service

Section 31 - Information and advice service for carers

113. Subsection (1) provides that each local authority must establish and maintain, or ensure the establishment and maintenance of an information and advice service for relevant carers in its area.

\(^1\) (SSI 2014/284).
114. Subsection (2)(a) to (f) sets out in general terms the sort of information and advice that the service must provide.

115. Subsection (3) provides that the information and advice must be provided in a manner that it is accessible to, and proportionate to the needs of, the persons to whom it is provided.

116. Subsection (4) sets out the meaning of “relevant carers”: these are carers who reside in the authority’s area (regardless of where they provide care), and carers who live outwith the authority’s area but provide care to a cared-for person in the area.

**Short breaks services statements**

**Section 32 - Short breaks services statements**

117. Subsection (1) requires each local authority to prepare and publish a short breaks services statement. Subsection (2) defines what a “short breaks services statement” means: that is a statement setting out the short break services available in Scotland for carers and cared-for persons.

118. Subsection (3) requires the short breaks services statement to be published in an accessible format and that the information contained within it should be relevant to the persons within the local authority area. This means that the statement does not need to contain information relating to every short break service in Scotland, only those relevant to the persons who live in that area.

119. Subsection (4) gives the Scottish Ministers a regulation-making power to make further provision about the preparation, publication and review of short breaks services statements. Regulations under this subsection will be subject to the negative procedure (see section 37).

**Carers’ Charter**

**Section 32A – Carers’ charter**

120. Subsection (1) requires that the Scottish Ministers must prepare a carers’ charter. Subsection (2) defines a carers’ charter.

121. Subsection (3) provides that the Scottish Ministers may from time to time revise the charter. Subsection (4) requires that the Scottish Ministers must consult such persons and bodies representatives of carers and take such steps as they consider appropriate to involve carers before preparing or revising the carers’ charter. This section also states that the Scottish Ministers are required to lay the charter or revised charter before the Scottish Parliament and publish the charter or revised charter in the manner they consider appropriate.
PART 7 – GENERAL PROVISION

Guidance and directions

Section 33 - Guidance and directions

122. This section amends section 5 of the 1968 Act so that the Scottish Ministers may issue guidance or directions to local authorities about the exercise of functions under this Bill. Guidance and directions about the exercise of functions under the Bill will be issued in accordance with the procedures as laid out in section 5 of the 1968 Act.

123. Subsection (3) adds the Bill to the list of enactments in section 5(1B). This has a number of consequences. First, the Scottish Ministers may issue directions to local authorities under section 5(1A) of the 1968 Act about the manner in which they are to exercise their functions under the Bill. Second, a local authority’s social work complaints procedure under section 5B of the 1968 Act must allow any person to make representations (including complaints) in relation to the discharge of, or failure to discharge, functions under the Bill. The power of the Scottish Ministers to cause inquiries to be held under section 6A of the 1968 Act and the power of a local authority to cause inquiries to be held under section 6B of the 1968 Act are also extended so that they cover inquiries into the functions under the Bill.

Section 33A – Guidance and directions to health boards and directing authorities

124. This section provides that each health board and each directing authority must have regard to any guidance issued by the Scottish Ministers about the exercise of functions conferred by this Act. It also provides that the Scottish Ministers may issue directions to health boards and directing authorities, either individually or collectively, about the exercise of functions conferred by this Act. Each health board and directing authority must comply with any direction issued to it under this section.

Assistance to and by voluntary organisations etc.

Section 34 - Financial and other assistance to voluntary organisations etc.

125. This section amends section 10 of the 1968 Act, to allow grants and loans to be made to voluntary organisations in connection with things they do which assist local authorities in exercising their functions under this Bill. The effect of the amendment is also that local authorities will be able to provide non-financial assistance to voluntary organisations, such as allowing them the use of premises.

Section 35 - Assistance by voluntary organisations etc.

126. This section amends section 4 of the 1968 Act to ensure Parts 2 to 6 of this Bill are considered as part of provisions relating to the performance of functions by local authorities for the purposes of that section. This will then allow local authorities to make arrangements with voluntary organisations so that such organisations can provide assistance to local authorities exercising functions under the Bill.
PART 8 – FINAL PROVISIONS

Section 36 - Interpretation

127. This section defines terms that are used frequently in the Bill. For example “1968 Act” means the Social Work (Scotland) Act 1968; “1995 Act” means the Children (Scotland) Act 1995; “2014 Act” means the Children and Young People (Scotland) Act 2014.

128. Subsection (2) defines support provided by a responsible local authority as including support that the authority secures from another service provider.

Section 37 - Regulations

129. Subsection (1) provides that any power of the Scottish Ministers to make regulations under this Bill includes power to make different provision for different purposes and to make incidental, supplementary, consequential, transitional, transitory or saving provision.

130. Subsection (2) provides that regulations under sections 1(3), 6A(1), 7, 11A, 12, 19(4), 21(1) and 23(2) are subject to the affirmative procedure. Regulations under section 38(1) which add to, replace or omit the text of an Act are also subject to that procedure.

131. Subsection (3) provides that all other regulations under this Bill are subject to the negative procedure. Subsection (3) does not apply to commencement regulations under section 40 (see subsection (4)). Such commencement regulations will be subject to no parliamentary procedure.

Section 38 - Ancillary provision

132. This section gives the Scottish Ministers a freestanding regulation-making power to make incidental, supplementary, consequential, transitional, transitory or saving provision that they consider necessary or expedient for the purposes of or in connection with the Bill. Such regulations may modify any enactment (including in the Bill itself). Regulations under this section which amend the text of primary legislation will be subject to the affirmative procedure (see section 37(2)). Otherwise they will be subject to the negative procedure (see section 37(3)).

Section 39 - Consequential modifications

133. This section introduces the schedule, which contains amendments and repeals of other legislation that are consequential on the provisions of this Bill.

Section 40 - Commencement

134. Subsection (1) provides that this section and sections 36 to 38 and 41 come into force on the day after Royal Assent. The remainder of the Bill comes into force on the day or days appointed by the Scottish Ministers in regulations made under subsection (2). Subsection (4) provides that commencement regulations may also include transitional, transitory or saving provision. Such regulations will be subject to no parliamentary procedure, as is normal for subordinate legislation commencing Acts of the Scottish Parliament (see section 37(4)).
Section 41 - Short title

135. This section provides that the Bill, if passed, will be referred to as the Carers (Scotland) Act 2015.

SCHEDULE – CONSEQUENTIAL MODIFICATIONS

136. The schedule to the Bill makes consequential amendments and repeals of other enactments to take account of the provisions of the Bill. The enactments affected include—

- the Social Work (Scotland) Act 1968;
- the Children (Scotland) Act 1995;
- the Community Care and Health (Scotland) Act 2002;
- the Public Services Reform (Scotland) Act 2010;
- the Social Care (Self-directed Support) (Scotland) Act 2013; and
- the Public Bodies (Joint Working) (Scotland) Act 2014.

137. Sections 12AA and 12AB of the Social Work (Scotland) Act 1968, and sections 24 and 24A of the Children (Scotland) Act 1995, and subsequent revisions under sections 9(2), 11 and 12 of the Community Care and Health (Scotland) Act 2002 are repealed. The functions covered by those sections, relating to the assessment of adult carers and young carers needs, are replaced by the provisions contained within Part 2 of the Bill (adult carer support plans and young carer statements).

138. The amendment to schedule 13 of the Public Services Reform (Scotland) Act 2010 has the effect of making local authority functions under the Bill “social work services functions” for the purposes of Part 5 of the 2010 Act. That change allows the Care Inspectorate to carry out inspections of services provided or procured by local authorities in order to discharge the functions.

139. The amendments to section 7 of the Social Care (Self-directed Support) (Scotland) Act 2013 made by paragraph 4 of the schedule have the effect that any support provided under section 22 of the Bill may be provided through whichever of the options for self-directed support is chosen by a carer.

140. The amendments to the Public Bodies (Joint Working) (Scotland) Act 2014 have the effect that the functions of preparing an adult carer support plan or a young carer statement, providing support to carers, preparing local carer strategies, providing an information and advice service and publishing short breaks statements are capable of being delegated under an integration scheme under that Act.
SUPPLEMENTARY DELEGATED POWERS MEMORANDUM

INTRODUCTION

1. This supplementary memorandum has been prepared by the Scottish Government in accordance with Rule 9.7 of the Parliament’s Standing Orders and aims to assist the Delegated Powers and Law Reform Committee in its consideration of the Carers (Scotland) Bill. This memorandum describes provisions in the Bill conferring power to make subordinate legislation which were either introduced to the Bill or amended at Stage 2. The memorandum supplements the Delegated Powers Memorandum on the Bill as introduced.

2. The contents of the memorandum are entirely the responsibility of the Scottish Government and have not been endorsed by the Scottish Parliament.

PROVISIONS CONFERRING POWER TO MAKE SUBORDINATE LEGISLATION INTRODUCED OR AMENDED AT STAGE 2

3. The amended or new delegated powers in the Bill are listed below, with a short explanation of what each power allows, why the power has been taken in the Bill and why the selected form of parliamentary procedure has been considered appropriate.

Section 1 – Meaning of “carer”

Power conferred on: the Scottish Ministers
Power exercisable by: regulations made by Scottish statutory instrument
Parliamentary procedure: affirmative

Provision

4. Subsection (1) provides that in this Act, “carer” means an individual who provides or intends to provide care for another individual (the “cared-for person”). Subsection (2) provides that subsection (1) does not apply: (a) in the case of a cared-for person under 18 years old, to the extent that the care is or would be provided by virtue of the person’s age, or (b) in any case, to the extent that the care is or would be provided (i) under or by virtue of a contract, or (ii) as voluntary work.

5. Subsection (3) provides that the Scottish Ministers may by regulations: (a) provide that “contract” in subsection (2)(b)(i) does or, as the case may be, does not include agreements of a kind specified in regulations; (b) permit a relevant authority to disregard subsection (2)(b) where
the authority considers that the relationship between the carer and the cared-for person is such that it would be appropriate to do so.

**Reason for taking power**

6. There may be situations where it would be appropriate to ensure that certain people fall within the definition of ‘carer’ for the purposes of the Bill, notwithstanding that they provide care under agreements which may be viewed as contracts. Alternatively, there may be groups who should be excluded from the definition of carer because of the agreements under which they provide the care, where it would be helpful to put beyond doubt that the agreements in question are to be treated as ‘contracts’ for the purposes of subsection (2)(b). For example, regulations could provide that the agreements which certain types of kinship carers have with local authorities are not to be considered to be ‘contracts’. The effect of such regulations would be to ensure that those kinship carers fall within the Bill’s definition of a carer (providing no other exception applies) and as a result can be offered an adult carer support plan, and, if eligible, subsequent support. This power will provide flexibility in adding or removing particular types of contracts or other agreement from the exception to the definition of ‘carer’.

7. The Scottish Government would like to retain flexibility so that a local authority may be able to support an individual who does not fall within the definition of a carer. Subsection (3) allows for regulations that would see local authorities being able to disregard subsection (2)(b) and consider carers who provide care by way of a contract or through a voluntary organisation to be classed as ‘carers’ as defined by subsection (1). This flexibility will allow for amendments to be made to include certain types of carers. This is especially likely to be relevant in the case of carers who provide some care on a paid and some care on an unpaid basis to the same family member. As the Social Care (Self-directed Support)(Scotland) Act 2013 (“the 2013 Act”) becomes more widely used, it is likely that direct payments under the 2013 Act will mean that the number of carers who provide both paid care, by way of a contract with the person they care for, and unpaid care are likely to rise. This power will allow for amendments to be made to take account of the possible rise in the different types of these caring situations.

**Choice of procedure**

8. The choice of procedure was amended at Stage 2 so that the regulation making power at subsection (3) is now subject to the affirmative procedure. The change in choice of procedure follows further consideration at the request of the Delegated Powers and Law Reform Committee.

9. On reflection, the Scottish Government agreed with the Delegated Powers and Law Reform Committee that the power at subsection (3) was significant in that it could potentially be used to expand or restrict the reach of the Bill’s provisions on providing support to carers, depending on the manner in which it is exercised. The Scottish Government acknowledged that it is certainly the case that “unpaid” caring is a challenging concept which could become more challenging in the future. The power at section 1(3)(b), for example, is intended to make provision for those people who in policy terms are referred to as “mixed carers”. Mixed carers are carers who undertake both unpaid care and paid care for the same family member. The 2013 Act is still in the early stages of implementation and it is possible, for example, that as it becomes more prevalent, further types of mixed carer may emerge.
10. The provisions at section 1(3) will therefore be subject to the affirmative procedure so as to give regulations made under these provisions a higher level of parliamentary scrutiny.

Section 6A – Adult carers of terminally-ill cared-for persons

Power conferred on: the Scottish Ministers
Power exercisable by: regulations made by Scottish statutory instrument
Parliamentary procedure: affirmative

Provision

11. Section 6 places a duty on the responsible local authority to prepare an adult carer support plan (ACSP). The ACSP replaces the current carer’s assessment. Section 6 provides that an adult carer support plan sets out an adult carer’s identified personal outcomes, an adult carer’s identified needs (if any) and the support (if any) to be provided by the responsible local authority to an adult carer to meet those needs. Equivalent provision is made for young carers in the form of the Young Carer Statement.

12. Section 6A(1) provides that the Scottish Ministers may by regulations prescribe timescales for the preparation of adult carer support plans in relation to adult carers of terminally ill cared-for persons.

13. Subsection (2) provides that, for the purposes of this section and section 11A, a cared-for person is terminally ill at any time if at that time the person suffers from a progressive disease and death in consequence of that disease can reasonably be expected within 6 months.

Reason for taking power

14. The Scottish Government has introduced provisions at Stage 2 to confer a new regulation-making power so that Scottish Ministers may prescribe timescales for preparation of an adult carer support plan where the adult is caring for a cared-for person who is terminally ill. A definition of ‘terminally ill’ is provided for by subsection (2) of section 6A. This definition is the same as that used in section 66(2)(a) of the Social Security Contributions and Benefits Act 1992 (attendance allowance for the terminally ill).

15. Taking into account views from a range of stakeholders, including Marie Curie, the Scottish Government recognises that there could be some circumstances in which the preparation of the adult carer support plan may need to be done quickly, such as for those who have caring responsibilities for people who are terminally ill. The Health and Sport Committee agreed with this position in its Stage One report.

16. The regulation making power set out at 6A is deliberately narrowly drawn. This is because the Scottish Government does not envisage a need to set timescales for the preparation of the ACSP for any other group of carer.

17. Regulations made under this power will set out the actual timescales to be complied with for the preparation of the ACSP. The detail about how such cases will be recognised and processed will be set out in guidance. This is expected to include how such carers are to be
identified, what forms of evidence are required so that local authorities may establish that the
cared for person has a terminal illness within the definition in section 6A(2) and how
prioritisation procedures are to be triggered.

Choice of procedure

18. The power in section 6A is subject to the affirmative procedure. This is considered
appropriate as it will be important to ensure that an appropriate timescale is set, and that in
reaching a decision about what timescale should be set, that there is extensive debate and
consultation with a wide range of stakeholders. It is considered that the Parliament itself will
have a significant degree of interest in this issue and selection of the affirmative procedure
provides the Parliament with the appropriate degree of scrutiny over the measures proposed.

Section 11A – Young carers of terminally-ill cared-for persons

Power conferred on: the Scottish Ministers
Power exercisable by: regulations made by Scottish statutory instrument
Parliamentary procedure: affirmative

Provision

19. This section provides that the Scottish Ministers may by regulations prescribe timescales
for the preparation of young carer statements in relation to young carers of terminally ill cared-
for persons.

Reason for taking power

20. This new power introduces an equivalent power to that introduced by section 6A but in
respect of the preparation of the young carer statement for young carers of terminally ill cared-
for persons. Adult carer support plans and young carer statements are provided for in separate
provisions in the Bill because they address slightly different issues and the authority responsible
for preparing the young carer statement may vary depending on the young carer’s circumstances.
It is therefore also necessary to make separate provision about the timescales for the preparation
of young carer statements in relation to young carers of terminally ill cared-for persons. The
reasons for taking this power are the same as that set out for section 6A.

21. Taking into account views from a range of stakeholders, including Marie Curie, the
Scottish Government recognises that there could be some circumstances in which the preparation
of the young carer statement may also need to be done quickly, such as for those young carers
who have caring responsibilities for people who are terminally ill. The Health and Sport
Committee agreed with this position in its Stage One report.

Choice of procedure

22. The power in section 11A is subject to the affirmative procedure for the same reasons as
set out in paragraph 18 for the choice of procedure for the power at section 6A.
Section 23 – Provision of support to carers: breaks from caring

Power conferred on: the Scottish Ministers
Power exercisable by: regulations made by Scottish statutory instrument
Parliamentary procedure: affirmative

Provision

23. Subsection (1) provides that a local authority, in determining which support to provide to a carer under section 22(4), must consider in particular whether the support should take the form of or include a break from caring.

24. Subsection (2) was amended at Stage 2 to provide that the Scottish Ministers may by regulations make provision: (a) about the form of support that may be provided as a break from caring; (b) where the regulations provide for a break from caring to take the form of the provision of care for the cared-for person, the role of the cared-for person in relation to how that care is provided. Subsection (3) provides that support provided by virtue of subsection (1) may be provided on a regular basis or on a temporary basis and may be provided for varying periods of time.

Reason for taking power

25. Subsection (2) will provide Scottish Ministers with the power to define what support or types of support should be considered as a break from caring. Where that break from caring takes the form of support provided to the cared-for person, the power will also allow Scottish Ministers to clarify the role of the cared-for person in how that care is provided.

26. Previously the power at section 23 envisaged that a break from caring might take the form of the provision of replacement care or other services or assistance to the cared-for person. The rationale for taking those powers was so that Scottish Ministers could clarify the role of the cared-for person in how that support was provided and whether that support should be regarded as support to the carer or cared-for person.

27. COSLA and local authorities had reported that this is especially challenging where it is decided that support for a carer requires services to be delivered to the persons they care for. The challenges relate to the question of how any charging policies should be applied and what role the cared-for person should have in agreeing support which is put in place for the purpose of meeting the carer’s needs. Both the Health and Sport Committee and the Finance Committee supported the need to clarify the position.

28. The amendments made at Stage 2 seek to clarify the position. Section 22 has been amended to make clear that the only support which may be delivered to the cared-for person in order to meet the carer’s needs is care which enables the carer to have a break. Any other form of service or assistance which is delivered to the cared-for person is to be provided under the legislative framework relevant to the cared-for person rather than under section 22. The policy intention is to continue with the position that any support which is provided under section 22 of the Bill in order to meet a carer’s identified needs will be provided without charge to the carer. This will be the case even where the support in question is replacement care which is delivered to the cared-for person in order to meet the carer’s identified needs.
29. The power at section 23(2) has therefore been amended at Stage 2 to give effect to the intention that the only form of support which is capable of being provided to the cared-for person in order to meet the carer’s identified needs, is replacement care. The power which had previously existed in section 23(2)(b)(ii) to make provision about whether care, services or assistance are to be regarded as support to the carer or to the cared-for person has been removed at stage 2. This power is no longer necessary. It is clear that all support provided under section 22(4) is support to the carer.

Choice of procedure

30. The choice of procedure was amended at Stage 2 to ensure these provisions are subject to the affirmative procedure. Regulations made under the power at subsection (2)(b) will likely include measures to provide for the involvement of the cared-for person in decisions about how care is provided to them. The question of a cared-for person’s involvement in making decisions about replacement care which is of primary benefit to the carer has become a significant issue in discussion with key stakeholders and there has been a high degree of parliamentary interest. The affirmative procedure would provide additional assurance that the Parliament will have a sufficient degree of scrutiny over the measures proposed.

Section 33A – Guidance and directions to health boards and directing authorities

Power conferred on: the Scottish Ministers
Power exercisable by: directions
Parliamentary procedure: none

Provision

31. Subsection (2) provides that the Scottish Ministers may issue directions to health boards and directing authorities, either individually or collectively, about the exercise of functions conferred by this Act.

32. Subsection (3) provides that each health board must comply with any direction issued to it under this section. Subsection (4) makes the same provision for each directing authority.

Reason for taking power

33. The Bill already makes provision that Scottish Ministers may issue directions to local authorities as to the manner in which they are to exercise their functions under the Act. Local authorities are obliged to comply with such directions. These provisions are delivered by the amendments made to section 5 of the Social Work (Scotland) Act 1968 by section 33 of the Bill.

34. No equivalent provision was made in relation to the functions conferred by the Bill on health boards and directing authorities. The Bill confers functions on health boards in relation to:

- the preparation of young carer statements for pre-school children;
- involvement of carers in relation to carer services; and
- the preparation of local carer strategies.
35. The Bill confers functions on directing authorities (i.e. the managers of a grant-aided school or proprietors of an independent school) in relation to the preparation of young carer statements for pupils at those schools.

36. It was considered appropriate to introduce provisions at Stage 2 so that Scottish Ministers are able to issue directions to health boards and directing authorities in respect of their functions under the Bill as these bodies will be exercising public functions. Directions may be used to provide clarification about how Ministers expect health boards and directing authorities should carry out the functions set out in the Carers (Scotland) Bill. The powers can also be used to provide detail on the matters a health board or directing authority should consider in delivering its functions under this Bill.

Choice of procedure

37. The power to issue directions is exercisable without specific parliamentary scrutiny. Directions can only be used to deal with the manner in which functions are exercised. They cannot alter the function in any way. Accordingly, they deal with very practical, operational issues and parliamentary scrutiny is not considered to be appropriate for a provision of this nature.
Dear Mr Gibson,

Carers (Scotland) Bill

I am writing to you to follow up my previous correspondence with the Committee regarding the stage 2 amendments to the Bill and the work of the Finance Advisory Group I set up regarding costings.

Stage 2 amendments

My view is that none of the stage 2 amendments to the Bill will result in significant additional costs to local authorities, NHS Boards, the Scottish Administration or other bodies. I am however setting out at Annex A the consideration we have given to the key stage 2 amendments regarding the financial aspects.

Finance Advisory Group

In my letter of 14 September 2015 I said that I would update the Committee on the work of the Finance Advisory Group. The group has now met on three occasions with a number of further workstream meetings also taking place.

The group has focussed on three main areas of interest covering unit costs for assessment and support, future demand (ie take up rate) and segmenting the carer population into bands by hours of care to assess available census and survey data which may provide information regarding differential assessment or support costs.

The group has undertaken a significant amount of work including the issuing and collating of a supplementary financial questionnaire to local authorities. This has focussed, in particular, on unit costs.
**Unit costs**

It is apparent from returns from 16 local authorities to the supplementary questionnaire sent out in December that there is a lot of variance across the country with regard to the unit costs of assessment with a number of authorities unable to provide all the information requested. There are clearly a number of factors influencing the variability in unit costs of assessments including staff skill mix, length and method of assessment, rurality, and complexity of case. It will be important therefore that we work with authorities in 2016-17 in a pre-implementation phase so that information can be captured in the right way. This would then help ensure that we have the appropriate management data as we move forward to monitor costs and the implications of the costs.

I said in my letter of 14 September that I would aim to provide a single unit cost for the Adult Carer Support Plan and Young Carer Statement and sensitivity analysis on demand for the ACSP/YCS.

I can assure the Committee that the average unit cost of the ACSP will not be either £72 or £110 – two of the examples set out in paragraph 54 of the Financial Memorandum. It is likely to be about £176 although I am aware that there is variance around this so that in some local authorities the estimated cost is more than £176 and in some it is less. The Finance Advisory Group will be discussing this further at its next meeting. I must emphasise again the requirement for efficiency savings wherever possible as it is clear that there is scope to consider and pursue these further.

My officials, with COSLA and a local authority, met on 12 January with the Carers Reference Group we set up to help inform implementation of the Carers Strategy. One point the carers made was that they prefer assessments to be carried out by a mix of staff with empathetic skills. They see a greater role for Allied Health Professionals and voluntary sector staff in carrying out assessments. Staff mix will be one of the key determinants of cost.

I can also assure the Committee that the estimated unit cost of the Young Carer Statement will not be £106 or £125 as set out in paragraph 63 of the Financial Memorandum. Most returns from local authorities did not provide a great deal of further information about the unit costs of the YCS. It is however likely to be about £167 as set out in paragraph 63 of the Financial Memorandum although again the Finance Advisory Group will give this further consideration.

**Support costs**

With regard to the unit cost of support, paragraph 78 of the Financial Memorandum sets this out at an estimated £333 per carer per year based on research as returns from the first questionnaire to local authorities could not establish a unit cost. Returns from the second questionnaire were completed by only 8 local authorities for the question about the unit cost of support. The Finance Advisory Group will be considering the data.

**Demand**

The Finance group has also considered the demand profile for assessment and support in more detail recognising that a number of factors will influence final demand and are very difficult to predict. These factors include the impact of carer behaviour, publicity, word of mouth from carer to carer, local authority actions, etc. The group also recognises that reviews of the ACSP/YCS, rather than a full assessment, and the frequency of reviews and/or full assessments will affect the demand profile. The Carers Reference Group
members had various views about reviews including reviews being linked to a material change in caring circumstance and reviews being a form of preventative support in themselves.

Given the difficulty of predicting demand, the group has focussed on a sensitivity analysis on how different demand profiles could impact on the overall cost profile. The Finance Advisory Group is considering this data which I will want to see.

**Correction to Financial Memorandum**

I can confirm that the figure of £24.808 million for 2020-21 in the table under paragraph 79 in the Financial Memorandum should read £36.288 million. My officials said this to the Committee in evidence.

I hope this is helpful. I am of course happy to provide further explanation as required.

I am copying this letter to the Convener of the Health and Sport Committee.

JAMIE HEPBURN
Carers (Scotland) Bill
Stage 2 amendments

Carers of terminally ill cared-for persons

Sections 6A and 11A of the Carers Bill provide for Scottish Ministers to prescribe in regulations timescales for the preparation of the adult carer support plans and young carer statements in relation to carers of terminally ill cared-for persons. This is not expected to incur additional costs although expedited plans and statements mean that local authorities (with Health Boards) will require to prioritise the preparation of these. The plans and statements would be expected to focus on the practical and emotional support for carers caring for terminally ill people and helping carers to acquire any specialist medical and nursing care for the cared-for person.

There is no direct information source regarding numbers of carers who are caring for people with a terminal illness. However, a recent study\(^1\) concluded that population based estimates of Palliative and End of Life Care need in high-income countries could reliably be derived from death registration data. The authors estimated that between 69\% and 82\% of people who die need palliative care at the end of their lives. Applying these figures, it is expected that around 40,000 people in Scotland in 2014 had a need for palliative care. These figures represent an upper limit of the likely number of carers who cared for someone with a terminal illness at some point during the year. They do not take into account the transitional nature of the caring role. Not all of those who are terminally ill will be cared for at home or will have an unpaid carer. Not all terminally ill people in a given year will have a progressive disease where death in consequence of the disease can reasonably be expected within 6 months ie the criteria in the Bill for the carer to have an expedited adult carer support plan or young carer statement.

There should not be additional demand (and therefore additional cost) for the completion of the adult carer support plan or young carer statement for the provision of support as carers caring for people who have a terminal illness are a subset of the carer population. Demand from this group for preparation of the plan or statement and for the provision of any support has been taken into account in the baseline and demand projections set out in the Financial Memorandum.

Provision of care in an emergency

Sections 8 and 13 of the Bill make provision that an adult carer support plan and young carer statement must contain information about whether the carer has arrangements in place for the provision of care to the cared-for person in an emergency. This provision is not expected to incur significant additional costs.

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Support to carers

Sections 22 and 23 of the Bill were amended at Stage 2 to provide clarity about when services which can benefit both the carer and the cared-for person are to be provided under the power and duty in section 22 in order to meet the carer’s identified needs.

Section 22 – the duty and power to provide support to the carer – do not apply in cases where the carer’s identified needs could be met indirectly through the provision of services to the cared-for person, with the exception of the provision of care to the cared-for person (formerly known as replacement care) which enables the carer to have a break from caring.

Section 23(2)(b) was amended to alter the regulation-making power so that it can be used to make provision about how the cared-for person should be involved in considering how any care which is provided in order to give the carer a break from caring is to be provided.

The result of these changes is that care which is provided to a cared-for person in order to meet the carer’s need for a break from caring will be provided under section 22(4) of the Bill. It was indicated to the Health and Sport Committee that the Carers (Waiving of Charges for Support) (Scotland) Regulations 2014 will be updated following the passage of this Bill in order to require local authorities to waive charges for all support provided under section 22. This will include care provided to the cared-for person in order to meet the carer’s needs for a break from caring. This is to give effect to the policy that neither carers nor the people they care for would be charged for support meeting carers’ assessed needs under the Bill’s provisions.

Paragraphs 95 and 96 of the Financial Memorandum regarding the waiving of charges are now therefore out of date.

As set out in my letter of 26 October 2015, we estimate that the cost of the provision of care for the cared-for person (previously known as replacement care) to provide the carer with a break from caring arising from the proposed amendments will be a maximum of £16 million per year, beginning in Year 1 of the Bill’s implementation. This estimate is informed by Scottish Government Official Statistics data on current respite care provision and Local Financial Return (LFR) 03 data on current levels of social care charging. It is broken down as £10 million for overnight care, £5 million for daytime care and £1 million for direct payments. It assumes that the cost of respite care is £1,000 per week on average.

This estimate contains uncertainty as it includes a high proportion of respite which is provided to meet the cared-for person’s assessed needs rather than to provide a break from caring that we have not been able to separate out from the available data. The figure of £16 million per year should therefore be regarded as a maximum estimate.

Overnight care is the most intensive form of replacement care. Not all carers require such intensive support and a wide range of possibilities exist. For example, a local authority may provide replacement care for a carer to attend an educational or leisure class once per week.

There is flexibility in the overall cost envelope set out in paragraph 24 of the Financial Memorandum given the known variation in unit costs for carers’ assessments and the unknown final demand profile. This cost envelope is a minimum of £17.53 million in 2017-18 rising to a minimum of £76.81 million in 2021-22. The maximum costs in the same year are £16 million per year.

£19.40 million rising to £88.52 million. The Scottish Government expects to use the maximum costs set out in the Financial Memorandum for planning purposes.

The Scottish Government recognises however that future demand for care for the cared-for person to provide a break from caring and future demand for all other forms of support to carers is challenging to predict. Therefore, once the Bill is commenced, it will be very important for local authorities to monitor the demand for care for the cared-for person to provide a break from caring so that the full implications of managing either more or less demand than resourced for can be assessed and the financial impact fully considered. The Scottish Government will work with COSLA, the National Carer Organisations and other key interests to monitor the situation as part of the overall monitoring of the Bill’s provisions.

**Carer involvement**

Section 25(4A) of the Bill was added by amendment at Stage 2. New section 25(4A) aims to ensure carer involvement in hospital discharge planning of persons in hospital.

The Government fully supports the involvement of carers in the discharge planning process. Such involvement cannot of course result in any delay in the discharge of patients from hospital.

Many health boards are using a combination of methods and resources to engage with carers during hospital admission and discharge processes. The aim of this is to ensure that carers have the opportunity to provide their views so that the discharge process works smoothly and that the carer is supported as necessary to continue caring if they are able and willing to do so.

As an illustrative example of what this means in practice, one Health Board has advised the Scottish Government that it involves carers in hospital discharge processes through the following strategic developments:

- Care of Older People in Hospital Standards\(^4\) developed by Healthcare Improvement Scotland (HIS) and Older People in Hospital inspections;
- Dementia Strategy commitment 10 to improve care in acute general hospitals;\(^5\)
- Person-centred workstream including Five Must Do’s With Me\(^6\) and discharge steering group;
- Equal Partners in Care (EPiC)\(^7\) to inform the paid workforce about the importance of carer involvement;
- Improvement work such as the Triangle of Care: A Guide to Best Practice in Mental Health Care in Scotland;\(^8\) and
- Flexible visiting hours at hospitals.

As a result, there is a better focus now on involving carers in hospital discharge processes in this Health Board. Some other Health Boards are working in a similar way and/or using

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\(^4\) Care of Older People in Hospital Standards, Healthcare Improvement Scotland (HIS)  


existing Carer Information Strategy funding\(^9\) to help promote carer involvement in hospital discharge planning.

The success of carer involvement in hospital discharge planning relies to a great extent on achieving cultural change within the paid health and social care workforce so that it recognises the value of involving carers and outcomes to be achieved. The Scottish Government therefore intends to use part of the resourcing set out in the Financial Memorandum at paragraph 110 for workforce development.

Paragraph 110 sets out two options for resourcing workforce development in 2017-18 and 2018-19. The Scottish Government intends to take forward Option B which provides the greater resource of £1.42 million in 2017-18 and £1.39 million in 2018-19 for workforce development. The resourcing of an improvement programme in 2017-18 and 2018-19 to support carer involvement in hospital discharge planning will complement existing initiatives as well as help support other policy drivers of carer identification in health settings.

Annex A (i) includes real case studies on carer involvement in hospital discharge provided by three health boards. These are presented to provide further insight to the real-life issues faced by carers and their families and how they can be dealt with.

Equally important as involving carers in hospital discharge planning is ensuring that there are no delays when patients are discharged from hospital. An unnecessary prolonged stay in hospital can be detrimental to a person’s physical and mental wellbeing.

It is estimated that for 2014-15 the cost for delayed patients was approximately £221 per day which is not an appropriate use of public funding, and is a poor outcome for the individuals concerned. This calculation takes account of the fact that delayed patients do not incur some clinical costs and it is therefore less than the full cost per day in the NHS cost book. In comparison, the estimated cost of 10 hours of home care per week is £205.\(^10\)

**Local Carer Strategies**

The Government brought forward amendments to section 28 of the Bill at Stage 2 so that local authorities and health boards are jointly responsible for the preparation of local carer strategies. The intention of the amendments was to further recognise the key role of health boards in identifying and supporting carers. Health boards and local authorities presently collaborate on the preparation of local carer strategies and on carers’ issues generally. The amendments formalise this partnership working. Therefore, there is no additional cost involved.

**Information and Advice for Carers**

Through amendment at Stage 2, under section 31 of the Bill, each information and advice service must provide information and advice on the carers’ charter and on emergency care planning and future care planning.

Under section 32A, Scottish Ministers must prepare a carers’ charter. The cost of doing so will be absorbed by the Scottish Administration.

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\(^9\) Carer Information Strategy (CIS) funding to Health Boards is £5m in 2015-16 for carer identification and support

\(^10\) The estimated costs are calculated from Information Services Division (ISD) Scotland data for 2013-14 for delayed discharges, inflating them to 2014-15 prices.
The costs of each information and advice service providing information and advice on emergency care planning and future care planning will be minimal. The Scottish Government will work with local authorities and others to ensure that each local authority uses the best practice available in Scotland about the provision of information and advice on emergency and future care planning.
Case study 1

The Hospital Carers Support Project staff (part of X Carers Centre) at X Royal Infirmary supported a male carer to attend the discharge meeting of his wife from hospital.

The carer wanted to take his wife home before a care package had been approved as his wife had been in hospital a long time and she still required support due to ongoing problems after brain surgery.

The carer felt her needs would be best served at home and that the familiarity of home would also enhance her recovery.

The discharge team discussing his wife’s case were unsure of this and were worried about how he would cope away from the hospital environment. Carers’ support staff attended the meeting with the carer to support him vocalising his feelings and to ensure that his voice was heard as he had concerns that his views would not be given enough consideration during this process.

The carer felt fully supported by the Hospital Carers Support Project staff in that he had the confidence to express his opinion and what he felt was best for both of them as a couple. His wife was discharged home to his care with a positive outcome.

Case study 2

As a training provider, a company receives funding from CIS funds to provide training to unpaid carers on a wide range of topics.

On this occasion, we were contacted directly by staff at the community hospital with regard to the provision of urgent manual handling training. We were informed that it simply would not be feasible to wait until the next scheduled session.

The patient wished to return home, the equipment was available; the discharge delay was caused as the NHS were not able to provide timeous training for the son and daughter of the person in hospital in the safe and correct use of a hoist.

After making arrangements with the family, we were able to provide bespoke manual handling training for the patient’s son and daughter at our own site and using our equipment. As a result, the patient was discharged home almost immediately after the training provision.

Case study 3

The patient was a 23 year old male with a rare genetic condition. This young man has complex medical issues that affect several organs and systems. His main health issues affect his endocrine system having both diabetes mellitus and diabetes insipidus. He has renal disease, gastro-intestinal conditions, poor mobility and is registered blind. This condition is life limiting and degenerative. His mother is his main carer. His mum dispenses all his medications, including insulin. She also supports and helps him with his personal care
and catheterises him up six times a day and overnight. She is also self-employed and runs her own property business.

The patient was admitted to a general medical ward at X Royal Infirmary, presenting with a septic infection, high blood sugars and electrolyte imbalance. He spent a total of four weeks in hospital which included two admissions to the medical high dependency unit. Throughout this period he was cared for in a single room which was very isolating. His mum stayed with him consistently throughout this admission and was supported by the ward staff and made very welcome. She fundamentally believes that being allowed to stay with her son was a major contributor to be involved in discussions about his care and treatment. She continued to provide personal care, administering his insulin and catheterisations at the request of her son.

During the third week of admission the patient was expressing that he wanted to go home. Being blind he found the ward extremely disorientating and upsetting. This did not happen because he was still medically unstable but his medical team gave reassurance that he would be discharged hopefully the following week. During this time of upset he was being looked after by an on-call consultant, not his own regular doctor. However this consultant spent some time with his mum discussing options that could help support them following discharge. She was given contact details for the local carer support services and promised that they would request a home assessment by a community Occupational Therapist.

At the end of his fourth week he was discharged. Appointments were arranged for him to come in to hospital in 48 hours to have a clinical review and his blood's checked. His medications had been altered and the staff nurse took time to go through the changes with her.

The patient's own GP did make a referral for his care manager to follow up. Unfortunately this took 10 weeks following his discharge. However on review the social worker arranged for an OT assessment. He had really liked the big wet rooms when in hospital and this OT facilitated ordering of new bathroom facilities that could support his independence. He now has a new wet room and toilet.

His mother has not taken up support from any of the local carers' services stating that she gets sufficient support from her other adult children and friends.

**Case Study 4**

Mrs F cares for her 21 year old son who is currently detained in ward X at X hospital. The ward provides assessment and treatment for a wide range of acute mental health issues. Mrs F’s son presented with psychosis in June and has been undergoing treatment on the ward since then. This is the first diagnosed episode for Mrs F’s son and is the first time he has been in hospital for treatment.

Mrs F was referred for carer support by a staff nurse on ward X in November 2015 who felt she would benefit from carer support.

The Carer Development Worker made contact with Mrs F and discussed her caring role. Mrs F feels isolated in her caring role and doesn't know any other parents in a similar situation to hers. Mrs F also admitted that she feels that she doesn't have the same son anymore and doesn't think she will ever get her son back.
Mrs F’s son has been allowed home on weekend passes and had recently been away with his mum for a short holiday. On these occasions, he has smoked cannabis which the hospital thinks may have played a part in his episode of psychosis in June. If Mrs F’s son was to have any further episodes of psychosis – he will be diagnosed with schizophrenia. Mrs F is terrified that upon discharge, her son will continue to smoke cannabis and his mental health will continue to deteriorate.

What matters most to Mrs F at the moment is meeting other parents who are in or have been through a similar situation to her. She is happy with the level of care provided to her son on the ward and feels involved and valued as a carer. She appears currently very afraid of what the future will hold and is also grieving the loss of how her son was as she fears he will never be the same again.

It was suggested to Mrs F that she might want to attend the Mental Health Support Group. The Mental Health Support Group was set up following a discussion with mental health carers in October 2013 about what would help support them further. The group meets monthly and is attended by a mix of men and women, with varied caring roles for someone with a mental health condition. There are regularly new attendees and several other parent carers attend who we felt Mrs F would be able to identify with. Mrs F very much liked the sound of the group and attended the next meeting. She benefitted from the information and support provided by the group and even exchanged numbers with one attendee whose daughter is currently in ward X too. A representative from the Mental Welfare Commission was also in attendance at the first support group Mrs F attended. They were looking for feedback on experiences both in hospital and in the community from mental health carers. Mrs F has found the support group invaluable and just what she needed to feel more supported in her caring role and plans to continue to attend the group.

Mrs F will continue to be supported in her caring role by local carers centre staff and by means of peer support at the mental health support group. An additional avenue of support that has been suggested to Mrs F is that she considers over the coming months is a referral to the local carers centre counselling service which would support her in expressing her thoughts and feelings about what is happening in her life with the assistance of the qualified counsellor.
Delegated Powers and Law Reform Committee

Carers (Scotland) Bill as amended at Stage 2
Contents

Introduction 1
Delegated Powers Provisions 2
Delegated Powers and Law Reform Committee

The remit of the Delegated Powers and Law Reform Committee is to consider and report on—

a. any—
   i. subordinate legislation laid before the Parliament or requiring the consent of the Parliament under section 9 of the Public Bodies Act 2011;
   ii. [deleted]
   iii. pension or grants motion as described in Rule 8.11A.1; and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

b. proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

c. general questions relating to powers to make subordinate legislation;

d. whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;

e. any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act; and

f. proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject.

g. any Scottish Law Commission Bill as defined in Rule 9.17A.1; and

h. any draft proposal for a Scottish Law Commission Bill as defined in that Rule; and

i. any Consolidation Bill as defined in Rule 9.18.1 referred to it by the Parliamentary Bureau in accordance with Rule 9.18.3.
Committee Membership

**Convener**
Nigel Don
Scottish National Party

**Deputy Convener**
John Mason
Scottish National Party

Lesley Brennan
Scottish Labour

John Scott
Scottish Conservative and Unionist Party

Stewart Stevenson
Scottish National Party
Introduction

1. At its meeting on 2 February 2016 the Delegated Powers and Law Reform Committee considered the delegated powers provisions in the Carers (Scotland) Bill as amended at Stage 2 (“the Bill”). The Committee submits this report to the Parliament under Rule 9.7.9 of Standing Orders.

2. The Bill was introduced on 9 March 2015 by the Cabinet Secretary for Health, Wellbeing and Sport. It reforms the manner in which the needs of adult carers and young carers are assessed by local and other responsible authorities, as well as the manner in which support is provided to those carers.

3. The Scottish Government has provided the Parliament with a supplementary memorandum on the delegated powers provisions in the Bill (“the SDPM”).

4. The Committee previously reported on the delegated powers provisions in this Bill at Stage 1 in its 25th report of 2015.
5. The Committee considered each of the new or substantially amended delegated powers provisions in the Bill after Stage 2.

6. After Stage 2, the Committee reports that it does not need to draw the attention of the Parliament to the new or substantially amended delegated powers provisions listed below, and that it is content with the parliamentary procedure to which they are subject:

   - Section 1 — Meaning of “carer”
   - Sections 6A — Adult carers of terminally ill cared-for persons
   - Section 11A — Young carers of terminally ill cared-for persons
   - Section 23 — Provision of support to carers: breaks from caring
   - Section 33A — Guidance and directions to health boards and directing authorities

7. The Committee therefore reports that it is content with the new or substantially amended delegated powers provisions in the Bill as amended at Stage 2.
Carers (Scotland) Bill as amended at Stage 2 is available at the following website:
http://www.scottish.parliament.uk/S4_Bills/Carers%20(Scotland)%20Bill/SPBill61AS042015.pdf
[accessed February 2016]

Carers (Scotland) Bill (as amended at Stage 2) Supplementary Delegated Powers Memorandum is available at the following website:
http://www.scottish.parliament.uk/S4_Bills/Carers%20(Scotland)%20Bill/SPBill61ADPMS042016.pdf
[accessed February 2016]

Delegated Powers and Law Reform Committee Report. 25th Report, 2015 (Session 4). Carers (Scotland) Bill at Stage 1 (SP Paper 714), is available at the following website:
[accessed February 2016]
Carers (Scotland) Bill

Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 41 Schedule
Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 2

Rhoda Grant

21 In section 2, page 2, line 5, at end insert <, or
( ) is 18 years old, and—
(i) attained that age while undertaking a course of education at a post-16 education body, and
(ii) has since attaining that age continued to undertake such a course at that or another post-16 education body.
( ) In this section “post-16 education body” has the meaning given in section 35 of the Further and Higher Education (Scotland) Act 2005.

Section 6

Rhoda Grant

1 In section 6, page 3, line 10, at end insert—
<( ) A responsible local authority must exercise its functions under this section in a manner which encourages equal opportunities and in particular the observance of the equal opportunity requirements (within the meaning of Section L2 of Part 2 of schedule 5 of the Scotland Act 1998.)>.

Rhoda Grant

22 In section 6, page 3, line 10, at end insert—
<( ) A responsible local authority may make arrangements for another person to prepare an adult carer support plan on its behalf.>

Section 6A

Jamie Hepburn

2 In section 6A, page 3, line 14, leave out <may> and insert <must>
Rhoda Grant

23 In section 6A, page 3, line 15, after <plans> insert—

<( ) Regulations under subsection (1) may make different provision>

Section 7

Rhoda Grant

3 In section 7, page 3, line 31, at end insert—

<( ) In identifying an adult carer’s personal outcomes and needs for support, a responsible local authority must, in particular, take into account any impact that having one or more protected characteristic (within the meaning of section 149(7) of the Equality Act 2010) has on the adult carer.>

Section 8

Rhoda Grant

4 In section 8, page 4, line 5, at end insert—

<( ) information about whether the adult carer has arrangements in place for the future care of the cared-for person,>

Rhoda Grant

24 In section 8, page 4, line 16, at end insert—

<( ) where appropriate, information about the support available to the adult carer in the event of the death of the cared-for person, including bereavement support,>

Section 11

Rhoda Grant

5 In section 11, page 5, line 35, at end insert—

<( ) A responsible authority must exercise its functions under this section in a manner which encourages equal opportunities and in particular the observance of the equal opportunity requirements (within the meaning of Section L2 of Part 2 of schedule 5 of the Scotland Act 1998).>

Rhoda Grant

25 In section 11, page 5, line 35, at end insert—

<( ) A responsible authority may make arrangements for another person to prepare a young carer statement on its behalf.>
Section 11A

Jamie Hepburn
6 In section 11A, page 6, line 4, leave out <may> and insert <must>

Rhoda Grant
26 In section 11A, page 6, line 5, after <statements> insert—
   <( ) Regulations under subsection (1) may make different provision>

Section 12

Rhoda Grant
7 In section 12, page 6, line 18, at end insert—
   <( ) In identifying a young carer’s personal outcomes and needs for support, a responsible
   authority must, in particular, take into account any impact that having one or more
   protected characteristic (within the meaning of section 149(7) of the Equality Act 2010)
   has on the young carer.>

Section 13

Rhoda Grant
8 In section 13, page 6, line 31, at end insert—
   <( ) information about whether the young carer has arrangements in place for the
   future care of the cared-for person.>

Rhoda Grant
27 In section 13, page 7, line 5, at end insert—
   <( ) where appropriate, information about the support available to the young carer in
   the event of the death of the cared-for person, including bereavement support.>

Section 19

Rhoda Grant
28 In section 19, page 9, line 16, after <criteria> insert <—
   (a) ensure that the identified needs of all carers in its area falling within a category as
   the Scottish Ministers must by regulations specify are eligible needs for the
   purposes of section 22,
   (b)>

Rhoda Grant
29 In section 19, page 9, line 16, leave out from <have> to end of line 17 and insert <—
(a) comply with such requirements as the Scottish Ministers may by regulations specify,
(b) have regard to such other matters as the regulations may specify.

Rhoda Grant
30 In section 19, page 9, line 16, leave out <have regard among other things to such matters> and insert <comply with such requirements>

Rhoda Grant
31 In section 19, page 9, line 17, after <such> insert <other>

Section 23

Rhoda Grant
32 In section 23, page 11, line 6, at end insert—
<( ) The primary purpose of any break from caring provided by virtue of this section must be for the benefit of the carer.>

Jamie Hepburn
9 In section 23, page 11, line 10, after <person,> insert <about>

Nanette Milne
33 In section 23, page 11, line 13, at end insert—
<( ) In providing support by virtue of subsection (1), a local authority must have regard to the desirability of breaks from caring being provided on a planned basis.>

Nanette Milne
34 In section 23, page 11, line 13, at end insert—
<( ) Section 19(2) of the Social Care (Self-directed Support) (Scotland) Act 2013 applies in relation to support provided as a break from caring as it applies in relation to any other support.>

After section 24

Rhoda Grant
35 After section 24, insert—
<Eligibility for support: review
(1) Subsection (2) applies where a responsible local authority determines under section 22(2) that all or any of a carer’s identified needs are not eligible needs.
(2) On the request of the carer, the responsible local authority must review the question of whether the carer’s identified needs as specified in the request are eligible needs.
(3) The Scottish Ministers may by regulations make provision about—>
(a) how a request for review under subsection (2) is to be made,
(b) the timescales for—
   (i) making a request for review,
   (ii) determining a review, which must be a period of no more than 6 weeks,
   (iii) an expedited procedure for determining a review in relation to carers of terminally ill cared-for persons, which must be a period of no more than 1 week.

Jackson Carlaw
36 After section 24, insert—

**Duty to make provision for review and appeal of decisions**

(1) The Scottish Ministers must by regulations make provision establishing a process by which a carer to whom subsection (2) applies may—
   (a) apply for the local authority to review its decision,
   (b) make a further appeal against the local authority’s decision on such a review.

(2) This subsection applies to a carer where a responsible local authority determines under section 22(2) that all or any of the carer’s identified needs are not eligible needs.

(3) Regulations under subsection (1) must in particular—
   (a) provide as to how an application for review or, as the case may be, appeal is to be made,
   (b) provide as to time limits for the making of applications for review or, as the case may be, appeal.

Rhoda Grant
37 After section 24, insert—

**Reporting on provision of support**

(1) Each local authority must prepare and publish a report before the end of the period mentioned in subsection (3).

(2) The report must, in respect of each period, set out—
   (a) the number of adult carer support plans prepared,
   (b) the number of young carer statements prepared,
   (c) the number of occasions when support provided to a carer under section 22(4) has taken the form of a break from caring by virtue of section 23,
   (d) the total amount spent on the provision of support under section 22(4).

(3) That period is—
   (a) in the case of the first report, the period of 3 years beginning with the day of Royal Assent,
   (b) in the case of any subsequent report, 3 years beginning with the date of the last report.
Scrutiny of support services provided to carers

The Scottish Ministers must, within 1 year after the day of Royal Assent, lay before the Parliament either—

(a) an order under section 49(a) (power to modify key definitions) of the Public Services Reform (Scotland) Act 2010 modifying paragraph 1 of schedule 12 to that Act for the purpose of ensuring that the definition of “support services” includes a service provided to a carer to enable the carer to provide or continue to provide care for another person that is required due to that other person’s vulnerability or need (other than vulnerability or need arising by reason only of that other person being of a young age), or

(b) a statement setting out their reasons why they consider that making such an order is not necessary or appropriate.

Section 25

Carer involvement in hospital discharge of cared-for persons

(1) Each health board must ensure that, before a cared-for person is discharged from hospital, it involves any carer of that person in the discharge.

(2) A health board fulfils the duty in subsection (1) by—

(a) taking such steps as it considers appropriate to—

(i) inform the carer, as soon as reasonably practicable, of the intention to discharge the cared-for person, and

(ii) invite the carer to give views about the discharge of the cared-for person, and

(b) taking account, so far as it is reasonable and practicable to do so, of any views given by the carer in making decisions relating to the discharge of the cared-for person.

(3) This section applies only—

(a) where the health board can identify without delay that a person is the carer of the cared-for person, and
(b) where it appears to the health board that the cared-for person is likely to require care following discharge.

(4) In this section “health board” means—

(a) in the case of the state hospital (within the meaning given by section 102 of the National Health Service (Scotland) Act 1978), the State Hospitals Board for Scotland constituted by order under section 2(1)(b) of that Act,

(b) in the case of a hospital mentioned in subsection (5), a health board constituted under section 2(1)(a) of that Act.

(5) The hospitals referred to in subsection (4)(b) are—

(a) a health service hospital (within the meaning given by section 108(1) of the National Health Service (Scotland) Act 1978), or

(b) where a person receives accommodation or services in a hospital other than a health service hospital under arrangements made by a health board, such a hospital.

Section 28

Jamie Hepburn

10 In section 28, page 14, line 29, at end insert—

<(  ) plans for helping relevant carers put arrangements in place for the provision of care to cared-for persons in emergencies,>

Rhoda Grant

11 In section 28, page 14, line 29, at end insert—

<(  ) an assessment of the extent to which plans for supporting relevant carers may reduce any impact of caring on relevant carers’ health and wellbeing,>

Rhoda Grant

41 In section 28, page 15, line 1, after <consult> insert <—

(  ) a relevant post-16 education body, and

( )>

Rhoda Grant

42 In section 28, page 15, line 8, at end insert—

<“relevant post-16 education body” means a body within the area of the local authority which is a “post-16 education body” for the purposes of the Further and Higher Education (Scotland) Act 2005.>

Section 31

Jamie Hepburn

12 In section 31, page 16, line 19, at beginning insert <carers’ rights, including those set out in>
In section 31, page 16, line 19, leave out <including the rights of carers,>

In section 31, page 16, line 23, at end insert—

<( ) bereavement support services for carers following the death of a cared-for person.>

In section 31, page 16, line 26, at end insert—

<( ) In providing information and advice about the matters mentioned in subsection (2), the service must, in particular, identify information and advice likely to be of particular relevance to persons who have one or more protected characteristics (within the meaning of section 149(7) of the Equality Act 2010).>

After section 31

After section 31, insert—

<Register of carers

(1) The responsible authority must make arrangements for—

(a) the development and maintenance of a register of relevant carers in its area, and

(b) the offer and provision of an annual health check to each carer listed on the register.

(2) In this section—

“carer services” has the meaning given by section 25(4),

“relevant carers” means—

(a) carers who reside in the area of the health board or, as the case may be, the integration joint board,

(b) carers who do not reside in the area of the health board or, as the case maybe, the integration board, but who provide or intend to provide care to cared-for persons in the area,

“responsible authority” means—

(a) the health board, or

(b) the integration joint board, where functions in relation to carer services provided by a health board have been delegated to an integration joint board established by virtue of section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014.>
Rhoda Grant

44 After section 31, insert—

<Advocacy services

(1) Each local authority must—

(a) secure the availability of independent advocacy services to relevant carers in relation to their caring role,

(b) take steps to ensure that such carers have the opportunity of making use of those services.

(2) In this section—

“advocacy services” and “independent” have the meaning given in section 259 of the Mental Health (Care and Treatment) (Scotland) Act 2003, “relevant carers” has the meaning given by section 28(4A).>

Section 32A

Jamie Hepburn

16 In section 32A, page 17, leave out line 6

Jamie Hepburn

17 In section 32A, page 17, line 6, at end insert—

<(  ) Nothing in the charter is to—

(a) give rise to any new rights, or

(b) alter any existing rights.>

Jamie Hepburn

18 In section 32A, page 17, line 6, at end insert—

<(  ) The charter may also contain such other information as the Scottish Ministers consider appropriate.>

Jamie Hepburn

19 In section 32A, page 17, line 13, at end insert—

<(  ) consult such other persons as the Scottish Ministers consider appropriate.>

Section 36

Nanette Milne

45 In section 36, page 18, line 21, after <board"> insert <(except in section (Carer involvement in hospital discharge of cared-for persons))>
Jamie Hepburn

20 In section 36, page 18, line 33, at end insert—

<“relevant carers” has the meaning given by section 28(4A),>

Section 37

Rhoda Grant

46 In section 37, page 19, line 23, at end insert—

<( ) section (Eligibility for support: review)(3),>

Jackson Carlaw

47 In section 37, page 19, line 23, at end insert—

<( ) section (Duty to make provision for review and appeal of decisions),>
Groupings of Amendments for Stage 3

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the day of Stage 3 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

**Groupings of amendments**

*Note:* The time limits indicated are those set out in the timetabling motion to be considered by the Parliament before the Stage 3 proceedings begin. If that motion is agreed to, debate on the groups above each line must be concluded by the time indicated, although the amendments in those groups may still be moved formally and disposed of later in the proceedings.

**Group 1: Meaning of “young carer”**
21

**Group 2: Exercise of functions: taking account of equalities matters**
1, 3, 5, 7, 15

**Group 3: Preparation of adult carer support plan and young carer statement; delegation of functions**
22, 25

**Group 4: Timescales for the preparation of adult carer support plans and young carer statements**
2, 23, 6, 26

**Group 5: Information about future arrangements, including bereavement support**
4, 24, 8, 27, 14

Debate to end no later than 45 minutes after proceedings begin
Group 6: Local eligibility criteria: role of the Scottish Ministers
28, 29, 30, 31

   Notes on amendments in this group
   Amendment 29 pre-empts amendments 30 and 31
   Amendment 30 pre-empts amendment 31

Group 7: Provision of support: breaks from caring
32, 9, 33, 34

Group 8: Eligibility for support: review
35, 36, 46, 47

Group 9: Reporting on support and scrutiny of support services
37, 38

   Debate to end no later than 1 hour 40 minutes after proceedings begin

Group 10: Duty to involve carers in hospital discharge of cared-for person
39, 40, 45

Group 11: Local carer strategies
10, 11, 41, 42, 20

Group 12: Carers’ charter
12, 13, 16, 17, 18, 19

Group 13: Register of carers
43

Group 14: Advocacy services
44

   Debate to end no later than 2 hours 15 minutes after proceedings begin
Note: (DT) signifies a decision taken at Decision Time.

**Business Motion:** Joe FitzPatrick, on behalf of the Parliamentary Bureau, moved S4M-15562—That the Parliament agrees that, during stage 3 of the Carers (Scotland) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limit indicated, that time limit being calculated from when the stage begins and excluding any periods when other business is under consideration or when a meeting of the Parliament is suspended (other than a suspension following the first division in the stage being called) or otherwise not in progress:

- Groups 1 to 5: 45 minutes
- Groups 6 to 9: 1 hour 40 minutes
- Groups 10 to 14: 2 hours 15 minutes.

The motion was agreed to.

**Carers (Scotland) Bill - Stage 3:** The Bill was considered at Stage 3.

The following amendments were agreed to (without division): 1, 2, 3, 4, 5, 6, 7, 8, 9, 33, 34, 39, 40, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 45 and 20.

The following amendments were disagreed to (by division)—

- 28 (For 48, Against 60, Abstentions 0)
- 29 (For 56, Against 60, Abstentions 0)
- 30 (For 56, Against 60, Abstentions 0).

The following amendments were moved and, with the agreement of Parliament, withdrawn: 21, 22, 32, 35, 37, 43 and 44.

The following amendments were not moved: 23, 24, 25, 26, 27, 31, 36, 38, 41, 42, 46 and 47.

**Carers (Scotland) Bill - Stage 3:** The Minister for Sport, Health Improvement and Mental Health (Jamie Hepburn) moved S4M-15561—That the Parliament agrees that the Carers (Scotland) Bill be passed.

After debate, the motion was agreed to (DT).
14:00

On resuming—

Business Motion

The Deputy Presiding Officer (Elaine Smith): Good afternoon. The first item of business is consideration of business motion S4M-15562, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a timetable for the stage 3 consideration of the Carers (Scotland) Bill.

Motion moved,

That the Parliament agrees that, during stage 3 of the Carers (Scotland) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limit indicated, that time limit being calculated from when the stage begins and excluding any periods when other business is under consideration or when a meeting of the Parliament is suspended (other than a suspension following the first division in the stage being called) or otherwise not in progress:

Groups 1 to 5: 45 minutes
Groups 6 to 9: 1 hour 40 minutes
Groups 10 to 14: 2 hours 15 minutes.—[Joe FitzPatrick.]

Motion agreed to.
Carers (Scotland) Bill: Stage 3

14:00

The Deputy Presiding Officer (Elaine Smith): The next item of business is stage 3 proceedings on the Carers (Scotland) Bill. In dealing with the amendments, members should have the bill as amended at stage 2, SP bill 61A; the marshalled list, SP bill 61AML; and the groupings, SP bill 61AG.

The division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon. The period of voting for that division will be 30 seconds, and thereafter I will allow a voting period of one minute for the first division after a debate. Members who wish to speak in the debate on any group of amendments should press their request-to-speak buttons as soon as possible after I call the group.

Jackson Carlaw (West Scotland) (Con): On a point of order, Presiding Officer. Unusually, I am not sure whether your microphone is on. I am having considerable difficulty hearing you, which might be a bit awkward as the afternoon progresses.

The Deputy Presiding Officer: Thank you, Mr Carlaw. I will take the muffler off my microphone; apparently I am usually very loud. I will try to speak more into the microphone, and perhaps members could do that as well. We will also ask for the sound to be checked.

Section 2—Meaning of “young carer”

The Deputy Presiding Officer: Group 1 is on the meaning of “young carer”. Amendment 21, in the name of Rhoda Grant, is the only amendment in the group.

Rhoda Grant (Highlands and Islands) (Lab): Thank you, Presiding Officer. I would never have dreamed of putting a muffler on your microphone; apparently I am usually very loud. I will try to speak more into the microphone, and perhaps members could do that as well. We will also ask for the sound to be checked.

Amendment 21 was lodged because of concerns from the Scottish Youth Parliament and organisations that support young carers. Currently, if a young carer reaches the age of 18 while they are at school, the support that they receive as a young carer continues until the end of the school year. Thereafter they move to adult services.

That is not the case for young carers who are in further or higher education. The amendment would ensure that young carers who are receiving support while in college or university will continue to receive it for the academic year in which they turn 18. It is very important that young carers do not face disruption in college or university while they are learning and caring at the same time. The amendment would provide them with a degree of stability at that point.

I move amendment 21.

The Minister for Sport, Health Improvement and Mental Health (Jamie Hepburn): The definition of young carer that is presently on the face of the bill aligns with the named person service provisions as set out in the Children and Young People (Scotland) Act 2014. Ms Grant’s amendment would extend the definition of young carer beyond the age of 18 and in some cases to the age of 22, 23 or older, depending on when their course ends, which would take the young carer well into adulthood.

Extending the definition of young carer in the Carers (Scotland) Bill will create a misalignment with other legislation. For example the Children and Young People (Scotland) Act 2014 makes no statutory provision for the continuation of the child’s plan after the age of 18.

Having spoken with Ms Grant, I understand that her amendment is motivated by a shared aspiration. I recognise the need to manage effectively the transition between young carer statements and adult care support plans. That is why there is a safeguarding provision in section 16. It provides that, where a young carer statement is in place, it will continue after the age of 18 until an adult carer support plan is provided. That provision provides young carers with the knowledge that their support will continue in advance of any adult carer support plan being put in place.

I want to ensure that the transition from young carer to adult carer and, accordingly, from a young carer statement to an adult carer support plan, is not unduly delayed, with a negative impact on the young carer. Therefore I envisage using the regulation-making powers in section 14 to set a trigger for a review of the young carer statement in the period approaching the young carer’s 18th birthday, but also, crucially, to take account of the need not to cause duress to the young carer. Where, for instance, a young carer is in the middle of their school examination period, it is important that they face no disruption as a consequence of the review.

I am committed to ensuring that regulations reflect that. I expect the review also to include consideration of the young carer’s ability and willingness to sustain the caring role as they move into further or higher education. My ambition is that we support carers to achieve their full potential, just as we aspire to do that for all Scotland’s young people. That being the case, and given that amendment 21 would result in inconsistent arrangements with other legislation, I...
respectfully ask Ms Grant to withdraw amendment 21.

Rhoda Grant: Given the reassurances that regulations will cover the point that amendment 21 would deal with, I would like to withdraw it.

Amendment 21, by agreement, withdrawn.

Section 6—Duty to prepare adult carer support plan

The Deputy Presiding Officer: Group 2 is on the exercise of functions and taking account of equalities matters. Amendment 1, in the name of Rhoda Grant, is grouped with amendments 3, 5, 7 and 15.

Rhoda Grant: These amendments arose from evidence about the needs of carers from different ethnic backgrounds. The way in which support is provided to carers has sometimes proved to be a barrier to those from different cultural backgrounds. Sensitivities with regard to culture and religious beliefs must be factored in. With an ageing population, we need to be aware of language difficulties. Stay-at-home parents, who often are caregivers, might not have had the opportunity to develop their use of the English language, so we need to ensure that they get information in a way that is accessible to them.

I am grateful to the minister for working with me on these amendments, and for the guidance and support of MECOPP—the Minority Ethnic Carers of People Project—which was keen that the bill should recognise the special needs of those with protected characteristics.

I move amendment 1.

Jamie Hepburn: I thank Ms Grant for lodging the amendments. As she said, we worked together between stages 2 and 3 to ensure that the amendments reinforce the importance of taking into account the needs of those in protected groups and make a meaningful difference to adult or young carers with one or more of the protected characteristics that are set out in the Equality Act 2010.

The amendments to sections 6 and 11 will mean that local authorities will need to consider whether the practical arrangements that they put in place for the preparation of adult carer support plans and young carer statements take into account any particular needs that the carer has as a result of having one or more of the protected characteristics. For example, a hearing impaired carer might need alternative arrangements to conducting by telephone the discussion on the adult carer support plan or the young carer statement discussion, and a carer with mobility limitations might need a home visit.

The amendments to sections 7 and 12 relate to the process of identifying a carer’s personal outcomes and needs for support. The amendments require the local authority to take into account the potential impact that having one or more of the protected characteristics might have on the carer. A carer with mobility limitations who assists a cared-for person with washing, for example, might have different needs from those of a carer who provides similar care but does not have mobility limitations.

Amendment 15 to section 31 will require the local authority to identify, as part of the information and advice service, information and advice that is likely to be of particular relevance to carers in protected groups.

I am pleased to support the amendments in this group and I thank Ms Grant for lodging them.

Rhoda Grant: I thank the minister for those comments. These amendments are very important.

Amendment 1 agreed to.

The Deputy Presiding Officer: Group 3 is on the preparation of adult carer support plans and young carer statements in relation to the delegation of functions. Amendment 22, in the name of Rhoda Grant, is grouped with amendment 25.

Rhoda Grant: Amendments 22 and 25 make it possible for a local authority to allow a voluntary organisation or indeed any other organisation to complete the adult carer support plan or the young carer statement. That would mean that the organisation that was working most closely with the carer and which has the best insight into their situation could prepare the plan or statement. That would be particularly helpful to young carers who have a support worker or who take part in a young carers support group. It would also be helpful to those with protected characteristics who could have an organisation that understands their personal situation complete the plan or statement.

I move amendment 22.

Jamie Hepburn: I fully support the intention behind the amendments. I see great merit in carer centres and other third sector organisations being involved in the preparation of adult carer support plans and young carer statements. Rhoda Grant set out a couple of examples of why that might be appropriate. It should be said that such organisations are already doing a good job of carrying out carers assessments in some areas. I should of course add that local authorities more often than not do a good job in relation to those processes, too.

Having said that I support the intention behind the amendments, I have to say that there is no
need for them. That is because section 35, "Assistance by voluntary organisations etc", already allows local authorities to make arrangements with organisations that can assist with the carrying out of those functions. It does that by way of an amendment to section 4 of the Social Work (Scotland) Act 1968. That provision allows local authorities to make arrangements with voluntary organisations, other people or other local authorities to assist in the performance of listed functions. Section 35 of the bill amends the list of functions in section 4 of the 1968 act in order to cover functions under parts 2 and 6 of this bill, including the preparation of adult carer support plans and young carer statements.

Crucially—this is why I oppose the amendments and hope that Rhoda Grant will withdraw them—amendments 22 and 25 would cast doubt on a local authority’s ability to make similar arrangements with the third sector in relation to other functions under the bill, or, indeed, other social care functions. For example, the responsible local authority might want the third sector to be involved in the establishment and maintenance of an information and advice service and the provision of support to carers. If we emphasise the third sector’s role in one area alone, that could lead to a danger of a legal interpretation that concluded that that was the only area in which the Parliament wanted functions to be delegated to the third sector. I do not believe that that is the outcome that Rhoda Grant hoped for.

I certainly appreciate that there are concerns about delegation and conflicts of interests and about whether the third sector can offer the self-directed support options and so on. It is my intention to issue comprehensive guidance on the matter. The national carers organisations, local authorities, the Convention of Scottish Local Authorities and others will, of course, be involved in the production of the guidance.

Having said that I support the intention behind the amendments, I hope that Rhoda Grant will recognise the potential dangers behind the amendments, accept the concerns that I have set out and agree to withdraw amendment 22 and not move amendment 25.

Rhoda Grant: I have listened carefully to what the minister has said. Given his reassurance that section 25 covers the matter, I seek leave to withdraw amendment 22.

Amendment 22, by agreement, withdrawn.

Section 6A—Adult carers of terminally ill cared-for persons

The Deputy Presiding Officer: The next group of amendments concerns timescales for the preparation of adult carer support plans and young carer statements. Amendment 2, in the name of the minister, is grouped with amendments 23, 6 and 26.

Jamie Hepburn: Amendments 2 and 6 are designed to provide absolute clarity about our intentions: they replace “may” with “must” in sections 6A and 11A, so that those sections will read:

"The Scottish Ministers must by regulations prescribe timescales for the preparation of adult carer support plans and young carer statements in relation to carers of terminally ill cared-for persons.

It has always been my intention to bring forward such regulations, since we amended the bill at stage 2, but I hope that those regulations put beyond doubt the sincerity of such intentions. There will, of course, be a consultation on the draft regulations, which will be subject to the affirmative procedure. Again, I give a commitment to ensure that relevant stakeholders—COSLA, local government, carers and their representative organisations—are involved in that process.

14:15

The effect of amendments 23 and 26 to sections 6A and 11A respectively, combined with the effects of the existing provisions, would be that the Scottish ministers would be required to set timescales for all adult carer support plans and young carer statements and would be allowed to make different provision for plans and statements when the cared-for person was terminally ill. I understand the intention behind the amendments but, as I set out at stage 2, I am not persuaded that setting general timescales for the preparation of all adult carer support plans and young carer statements is appropriate. Doing so could result in local authorities having to devote a disproportionate amount of their resources to preparing plans in order to meet the timescales, which could limit the resources that might otherwise be available for the provision of support. There is also a risk that local authorities’ focus might shift away from the completion of good-quality plans. Because of the timescales set for some carers, the preparation of a plan will be an iterative process rather than a one-off intervention.

Nevertheless, I understand that carers will want an indication of approximately how long it will take to prepare an adult carer support plan or young carer statement. There is, therefore, already provision in the bill, in section 28(2)(f), that a local carer strategy must set out the authority’s intended timescales for preparing adult carer support plans and young carer statements. That provision has been in the bill since it was first presented to
Parliament. I therefore ask that amendments 23 and 26 not be moved.

I move amendment 2.

**Rhoda Grant:** I welcome the Government’s amendments, which strengthen the wording in the bill. My amendments 23 and 26 make it clear that the Scottish Government can set timescales for the preparation of adult carer support plans and young carer statements. I have listened to what the minister said in moving amendment 2 about the strategy having to include timescales. The real concern is that those timescales might not provide the support that carers and young carers require when they need it. I ask him what steps he will take if the strategies that come forward contain timescales that are not really helpful to carers. What will he do to make sure that carers have statements and plans in a timely fashion?

**Jamie Hepburn:** I thank Rhoda Grant for her question, which is a fair one. I re-emphasise the point that I made in my opening remarks, that, since the bill was first presented to Parliament, there has been provision in the bill that, in each area, as part of the local carers strategy, carers should have an indication of how long the assessment process will take. I understand the point that Rhoda Grant makes but I hope that I have been clear, throughout stages 1 and 2, that much of this can be covered in the guidance that we issue. There will be different requirements, given the different circumstances that carers find themselves in, and local authorities will have to take account of that fact in prioritising those who have to be seen promptly, ensuring that the support is in place quickly thereafter. I think that guidance can cover a lot of that.

As I said in my opening remarks, a blunt instrument such as is proposed in these amendments—for very good reasons; Rhoda Grant’s intention is clear—could lead to a disproportionate amount of resources being allocated to meeting timescales instead of providing support, and that is the last thing that any of us in this chamber would want. I hope that I have been able to reassure Ms Grant. For all the guidance that we issue under the bill, there will be a co-operative process that will involve the carers and their representative organisations, ensuring that their voice is heard.

Amendment 2 agreed to.

Amendment 23 not moved.

**Section 7—Adult carers: identification of outcomes and needs for support**

Amendment 3 moved—[Rhoda Grant]—and agreed to.

**Section 8—Content of adult carer support plan**

The Deputy Presiding Officer: Group 5 is on information about future arrangements, including bereavement support. Amendment 4, in the name of Rhoda Grant, is grouped with amendments 24, 8, 27 and 14.

**Rhoda Grant:** Amendments 4 and 8 seek to allow for the planning statement to contain information on the future care arrangements for a cared-for person. We will all have casework from elderly parents looking after adult offspring who are likely to outlive them, and we will have heard their concerns and worries about who will look after their children once they are gone or when they are no longer fit to provide care. The same is true of young people who reach a transitional time in their lives. What will happen when they go to college or university or when they decide that they need to leave home? In order for a carer to plan and prepare for the future, those aspects of their role need to be covered in their plan or the statements.

Amendments 24, 27 and 14 deal with support for carers who suffer bereavement. Carers often tell us about the impact of the death of their loved one; not only do they have to suffer that bereavement, but they find that the support that had been there disappears almost immediately. Some who have been caring for a very long time have stopped working and neglected friendships, and they therefore find themselves very isolated. Their carers allowance stops, and they are often in financial difficulties. It is important that, as bereavement comes closer, plans and statements reflect that fact and ensure that some preparation is made in that respect.

We must also ensure that there is appropriate support for the carer when bereavement happens, and amendment 14 ensures that advice and information centres also provide carers with bereavement support.

I move amendment 4.

**Nanette Milne (North East Scotland) (Con):** I speak in support of amendments 14, 24 and 27. When a carer loses a loved one or someone to whom they have become emotionally attached through caring for them through a terminal illness, the experience can be devastating and leave the carer feeling quite abandoned and bereft. There are many practical as well as emotional issues to cope with after such a loss, including dealing with financial matters, navigating the benefits system and perhaps getting back into employment, and being able to discuss such matters and getting ready access to available information can make the transition from a life of caring to a normal life easier and less stressful. The amendments in
question will facilitate that by requiring local authorities to include bereavement support as part of the adult carer support plans and young carer statements, so I am happy to support them. Johann Lamont (Glasgow Pollok) (Lab): I want to highlight the importance of carers centres in providing continued support to carers who have suffered bereavement. Many of those centres, including south-west Glasgow carers centre in my constituency, provide that service and support instinctively, and I have seen for myself evidence of carers who have continued to be supported by them. The question is how those centres can be fully supported to do the work that they know needs to be done, and that is not just a matter of legislation, but a question of giving them support. Secondly, I seek some reassurance. There is no doubt that elderly parents with a child who has, for example, a learning disability know that there will come a time when they are not there, and they will want support for their child or loved one. Too often, however, dealing with that issue is left until a death happens and there is a crisis. What steps can be taken to ensure that such planning is done early and that there is provision in which parents can have the confidence that allows an individual to move into different kinds of supported accommodation while their parents are still around to support them in that change? Too often it feels that we respond to the crisis that arises instead of planning for the inevitability of the event, and I think that it would reassure a lot of elderly carers if that intervention happened earlier. Jamie Hepburn: I thank Ms Grant for lodging these amendments. I recognise that future care planning is just as important as emergency care planning to a carer’s health and wellbeing. Carers might not be able to provide care in the long term, perhaps as a result of illness, old age or a change in circumstances, including the circumstances that members have touched on in which an elderly person, aware that they will pass on, is concerned about the future arrangements for their loved one. The knowledge that future care plans are in place for a time when the carer can no longer care can bring peace of mind. Amendments 4 and 8 therefore make provision in sections 8 and 13 that the adult carer support plan and the young carer statement must contain information about whether the adult or young carer has arrangements in place for the future care of the cared-for person. On that basis, I am delighted to support the amendments, which mirror existing provisions in the bill on emergency care planning. On amendments 24 and 27, in Rhoda Grant’s name, on bereavement support, it is difficult and even devastating when the carer’s role comes to an end. The focus of the bill is on assessing need and providing support to current carers and those who intend to care in the near future. The bill takes a personal outcomes approach to assessment of need for, and provision of, support. Therefore, if a carer anticipates a need for bereavement support in advance of the demise of the cared-for person—as can often be the case, depending on circumstances—that can be considered as part of the adult carer support plan or the young carer statement process. That could be appropriate in circumstances in which the cared-for person has a terminal illness, for example. The carer may also be affected by the prospect of the cared-for person’s death such that their own health and wellbeing suffer and they cannot care. Counselling before the cared-for person’s death could help the carer to prepare and so be in a better position to provide care while the cared-for person is still alive. Such support can already be considered in the context of the adult carer support plan and young carer statement under the bill, so on that basis I do not believe that amendments 24 and 27 are necessary. There is also an issue in respect of the definition of the term “carer”. Section 1 defines a carer as “an individual who provides or intends to provide care for another individual (the ‘cared-for’ person)”. Rhoda Grant’s amendments 24 and 27 are intended to introduce to the assessment process the provision of information and advice on support that is available to former carers after bereavement. That is not possible under the current definition of carer, because the carer ceases to be a carer when the cared-for person dies. To accept the amendments we would need to widen the definition of carer, which would fundamentally change the nature and scope of the bill, and its focus, from the assessment of the needs of and provision of support to the carer so that the carer can sustain the caring role, to include assessment of need and provision of support to people who are no longer carers. Johann Lamont: Does the minister recognise that there is a continuum for a person who has cared for, cares for and then loses someone? Because they are living with the consequences of having been a carer, support for that person should continue to the point at which he or she is ready to move on. Caring does not just stop at the point of the cared-for person’s passing; there are ramifications that can go on for longer. We would be concerned if it is being suggested that that is a logical cut-off point. I do not think that it is unreasonable to say that the amendments simply acknowledge that there is a time after bereavement when the person is, in effect, still the carer because they are dealing with the consequences of loss.
Jamie Hepburn: I absolutely agree with the point that Johann Lamont has made. I suppose that my point is that we are not just expressing sentiments, but are making the law. There could be problems with the workability. The issue that I raised previously in relation to other amendments—which we are happy to support—in Rhoda Grant’s name, on future planning, deal with the concerns that Johann Lamont has very reasonably expressed.

I was about to come on to amendment 14, which I think will also take care of some of that concern, but I am happy to give way to Rhoda Grant.

Rhoda Grant: I am listening carefully to what the minister is saying. Does he think that it would be appropriate to put in place guidance for local authorities to ensure that the care and support that would be required after the death of a cared-for person are there? That way the definition of carer in the bill would not be affected.

Jamie Hepburn: Again, I am quite happy to reflect on that suggestion. It is essential that we have good guidance that covers all eventualities. I have clearly made the point that the assessment process should be very much focused on the needs of the individual carer. My remarks on amendments 4 and 8, on future care planning, take care of the concerns that have been expressed. If we need to finesse provision through guidance, I am very happy to commit to our seeking to do so. I have also made a wider commitment to engage with carers and their representative organisations, which will help us to get guidance right.

14:30

I am happy to say that we will support amendment 14, which was lodged by Rhoda Grant. It is important that carers can access information and advice, when they need it, on the bereavement support services that are available to them in the event of the cared-for person’s death. The information and advice service to which the amendment refers is available to all, including those who have been bereaved, without us having to tinker with the definition of carer, which could cause difficulties elsewhere. I believe that that availability takes care of the reasonable concerns that underlie amendments 24 and 27.

The information and advice service can signpost the excellent bereavement support services that are already generally available. Those include the information pack on “What to do after a death in Scotland: practical advice for times of bereavement”, which has been developed to help people through the first few days of a bereavement and is widely used across the NHS, and the bereavement zone section of the NHS inform website, which offers a lot of a practical advice on what to do after a death and on coping with grief. Both of those services offer specific advice for children and young people, which young carers may find particularly helpful.

On Johann Lamont’s point about income maximisation, that is another role for information and advice services, which I re-emphasise will be available to all, including those who could be defined—and whom I would recognise—as bereaved carers in a general sense but whom we cannot define legally as carers in the bill. National services such as Breathing Space and Cruse Bereavement Care Scotland are available to those who need someone to talk to.

I support amendments 4, 8 and 14. I support the sentiments that were expressed in relation to amendments 24 and 27, but I am concerned about their workability. On that basis, and given the clear commitments that I have set out on guidance and the workability of the other amendments that we are supporting, I respectfully ask Rhoda Grant not to move amendments 24 and 27.

Rhoda Grant: I listened carefully to what the minister said about amendments 24 and 27, as I know that we are all concerned about the support that carers get when they face a bereavement. I am pleased that the minister recognises that amendments 4 and 8 cover bereavement planning, and that he will issue guidance to local authorities to ensure that they understand that.

I am pleased that we have worked together on amendments regarding future planning. The bill makes it clear that a carer must be willing to care, and that can change in the future depending on the burden on the carer. I therefore press amendment 4.

Amendment 4 agreed to.

Amendment 24 not moved.

Section 11—Duty to prepare young carer statement

Amendment 5 moved—[Rhoda Grant]—and agreed to.

Amendment 25 not moved.

Section 11A—Young carers of terminally ill cared-for persons

Amendment 6 moved—[Jamie Hepburn]—and agreed to.

Amendment 26 not moved.

Section 12—Young carers: identification of outcomes and needs for support
Amendment 7 moved—[Rhoda Grant]—and agreed to.

Section 13—Content of young carer statement
Amendment 8 moved—[Rhoda Grant]—and agreed to.
Amendment 27 not moved.

Section 19—Duty to set local eligibility criteria

The Deputy Presiding Officer: Group 6 is on local eligibility criteria: role of the Scottish ministers. Amendment 28, in the name of Rhoda Grant, is grouped with amendments 29 to 31. I point out that amendment 29 pre-empts amendments 30 and 31, and that amendment 30 pre-empts amendment 31.

Rhoda Grant: With this group of amendments, I am giving the Parliament a range of options on how to deal with concerns about local eligibility criteria. Carers are extremely concerned that there will be a postcode lottery, with different local authorities offering support to different categories of carers. I believe that carers with the greatest need must receive support regardless of where they live. The nature of the support that they require will obviously change depending on their personal circumstances and on where they live, so it cannot be prescribed nationally, but there can be national prescription with a commitment to provide support to those with the most need. My amendments 28 to 31 seek to do that in different ways, so members have a choice.

Amendment 28, which is my preferred amendment, states that “the Scottish Ministers must by regulations specify” which carers must receive support. I firmly believe that carers who are in danger of being unable to continue their caring role, or who are unable to do so without support, must be given priority nationally. Amendment 29 would allow ministers to make national regulations in the same vein but, unlike amendment 28, it would not oblige them to do so.

Amendment 30 is even less prescriptive. It seeks to ensure that local authorities must comply with nationally set regulations rather than simply have regard to them. Amendment 31 is consequential to amendment 28.

I apologise to the chamber for the complexity of the amendments in this group, but they provide the Parliament with a choice. Given that they deal with one of the main concerns of carers groups, I urge the Parliament to support the principle.

I move amendment 28.

Joan McAlpine (South Scotland) (SNP): I understand the concerns that exist—I, too, was concerned about the issue. What has become clear in my time in the Parliament is that there is quite a lack of confidence among many service users, particularly members of disabled groups, that local authorities will deliver the services that they are entitled to unless that is prescribed by Parliament. They look to Parliament to protect them.

I do not want to introduce an element of discord, but there is a lack of honesty when certain members of the Opposition constantly demand local democracy and local decision taking, but talk about postcode lotteries when local authorities are given the freedom to choose.

I turn to the amendments themselves. I note the lengths to which the Government has gone to address the concerns of carer organisations. From having spoken to people in the sector, I think that the minister has gone far enough to address those concerns. Section 19(4) says:

“A local authority must, when setting its local eligibility criteria, have regard among other things to such matters as the Scottish Ministers may by regulations specify.”

Section 21, on national eligibility criteria, states that “Regulations under this section may modify any enactment (including this Act).”

Obviously, eligibility criteria will be set by the local authorities with reference to national core principles.

Crucially, what reassures me is the fact that the bill makes further provision for national eligibility criteria to be set, and in the event that the local eligibility criteria are not working, ministers can intervene. It would be useful for the minister to tell us when he thinks that it might be appropriate for him to intervene and how likely it is that that will happen, in order to reassure some of the people who are concerned that local authorities will not deliver what is in the guidelines.

Johann Lamont: I rise to respond to what Joan McAlpine said. I recognise that there is a tension between establishing national rights and having local control and local ability to respond to local events. That has always been a tension, and we have to recognise that there are merits to having that level of flexibility at a local level.

I seek reassurance from the minister that there are basic standards of rights, so that there is not such a lottery between having very significant entitlement or none whatsoever. There are basic things that families should be able to expect.

I also ask the minister to reflect on the critical centrality of proper and full funding, to ensure that people’s rights are delivered. That is the way to
ensure local flexibility, rather than having rationing that is caused by the lack of resources provided to local government.

Jamie Hepburn: On the last point made by Johann Lamont, I note that a financial memorandum must of course accompany any bill. When the bill’s provisions are fully in place, they will be accompanied by a substantial pocket of funding of some £80 million. That is the amount that the Scottish Government is providing to support the bill’s provisions. We will fund the bill.

The purpose of the amendments in this group seems to be to combine local and national eligibility criteria. That reflects a debate that has been taking place throughout the bill process. I recognise the concerns that have been expressed by the national carer organisations, which have clearly been in dialogue with Ms Grant, as is their right.

Having what appears to be hybrid local and national eligibility criteria could cause difficulty with local implementation. I am not convinced that that is the right way to go about setting eligibility criteria. The bill requires a local authority to set local eligibility criteria after consulting carer organisations and carers—most of those carers will live in the local authority’s area.

Rhoda Grant spoke about support needing to go where there is the greatest need. Her amendments do not set out anything about the greatest need; they deal with “a category”. The notion of “greatest need” could itself be open to much interpretation.

However, there might be some creative, meaningful ways of having local thresholds for support. For instance, there is the opportunity to consider the concept of a threshold that is drawn in a more nuanced way than simply saying that everyone above a certain line must receive support and everyone below it does not have to receive it.

As I have previously made clear, I want to work with all key interests, including the national carer organisations, COSLA and local authorities, to ensure the workability of local criteria. Having local eligibility criteria does not mean having unnecessary variation in the approaches taken to them. We will work with local authorities on a consensual basis regarding the criteria. During 2016-17, before the bill is commenced, we will work with COSLA, local authorities, the national carer organisations and carers themselves to share ideas and views about eligibility criteria.

The aim, of course, is for local authorities to learn about eligibility criteria from one another and from other bodies before they undertake consultation with bodies that represent carers. The involvement of carers is specified in the bill, as I said.

Section 19(4) states:

“A local authority must, when setting its local eligibility criteria, have regard among other things to such matters as the Scottish Ministers may by regulation specify.”

That provides ministers with scope to make regulations to strengthen the consistency of approach, where that is needed.

I have said to the national carer organisations that I am greatly impressed with the matrix showing “examples of indicators” and the “impact on and risk to carers’ outcomes” that is in their draft framework for national eligibility thresholds. Those indicators will be considered among national matters to be set out in regulations and guidance. We will ensure that local eligibility criteria are overlaid by matters that will be set out on a national basis. I believe that that is the right balance.

Neil Findlay, who is not here to hear me praise him—

Members: Oh no!

Jamie Hepburn: I know that it is unusual; I assure members that I will try not to make a habit of it. Mr Findlay made an important point during the stage 1 debate when he said:

“Some people suggest national criteria; others suggest local criteria. Whichever they are, the criteria must be effective”.—[Official Report, 5 November 2015; c 80.]

I agree with that statement. I believe that what is important is the outcome, rather than the mechanism.

14:45

The bill includes a power in section 21 for ministers to make regulations setting out national eligibility criteria. That is a reserve position—a fallback, if you like. Joan McAlpine asked me about the circumstances in which we would consider using such regulations. I hope that the Government does not have to use them. COSLA wanted that section to be removed from the bill, but it remains in it. We will monitor the efficacy of the approach in the bill of using local eligibility criteria, and I will have no hesitation in using the power and instituting national eligibility criteria if that is found to be necessary.

On the basis of all that I have set out, I urge Rhoda Grant to seek to withdraw amendment 28 and not move amendments 29 to 31. Otherwise, I urge the Parliament to reject the amendments.
Rhoda Grant: The amendments get to the very core of the concerns about the bill, which is the gap in funding. COSLA tells us that, even before the £0.5 billion cut in their budget that local authorities face, the funding that is to be provided for the bill will be inadequate to cover its costs. Of course, carers groups are concerned, too, because they believe that, without the funding, the bill will not have the impact that it is supposed to have. COSLA is keen to support carers, but without the funding to do so, it feels that the funding that goes into carers support will come out of funding for the cared-for person, which will then put the onus back on the unpaid carer to provide support.

With regard to the prescription about those most in need, I would have hoped that the minister would prioritise their needs when setting national criteria and that that would not be in the bill.

I urge the Parliament to support amendment 28, which will make a big difference in guaranteeing carers some level of support.

The Deputy Presiding Officer: The question is, that amendment 28 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. As this is the first division of the afternoon, I will suspend proceedings for five minutes. Thereafter, on resuming, divisions will be of 30 seconds.

14:48

Meeting suspended.

14:53

On resuming—

The Deputy Presiding Officer: We move to the division on amendment 28.

For

Baker, Claire (Mid Scotland and Fife) (Lab)
Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brennan, Lesley (North East Scotland) (Lab)
Brown, Gavin (Lothian) (Con)
Carlaw, Jackson (Mid Scotland and Fife) (Con)
Davidson, Ruth (Glasgow) (Con)
Dugdale, Kezia (Lothian) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Findlay, Neil (Lothian) (Lab)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Renfrewshire South) (Lab)
Hilton, Cara (Dunfermline) (Lab)

Against

Hume, Jim (South Scotland) (LD)
Johnstone, Alex (North East Scotland) (Con)
Johnstone, Alison (Lothian) (Green)
Kelly, James (Rutherglen) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
Macdonald, Lewis (North East Scotland) (Lab)
Malik, Hanzala (Glasgow) (Lab)
Marra, Jenny (North East Scotland) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
McCulloch, Margaret (Central Scotland) (Lab)
McDougall, Margaret (West Scotland) (Lab)
McInnes, Alison (North East Scotland) (LD)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Murray, Elaine (Dumfriesshire) (Lab)
Pearson, Graeme (South Scotland) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Rennie, Willie (Mid Scotland and Fife) (LD)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
Smith, Drew (Glasgow) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)
Stewart, David (Highlands and Islands) (Lab)

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Allard, Christian (North East Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Brodie, Chic (South Scotland) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
FitzPatrick, Joe (Dundee City West) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hyslop, Fiona (Linlithgow) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Keir, Colin (Edinburgh Western) (SNP)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Mackay, Derek (Renfrewshire North and West) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
The Deputy Presiding Officer: The result of the division is: For 48, Against 60, Abstentions 0.

Amendment 28 disagreed to.

Amendment 29 moved—[Rhoda Grant].

The Deputy Presiding Officer: The question is, that amendment 29 be agreed to. Are we all agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For
Baker, Claire (Mid Scotland and Fife) (Lab)
Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brennan, Lesley (North East Scotland) (Lab)
Brown, Gavin (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Davidson, Ruth (Glasgow) (Con)
Dugdale, Kezia (Lothian) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Ferguson, Alex (Galloway and West Dumfries) (Con)
Findlay, Neil (Lothian) (Lab)
Finnie, John (Highlands and Islands) (Ind)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffith, Mark (Central Scotland) (Lab)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Renfrewshire South) (Lab)
Hilton, Cara (Dunfermline) (Lab)
Hume, Jim (South Scotland) (LD)
Johnstone, Alex (North East Scotland) (Con)
Johnstone, Alison (Lothian) (Green)
Kelly, James (Rutherglen) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Lamont, John (Carrick, Cumnock and Doon Valley) (SNP)
Lindsay, Lewis (North East Scotland) (Lab)
Macintosh, Ken (Eastwood) (Lab)
Malik, Hanzala (Glasgow) (Lab)
Marra, Jenny (North East Scotland) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
McArthur, Liam (Orkney Islands) (LD)
McCulloch, Margaret (Central Scotland) (Lab)
McDougall, Margaret (West Scotland) (Lab)
McInnes, Alison (North East Scotland) (LD)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
McTaggart, Anne (Glasgow) (Lab)
Mile, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Murray, Elaine (Dumfries and Galloway) (Lab)
Pearson, Graeme (South Scotland) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Rennie, Willie (Mid Scotland and Fife) (LD)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Scott, Tavish (Shetland Islands) (LD)
Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
Smith, Drew (Glasgow) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)
Stewart, David (Highlands and Islands) (Lab)
Urquhart, Jean (Highlands and Islands) (Ind)

Against
Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Allard, Christian (North East Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Brodie, Chic (South Scotland) (SNP)
Brown, Keith (Clackmannanshire and Dollar) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Rodenick (North East Fife) (SNP)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Dey, Graeme (Angus South) (SNP)
Don, Neil (Angus North and Mearns) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
FitzPatrick, Joe (Dundee City West) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Graham, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hyslop, Fiona (Linlithgow) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Keir, Colin (Edinburgh Western) (SNP)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
Macaskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Mackay, Derek (Renfrewshire North and West) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
Mc Alpine, Joan (South Scotland) (SNP)
McDonald, Mark (Aberdeen Donside) (SNP)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Aileen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Neil, Alex (Airdrie and Shotts) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Robison, Shona (Dundee City East) (SNP)
Russell, Michael (Argyll and Bute) (SNP)
Salmond, Alex (Aberdeen City East) (SNP)
Stevenson, Stewart (Bannffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
Torrance, David (Kirkcaldy) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Yousaf, Humza (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 56, Against 60, Abstentions 0.
Amendment 29 disagreed to.
Amendment 30 moved—[Rhoda Grant].

The Deputy Presiding Officer: The question is, that amendment 30 be agreed to. Are we all agreed?

Members: No.
The Deputy Presiding Officer: There will be a division.

For
Baker, Claire (Mid Scotland and Fife) (Lab)
Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brennan, Lesley (North East Scotland) (Lab)
Brown, Gavin (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Davidson, Ruth (Glasgow) (Con)
Dugdale, Kezia (Lothian) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Findlay, Neil (Lothian) (Lab)
Finnie, John (Highlands and Islands) (Ind)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Renfrewshire South) (Lab)
Hilton, Cara (Dunfermline) (Lab)
Hume, Jim (South Scotland) (LD)
Johnstone, Alex (North East Scotland) (Con)
Johnstone, Alison (Lothian) (Green)
Kelly, James (Rutherglen) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
Macdonald, Lewis (North East Scotland) (Lab)
Macintosh, Ken (Eastwood) (Lab)
Malik, Hanzala (Glasgow) (Lab)
Marra, Jenny (North East Scotland) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
McArthur, Liam (Orkney Islands) (LD)
McCulloch, Margaret (Central Scotland) (Lab)
McDougall, Margaret (West Scotland) (Lab)
McInnes, Alison (North East Scotland) (LD)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
McTaggart, Anne (Glasgow) (Lab)
Mline, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Murray, Elaine (Dumfrieshire) (Lab)
Pearson, Graeme (South Scotland) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Rennie, Willie (Mid Scotland and Fife) (LD)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Scott, Tavish (Shetland Islands) (LD)
Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
Smith, Drew (Glasgow) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)
Stewart, David (Highlands and Islands) (Lab)
Urquhart, Jean (Highlands and Islands) (Ind)

Against
Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Allard, Christian (North East Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Brodie, Chic (South Scotland) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Pertshire South and Kinross-shire) (SNP)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabian, Linda (East Kilbride) (SNP)
FitzPatrick, Joe (Dundee City West) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hyslop, Fiona (Linlithgow) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Keir, Colin (Edinburgh Western) (SNP)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Mackay, Derek (Renfrewshire North and West) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
Mc Alpine, JoAnn (South Scotland) (SNP)
McDonald, Mark (Aberdeen Donside) (SNP)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Aileen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Neil, Alex (Airdrie and Shotts) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
The primary purpose of a particular form of support—such as the court or the local authority—would have to consider what the carer's identified needs, rather than those of the cared-for person. If amendment 32 were to be agreed to, the amendment would make it clear that a break from caring must be for the benefit of the carer. We often hear of respite breaks being taken to accommodate other aspects of a carer's life rather than to give them a rest. The worst case that I have ever heard of, which I make no apology for repeating—[Interruption.]

The Deputy Presiding Officer: Order. Members must hold their conversations outside the chamber.

Rhoda Grant: The case was of a mother with an adult daughter who was given respite to allow her to have a major operation. When she left the hospital, she was told that she needed a couple of months to convalesce and should not lift or bend. When she arrived home, the two replacement carers left. She asked for additional support but was told that her annual allocation for respite had been used up while she was in hospital.

That is not acceptable. Replacement care must be provided when a carer needs to attend to their own health, but their break from caring must be just that—a break from caring.

I support amendments 9, 33 and 34. I move amendment 32.

Jamie Hepburn: I do not believe that amendment 32 is required, for a number of reasons. Section 23(1) of the bill makes it clear that support may be provided in the form of a break from caring when that is to meet the carer’s identified needs, rather than those of the cared-for person. If amendment 32 were to be agreed to, the local authority—and in some circumstances the court—would have to consider what the primary purpose of a particular form of support was. The phrasing of the amendment also implies that there could be secondary purposes.

The structure of the bill has been carefully thought through: support is determined on the basis of a consideration of personal outcomes, identified needs, eligibility criteria and the interaction between carer and cared-for support. That makes it clear that any support must be designed to achieve the agreed personal outcomes. I am concerned that introducing the idea of a primary purpose would risk confusing the issue.

15:00

If Rhoda Grant’s intention is that local authorities should provide what might be considered proper breaks, I am not sure whether the amendment would achieve that. It says that “The primary purpose of any break ... must be for the benefit of the carer.”

Getting to a necessary medical appointment would be for the benefit of the carer, but it is not necessarily what we would want to achieve through such provisions and it might have nothing at all to do with the carer’s personal outcomes or identified needs.

Such wording would leave it open for a council to say to a carer, “You may claim that this is for your benefit, but we do not think that that is the primary purpose,” and refuse to provide the break to the carer. That is not an outcome that I desire or that Ms Grant desires. We all want to ensure that a carer whose personal outcome is to have some time to himself or herself to recharge his or her batteries gets that through support that delivers some genuine protected time, rather than time that would be taken up with routine appointments and tasks such as medical appointments.

The aim seems to come down to having a process to ensure that the support that is provided is capable of delivering the outcome in practice. We will consider whether it might be possible to use the regulation-making powers in sections 7 and 12, which relate to personal outcomes and needs for support, to help achieve that. On that basis, I ask Rhoda Grant to withdraw amendment 32.

Amendment 9 concerns a minor drafting point. It is designed to tidy the wording of the bill following amendment at stage 2.

Turning to Nanette Milne’s amendment 33, I have heard from the national carer organisations and often from carers that carers like to know that they have breaks planned in advance. Amendment 33 would ensure that local authorities “must have regard to the desirability of breaks from caring being provided on a planned basis.”
Amendment 34 would help to ensure that a sufficient choice of short breaks is available to carers in each local authority area. Emphasising section 19(2) of the Social Care (Self-directed Support) (Scotland) Act 2013 in the bill would provide clarity for local authorities and other service providers that local authorities should be promoting a variety of support and support providers that deliver a break from caring.

I am committed to working collaboratively with key stakeholders on the production of the guidance that would underpin the provisions in amendments 33 and 34. On that basis, I support amendments 33 and 34 in Nanette Milne’s name and I ask Rhoda Grant to seek to withdraw amendment 32, given the concerns that I have set out.

Nanette Milne: Amendments 33 and 34 are intended to help make the breaks from caring that may be delivered through support under the bill more effective. Section 23(1) of the bill requires that

“A local authority, in determining which support to provide to a carer under section 22(4), must consider in particular whether the support should take the form of or include a break from caring.”

Amendment 33 would mean that, in providing support by virtue of subsection (1),

“a local authority must have regard to the desirability of breaks from caring being provided on a planned basis.”

The benefits of properly planned breaks for carers are clear. They have certainty about when they will have breaks, which provides peace of mind, as they know that they have breaks to look forward to.

Amendment 33 would not prevent breaks from being provided for immediate need, perhaps in response to a crisis situation, as well as enabling provision over a period of time. Section 19 of the Social Care (Self-directed Support) (Scotland) Act 2013 concerns the promotion of options for self-directed support.

Amendment 34 would insert a new subsection in section 23 of the bill, which is on the provision of support to carers by providing breaks from caring. That would put it beyond doubt that section 19(2) of the 2013 act includes support that takes the form of a break from caring. I know that carer organisations would welcome that, to make clear the policy intention that local authorities should promote a variety of options for services that provide such breaks, including services that are provided by the local authority directly and those from other service providers.

I would like local authorities to encourage the provision of all forms of support in the community, including short breaks. For example, if local authorities know that there are play schemes for children that could do more to make themselves accessible to disabled children by employing specialist play workers, which would provide a break for the carers of disabled children, they could promote the possibility of play workers.

The example that Rhoda Grant gave clearly indicates why her amendment 32 is required. I will wait to hear what she has to say in response to the minister’s comments.

The Deputy Presiding Officer: Two members have indicated that they wish to speak to the group. I ask them to be brief.

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): I do not wish to speak to the group.

The Deputy Presiding Officer: In that case, I have one member who wishes to speak. Mr Hume, do you wish to speak to the group?

Jim Hume (South Scotland) (LD): I do. I am very supportive of the principle behind amendment 32. I would like to ensure that any rights that are given to carers do not create conditions whereby cared-for people receive a quality or quantity of care that is less than they need and deserve. Of course, the purpose of the bill is to enshrine and strengthen carers’ rights, and I will support amendments that do so. However, I would like some clarification of how amendment 32 would give carers an appropriate type and length of break without leaving cared-for people with less care than they need. I look forward to receiving some clarification from Rhoda Grant.

We will support the amendments in the names of Rhoda Grant and the minister.

Rhoda Grant: I will respond first to Jim Hume’s comments. The bill makes it clear that replacement care will be provided when the unpaid carer takes a break. That provision is already there. If an unpaid carer gets a break, they can choose either to take the cared-for person with them and maybe get some additional help or to get support to replace the care that they would normally give.

I listened carefully to what the minister said about regulations, and I would very much welcome his putting such provisions in regulations. The bill is rather a blunt instrument for them, given that carers and the people for whom they care are individuals and the support that they need can take various forms. I believe that regulations would make the position clear and would probably be better than having something about such support in the bill. Because of that, I will not press amendment 32.

I support Nanette Milne’s amendment 33, as advance planning of breaks is really important in
ensuring that the carer gets the most benefit from them.

Amendment 32, by agreement, withdrawn.

Amendment 9 moved—[Jamie Hepburn]—and agreed to.

Amendments 33 and 34 moved—[Nanette Milne]—and agreed to.

After section 24

The Deputy Presiding Officer: That brings us to group 8, on eligibility for support: review. Amendment 35, in the name of Rhoda Grant, is grouped with amendments 36, 46 and 47.

Rhoda Grant: Amendment 35 would build into the bill a review and appeals process that means that, when a carer believes that their need is not being met in their plan or statement, they can ask for a review of the decision. The amendment would allow ministers to set out the process and timescale for the reviews in regulations, and it would allow a shorter timescale for reviews when a carer is looking after someone who is terminally ill. Those reviews would happen when a carer believes that something has been missed that could be easily resolved, but they would not take the place of a complaints procedure.

I move amendment 35.

Jackson Carlaw: My amendment 36 is designed to offer two things when a carer is told that they do not meet the eligibility criteria for support: first, clarity as to why the decision was arrived at, and secondly, a process for review and appeal in a less onerous way than under Rhoda Grant’s amendment 35. Carers’ lives are complex. Carers can travel great distances and have other dependants who rely on them. It is important that we do everything that we can to support carers and, if they are eligible for support, to put in place a process to deliver that support. I accept that there might be other means of achieving that, so I look forward to what the minister has to say.

Jamie Hepburn: I thank Ms Grant and Mr Carlaw for lodging their amendments. I absolutely accept Mr Carlaw’s point about the necessity for clear information on any decision that has been made. We can deal with that through guidance, which we will work on as we implement the bill. The point was well made: whatever decision is made, the carer should know the rationale behind it.

I agree that it is important to have a mechanism through which carers can seek to have decisions reviewed. The Scottish Government has recently consulted on a draft order about social work complaints. The role of the Scottish Public Services Ombudsman under the revised process in that order will extend to decisions made under the bill, including decisions about whether an individual carer’s identified needs meet the local eligibility criteria.

The intention under the draft order is that the SPSO will set out a model complaints-handling procedure—including timescales—that local authorities must follow. As part of the process, any carer could first ask for a decision to be reviewed within the local authority, as well as ultimately having redress to the ombudsman as required. A more senior council officer would be required to undertake the review. If a carer remained dissatisfied thereafter, they could go to the SPSO, which would have the power to investigate the matter—that would include considering the professional judgment of social work staff—and to make recommendations to the local authority on decisions that it makes.

The draft order has been laid and is being considered by the Health and Sport Committee. We expect that committee to report in time for the Parliament to decide whether to approve the order before the end of March. If we assume that Parliament approves the order—I sincerely hope that it will—the new procedures will operate from 1 April 2017, which is the beginning of the financial year in which the bill will take effect.

For some time, carers have been calling for a more streamlined and timely complaints procedure through which the SPSO can make recommendations about social work staff. The changes that I have outlined will deliver what carers have been seeking and will deliver the essence of what the amendments in the group seek. On that basis, I ask Ms Grant to seek to withdraw amendment 35 and not to move amendment 46, and I ask Mr Carlaw not to move the amendments in his name.

Rhoda Grant: I believe that the appeals process that the minister outlined will work for carers, so I seek to withdraw amendment 35.

Amendment 35, by agreement, withdrawn.

Amendment 36 not moved.

The Deputy Presiding Officer: Group 9 is on reporting on support and scrutiny of support services. Amendment 37, in the name of Rhoda Grant, is grouped with amendment 38.

Rhoda Grant: Amendment 37 sets out a three-yearly reporting process that will allow the Scottish ministers to review the bill’s impact. It provides that local authorities must report on the number of plans and statements that they have prepared, and the number of short breaks that have been provided and the cost of that support. Reporting every third year cuts down costs and allows time for the bill to bed in. More important, it will give a transparent account of how the bill is working.
Amendment 38 seeks to bring support services for carers under the jurisdiction of the Care Inspectorate. Carers need support, and that support needs to be of good quality. A number of carers will themselves be vulnerable and will require high-quality services that are suitable to their needs; we need a mechanism to ensure that they get those, and the Care Inspectorate is the most suitable independent body that is available.

I move amendment 37.

15:15

**Jim Hume:** In relation to amendment 38, the provision of a service becomes more effective when the right measurement tools are in place to show the benefit and cost analysis. I note that the national carer organisations caution that amendment 38 may be difficult to implement, because a lot of the support that will be provided could be non-quantifiable, such as emotional support. Although there may be benefits that can potentially be measured, the amendment may be placing too much pressure on reaching certain thresholds and obtaining good review results, rather than focusing all efforts on public services to provide the best support possible. I would like Rhoda Grant to address that issue.

We will, of course, support amendment 37.

**Jamie Hepburn:** I will reply to the amendments in Rhoda Grant’s name. As she has set out, amendment 37 would place a duty on local authorities to publish a report providing details on how certain provisions of the bill have been put into practice. I understand that the aim is to establish monitoring data, including on the number of breaks from caring that have been provided as support. I fully agree that it is important to have access to data in order to monitor and evaluate the bill’s implementation, but I do not believe that amendment 37 would produce the result that we are looking for.

Amendment 37 is about the collection of quantitative data. However, it does not take account of, for example, the number of carers in the area in order to provide a context for the number of plans prepared. There is a concern that the amendment could simultaneously be too narrow in the criteria to be assessed and the data to be collected, and too broad in the range of data to be collected on that narrow range of identified criteria. The amendment would also require the timing of the preparation and publication of the first report on support to be calculated by reference to the date of royal assent, not the date when the provisions relating to adult care support plans, young carer statements and the provision of support come into effect.

Although I agree with the commendable aim of amendment 37, there is in my view a better way to achieve that aim. We want to sit down with COSLA, local authorities, the national carer organisations and others to discuss and agree the type of important monitoring data to be gathered. The finance advisory group that I have established is also considering what baseline data to collect for 2016-17. There will be monitoring and evaluation of the bill’s provisions—Ms Grant and other members can be assured of that—but I consider it important to get the bodies that I have mentioned around the table to agree the process fully on the basis that I have set out.

**Rhoda Grant:** Will the data that is gathered be published and made available to the Parliament to scrutinise?

**Jamie Hepburn:** I am entirely relaxed about committing to that end. I see no reason for us not to share that data publicly and make it available to the Parliament. There is nothing to fear in doing so, so I readily commit to that.

The point that I am making is that it is important that we ensure that what we are seeking to monitor is right. We still need to engage in dialogue with those who will be involved in that process of monitoring the bill’s efficacy before we are in a position to say exactly what data it is that we will need to collect.

On that basis, I hope that Ms Grant will withdraw amendment 37. I hope that the commitment to make public the information that is gathered will reassure her.

Rhoda Grant’s amendment 38 appears to be intended to ensure that services that are provided to carers are brought within the definition of care services in part 5 of the Public Services Reform (Scotland) Act 2010. All such services, including those that are provided by carer centres and others in the third sector under this bill would therefore be subject to Care Inspectorate registration and inspection.

I agree that it is important that carer services are fit for purpose and delivered to a good standard. However, I think that Mr Hume’s comments were very well made. Work also needs to be done to investigate thoroughly and resolve policy issues such as working with stakeholders to understand the implications for carer services of Care Inspectorate registration; it may not be appropriate or necessary to register all carer services with the Care Inspectorate. I want to ensure that there is an appropriate balance between the resources that are required for registration and reporting and the resources that are available for the delivery of quality carer services. I am sure that Rhoda Grant shares that ambition.
I propose that that work be undertaken as part of a wider review of the definitions of care services that the Care Inspectorate and the Scottish Government are taking forward, rather than by making a premature amendment to the bill. Following that review, if definitions of care services need to be changed, there is a power in the Public Services Reform (Scotland) Act 2010 to do so by order. Such an order is subject to affirmative procedure, so Parliament would have an opportunity to consider what was proposed at that stage. Given that that work is under way, I do not believe that it is necessary to make the provision in the bill as set out in the amendment. I therefore ask Rhoda Grant not to move amendment 38.

Rhoda Grant: I welcome the fact that COSLA and carer organisations will look at what data needs to be monitored to ensure that the bill is working and is delivering for carers. I will therefore seek to withdraw amendment 37. I have listened to the concerns about amendment 38; indeed, some concerns were expressed directly to me by carer organisations. I believe that it is very important that carers get high-quality services. However, I would not want inadvertently to include more carer-driven services in that group where it is self-help and support that is being delivered. For that reason, I will not move amendment 38 and look forward to seeing how those services can be monitored and how it can be ensured that they are of the standard required.

Amendment 37, by agreement, withdrawn.
Amendment 38 not moved.

Section 25—Duty to involve carers in carer services

The Deputy Presiding Officer: Group 10 is on a duty to involve carers in hospital discharge of a cared-for person. Amendment 39, in the name of Nanette Milne, is grouped with amendments 40 and 45.

Nanette Milne: I cannot stress enough the importance of carers being fully involved in the hospital discharge planning of the person for whom they care to ensure that appropriate support arrangements are in place before that person is discharged from hospital.

Following acceptance of my stage 2 amendment by the Health and Sport Committee, the minister confirmed his support for involving carers and asked to work with me to ensure that the amendment could be further developed, with the aim of having these stage 3 amendments in my name. I met the minister on three occasions to discuss the amendments and I also received his written comments. It is of course very important to ensure that there are no delays in hospital discharge as a result of amendments or for any other reason.

Amendment 39 removes section 25(4A) so that my stage 2 amendment is removed completely. However, the provision will now be in a new section on its own, which will give it more prominence, making it easier for members and others to see what it does, rather than having a number of amendments to a section, which would not be easy to follow.

Amendment 40 inserts a new section after section 25. The purpose, as set out in subsection (1), is for each health board to ensure that, before a cared-for person is discharged from hospital, it involves any carer of that person in the discharge planning. The duty is conferred on the health board; in practice, that duty will be implemented within the wider context of integration, in partnership with the local integration joint board and the local council.

Subsection (2) of the new section makes it clear that
“A health board fulfils the duty in subsection (1)”
by taking appropriate steps to
“inform the carer ... of the intention to discharge the cared-for person”
and inviting the carer
“to give views about the discharge”.

The carer is to be informed of the intention to discharge the cared-for person “as soon as reasonably practicable”.

I welcome the minister’s assurance that further detail on that will be covered in guidance, which I hope that he will confirm today. Paragraph (b) of subsection (2) requires a health board to take account “so far as it is reasonable and practicable to do so, of any views given by the carer in making decisions relating to the discharge of the cared-for person.”

Subsection (3) qualifies the application of the section in that the health board must be able to identify the carer “without delay” and the cared-for person must be likely to require care following discharge. I hope that that will lead to dialogue with carers as soon as possible during the patient’s journey in hospital and avoid the current experience of many carers, who do not receive the information that they need on admission, diagnosis or discharge.

Subsection (4) defines “health board” and includes within the definition the State Hospitals Board for Scotland. Subsection (5) defines “hospitals” to mean “a health service hospital”.

or,

“where a person receives accommodation or services in a hospital other than a health service hospital ... such a hospital.”

Amendment 45 inserts a provision into section 36, on interpretation, to ensure that the interpretation of “health board” in this new section on carers’ involvement in hospital discharge of cared-for persons includes the State Hospitals Board for Scotland.

I move amendment 39.

**Jamie Hepburn:** I thank Nanette Milne for lodging these amendments. As she said, we have engaged in a number of useful and productive discussions on this matter following stage 2.

I make clear that I fully support carers being involved in the hospital discharge planning of the person for whom they care, and I believe that that should of course happen as soon as it is reasonably practicable. By being involved, carers should be able to provide their views on a range of matters that are relevant to the discharge from hospital of the cared-for person. That might include, for example, consideration of services that are put in place to support the person to continue to care if the carer’s circumstances change because of new circumstances that arise when the cared-for person returns home. Under the bill’s provisions, they can request a review of their adult carer support plan or their young carer statement.

Of equal importance to involving carers in hospital discharge planning is the need to ensure that there are no delays in hospital discharge. A wide range of evidence shows us that any delay in leaving hospital can be detrimental to the physical and mental wellbeing of someone who is capable of leaving hospital. Once someone is clinically ready to be discharged, it is best for their wellbeing to be at home or to be cared for in a homely setting. That is why I was keen to work with Nanette Milne to further develop her stage 2 amendment to ensure that all the relevant definitions and circumstances are included.

I know that there is good practice across the country in involving carers in discharge—I provided some examples to Nanette Milne, the Health and Sport Committee and the Finance Committee. I have seen what the new health and social care partnerships between health boards and local authorities are doing in that regard. I want the good practice to become Scotland-wide practice. The success of carer involvement in hospital discharge planning relies to a great extent on achieving cultural change within the paid health and social care workforce so that staff recognise the value and the necessity of involving carers in care arrangements. I therefore intend that the provisions in the bill should also be supported by an improvement programme including workforce development.

I support the amendments in the name of Nanette Milne, and I thank her for bringing them to Parliament.

**Nanette Milne:** I appreciate the minister’s acceptance of my genuine concern about discharge planning. He did not say anything about guidance on when care planning would start. Initially, I wanted that to be as soon as possible after admission to hospital, but I realise that there could be problems with that. I think that the minister indicated that that would be addressed in guidance. I might speak to him afterwards about that.

**Jamie Hepburn:** I apologise to Nanette Milne. She is correct to say that, initially, she expressed concern about the wording. I do not have a record of our discussion in front of me, but I recall that she wanted a provision that required the planning to start as soon as the person was admitted to hospital. There were concerns about that approach, not least about the efficacy of an approach that involved a scenario whereby, as soon as a cared-for person enters hospital, the hospital starts talking to the carer about the need to start thinking about getting them out of hospital. I am not sure that every carer would appreciate that type of dialogue. However, the sentiment is correct because, of course, that process has to begin as soon as possible, and good guidance can be worked on and issued to accompany the amendments that we will, hopefully, pass in a few moments.

**Nanette Milne:** I thank the minister for that clarification.

Amendment 39 agreed to.

After section 25

Amendment 40 moved—[Nanette Milne]—and agreed to.

Section 28—Local carer strategies

The Deputy Presiding Officer: Group 11 is on local carer strategies. Amendment 10, in the name of Jamie Hepburn, is grouped with amendments 11, 41, 42 and 20.

15:30

**Jamie Hepburn:** I am pleased to have lodged an amendment that will further underline in the bill my commitment—and the Government’s commitment—to emergency care planning. I have listened to the views of carers and the national carer organisations and it is clear that the issue is of great importance to carers and the people for whom they care. Worry about not having a plan in
place for the care of a cared-for person in the event of an emergency can affect the carer’s health and wellbeing.

The bill already provides that the adult carer support plan or young carer statement must contain information about whether the adult or young carer has in place arrangements for care of the cared-for person in an emergency. We added that at stage 2, having listened to the concerns of organisations including Enable. There is, therefore, in the bill already provision for emergency care planning on an individual basis.

Amendment 10 provides for emergency care planning at a more strategic level. The proposed amendment to section 28 will require local authorities and health boards jointly, as part of their local carer strategies, to set out their “plans for helping carers” in their area to “put arrangements in place for the provision of care to cared-for persons in emergencies”.

Amendment 20 will add the meaning of the term “relevant carers” to the list at section 36. The term was added to the bill at stage 2, so it is useful to have a definition in section 36.

I thank Rhoda Grant for working with me on the very important issue of prevention and for lodging amendment 11. Reduction of any negative impacts on a carer’s health and wellbeing caused by their caring role is one of the prescribed national outcomes for an integrated health and social care system. Consistent with that national outcome, the bill already contains provisions that promote a preventative approach. Enabling people to request an adult carer support plan or young carer statement as soon as they become carers can result in an early assessment of their need for support and thereby reduce the risk of any need for crisis intervention later.

Under section 19(4), the Scottish ministers can set out in regulations the matters that a local authority must “have regard ... to” in setting its local eligibility criteria—a point that I made in the debate on an earlier group of amendments. Those matters could include the desirability of taking a preventative approach to avoid carers’ needs escalating to a more severe level. I see merit, however, in underlining the importance of prevention. I am therefore delighted to support Rhoda Grant’s amendment 11, which will require local authorities and health boards jointly to set out in their local carer strategy “an assessment of the extent to which plans for supporting relevant carers may reduce any impact of caring on relevant carers’ health and wellbeing”.

I thank Rhoda Grant for lodging amendments 41 and 42, which would require consultation of post-16 education bodies before the local authority and health board prepare their local carer strategy. There are in the bill as it stands provisions that could be used to contribute to that outcome. Sections 28(4)(a) and 28(4)(b) provide that, in preparing their local carer strategy, “the local authority and relevant health board must jointly consult such persons and bodies representative of carers as they consider appropriate, and take such steps as they consider appropriate to involve relevant carers”.

The list is not exhaustive and therefore, if a local authority and health board believe that it is necessary to consult any educational body in that area, they can choose to do so.

Section 28(2)(c) provides that a local carer strategy must set out “the support available to carers in the authority’s area”. That includes support available from the “the authority ... the relevant health board” and “such other persons and bodies as the local authority considers appropriate”.

That may also include support for young and adult carers that is available from educational bodies in the local authority area.

However, the bill is not the only activity that is contributing to achieving the outcome that we seek for carers who are also students. There is already a significant amount of policy work under way to promote the interests and needs of carers and young carers at colleges and universities. There is good evidence that many educational institutions are developing and implementing their own policies in order better to identify and support student carers. Colleges are proactively identifying carers through the application process and are establishing whether further support is required. Borders College, for example, has a dedicated webpage specifically for carers and care leavers, and many colleges have dedicated student support services that are available to student carers.

From discussing the matter with Rhoda Grant after stage 2, I understand that some of her concerns were about how the education maintenance allowance is being applied for young carers. In May 2014, the then Cabinet Secretary for Training, Youth and Women’s Employment, Angela Constance, and the then Minister for Public Health, Michael Matheson, issued guidance to all colleges and schools. That guidance encourages schools and colleges to consider young carers as vulnerable young people and to ensure that they do not miss out on education maintenance allowance payments as a result of their caring responsibilities.
Further concerns have been raised that young carers may still be missing out on such payments as a direct result of their caring responsibilities. With the Scottish young carers services alliance, we intend to clarify the position on young carers as a vulnerable group in the guidance, because it is not currently clear. We will promote that to the education sector.

Taking all that into account, and in view of the significant progress that has already been made, I do not believe that it is necessary to legislate further to require colleges and universities to develop policies specifically for student carers, nor would amendments 41 and 42 necessarily achieve that. We will, of course, continue to work with our partners in pursuit of that aim, and I will set out best practice in the guidance that will underpin the bill. Carers and their representative bodies will be fully involved in that process.

I ask Rhoda Grant not to move amendments 41 and 42.

I move amendment 10.

Rhoda Grant: Amendment 11 seeks to ensure that local carer strategies examine ways in which policies can be put in place that will enable a carer to continue their caring role so that the impact of that role on the carer’s health and wellbeing is reduced.

We are all aware of the impact that being unsupported in the caring role has on a carer’s health and wellbeing. Amendment 11 means that anticipatory support will be put in place and that strategies will adopt a preventative approach. I thank the minister for working with me on it.

Amendment 41 seeks to include colleges and universities in the list of bodies that must be consulted as part of the preparation of the local carer strategy. Young carers at college and university often do not get the support that they require to continue in education, so we must ensure that they do. I welcome the minister’s statement that the guidance will make it clear to colleges and universities that they must consider how they operate their EMA systems in order to ensure that young carers who miss college or university because of their caring roles do not fall foul of the guidance. I ask that the minister encourage best practice when he issues that guidance. There are good examples of support for carers from colleges and universities, but that practice needs to be spread through the whole further and higher education system.

I support amendment 10 in the minister’s name, which allows for emergency care arrangements to form part of the local carer strategy.

Jamie Hepburn: I will not say too much, because I made extensive remarks in my opening speech on the group of amendments. Rhoda Grant made the good point that we want best practice to be rolled out. That is not confined to the education sector, but applies to the whole gamut of the bill’s provisions. We will work to that end. I appreciate the rest of the comments that Ms Grant made.

Amendment 10 agreed to.

Amendment 11 moved—[Rhoda Grant]—and agreed to.

Amendments 41 and 42 not moved.

Section 31—Information and advice service for carers

The Deputy Presiding Officer (John Scott): We move on to group 12. Amendment 12, in the name of the minister, is grouped with amendments 13, 16, 17, 18 and 19.

Jamie Hepburn: The amendments in the group build on the carers charter provisions in section 32A. I was pleased to support Rhoda Grant’s amendments in that regard at stage 2 and thank her for lodging them.

It is important that carers know where to find out about their rights. That is especially the case for people who are new to caring, who might know little about their rights. The charter will set out the rights of adult carers and young carers, which is important. At stage 2, I said that section 32A might need further refinement: that is what the amendments in group 12 seek to do.

Amendments 12 and 13 will amend section 32A to require the information and advice service to provide information and advice about “carers’ rights, including those set out in” the carers charter. That slightly changes the emphasis in section 32A as amended at stage 2, which could have implied that the charter is more significant than the rights that are set out in it.

Amendments 16 and 18 make it clear that the charter will set out rights under the bill and may contain other information that is considered appropriate, which might include rights in other legislation. I understand that there might be concerns about amendment 16, which will remove a reference to rights “under any other enactment”. I made it clear at stage 2 that the term “enactment” is broad enough to cover any other United Kingdom law, and given that changes to UK laws are not all under the control of the Scottish ministers there is a risk that the information in the charter could quickly become out of date. That is why amendment 18 will give ministers the power to include
"such other information as the Scottish Ministers consider appropriate."

That information can, of course, include information about rights that arise elsewhere, including from UK law. We had to make amendment 18 wide ranging, because we want to be able to give full consideration to the inclusion in the carers charter of rights other than the rights in this bill, and we want to give full consideration to the inclusion of other appropriate information.

Amendment 17 will ensure that the rights of carers that are set out in the charter exist in law already, so that the charter does not give rise to new rights or alter existing ones. It is important that we do not circumvent proper parliamentary scrutiny in relation to altering rights that are set out in primary legislation—as, I am sure, Parliament agrees.

Amendment 19 will widen the consultation provisions in section 32A(4)(a), so that before preparing the carers charter the Scottish ministers must, in addition to involving carers as appropriate and consulting their representative bodies, consult "such other persons as the Scottish Ministers consider appropriate".

I have in mind bodies such as COSLA, local authorities and health boards; there might well be others. The wider consultation arrangements will help to ensure that there is support for the charter from a wide range of organisations.

I hope that Parliament will agree that the amendments in group 12 will enhance the provisions on the carers charter.

I move amendment 12.

Rhoda Grant: I am grateful for the discussions about amendment to the carers charter. Can the minister reassure me that amendment 16 will not mean that the charter cannot include rights that exist under other legislation? It is important that the charter is as comprehensive as possible in giving a clear indication of carers’ rights. If it were not allowed to include rights that exist under other legislation, it will be difficult to pull all that information into one place.

Jamie Hepburn: I am happy to assure Rhoda Grant and Parliament that amendment 16 will not preclude the inclusion of other rights, including those that arise from UK legislation. Such rights can be included in the charter and it is my intention that they will be included, but I did not want us to run the risk of falling foul of our own legislation by making inclusion of such rights mandatory. It is my intention that the charter contain as wide a range of information as possible.

I am committed to ensuring that we maintain the charter and update it regularly, so that it is as up to date and relevant as possible to carers in Scotland.

Amendment 12 agreed to.

Amendment 13 moved—[Jamie Hepburn]—and agreed to.

Amendments 14 and 15 moved—[Rhoda Grant]—and agreed to.

After section 31

The Deputy Presiding Officer: We move to group 13. Amendment 43, in the name of Rhoda Grant, is the only amendment in the group.

15:45

Rhoda Grant: A theme that ran through the evidence that we received was about the impact that performing an unsupported caring role can have on carers’ health. General practitioners are often in the front line of healthcare for the cared-for person, but they often do not see the person behind the cared-for person: the unpaid carer who supports them. That is true of adults and children alike. Unpaid carers need to have their health looked after to make sure that they can continue their caring role, and a register would ensure that all carers were recognised and that their health was proactively protected.

I move amendment 43.

Jim Hume: I am concerned that pressures created as a result of Rhoda Grant’s amendment could outweigh the benefits. Creating a possibility for carers to register would make it easier for them to get a health check, but a person would have to identify as a carer for the register to be relevant and useful.

I am wary about placing an ever-growing number of responsibilities on health boards, GPs and local authorities without resources to back that up. The responsibility for an annual operation by GPs and health boards of writing to thousands of people to invite them to a health check might prove more burdensome to those services than using the existing routes and resources for carers.

Before I decide whether to support Rhoda Grant’s amendment, I would like to hear more about the benefit that an additional responsibility on public authorities would add.

Jamie Hepburn: Rhoda Grant lodged a similar amendment at stage 2, when I said that I fully understood and appreciated the need to promote and protect carers’ health and wellbeing. Taken in their entirety, the provisions in the bill are designed to ensure that the health and wellbeing of carers are of paramount importance. The identification of carers’ personal outcomes in the context of the adult carer support plan and the
young carer statement is central to achieving that objective.

At stage 2, we introduced an amendment to section 28 to ensure that a local carers strategy must be jointly prepared by each local authority and relevant health board. The health boards’ role in the health and wellbeing of carers is crucial. I spent time at stage 2 talking about the wider developments that are relevant to supporting carers’ health and wellbeing, and I re-emphasise some of those considerations today.

The new way ahead for the GP contract will enable GPs to have more—not less—contact with carers. That is because there is an impetus—it is a necessity—to free up GPs’ time for face-to-face contact with patients. Those patients include carers.

Carers will be able to ask for a health check when they think that that is right for them. As Mr Hume suggested, having a blanket requirement for every single carer could be somewhat disproportionate.

It is important that we reflect the fact that GPs are not and should not be the only important interface with carers. The traditional model of care—in which patients rely on healthcare professionals for information, diagnosis and referral and in which interventions are decided on by healthcare professionals—does not always suit patients, their carers or the aspirations of the workforce.

The future model of care involves an empowered patient and carer and a shared decision-making partnership with the healthcare professional. That will enable supported self-management, where appropriate, and allow the person to regain control of their health. There is also a real and growing potential to harness the support of friends, families and communities—locally and online—to inform decisions.

Healthcare services need to be person centred and responsive. Co-ordinated and integrated care treats a person with dignity, respect and compassion, which facilitates a change in the conversation through a transfer of power between individuals and healthcare professionals.

GP practices can identify carers and agree with an individual what is important for them. GPs and individuals can also agree how the individuals can be helped to achieve the desired outcomes. That means helping carers to make decisions that are right for them and to follow through with those decisions.

Allied health professionals also have an important role. Professionals such as dieticians, physiotherapists and occupational therapists can all support carers’ health and wellbeing.

We have an impetus to improve our approach to the healthcare needs of the people of Scotland.

**Rhoda Grant:** The minister mentioned a lot of healthcare workers, many of whom go into the home to support the cared-for person. How will he make sure that, when they do that, they also see the needs of the carer?

**Jamie Hepburn:** In relation to a change that we made to the bill earlier, I referred to my clear commitment to workforce development. I restate that commitment now, because a critical part of the work that we need to take forward is ensuring that there is widespread understanding not only of the needs of the cared-for person—understandably so—but of the needs of the carer, too. The new arrangements that we have put in place will lead to a co-operative relationship that truly puts the person at the centre of decision making. On that basis, I am not convinced of the need for Rhoda Grant’s amendment.

Crucially, carers are represented on integration joint boards and other integration arrangements and can, with GP practices, influence the planning and development of GP services for the community. I am pleased to confirm that I have provided a grant to the Coalition of Carers in Scotland to work with carers on the integration joint boards in 2016-17 and support them in their endeavours.

Further to the issue of workforce development, I said at stage 2 that I propose to write to health boards to encourage them to identify carers and support carers in all health settings, including not only GP practices but hospitals and community pharmacies, which are just as important in supporting carers’ health and wellbeing. Of course, the home environment is important in that respect, too.

Some health boards are using carer information strategy funding to identify and support carers in a wide range of health settings, including GP practices and hospitals. I was pleased to confirm this week that carer information strategy funding will continue for the coming financial year, which will help to continue the vital work of identifying and supporting carers in health settings and to support the fantastic work of carers centres and other local voluntary organisations that in many ways support carers to improve their health and wellbeing.

On that basis, I respectfully ask Rhoda Grant to consider withdrawing amendment 43.

**Rhoda Grant:** I thank the minister for his comments, and I am somewhat reassured by his comment that he will write to health boards to make them aware that they need to do more work with carers. The work will be on-going, because we need to keep reminding health boards and
health professionals about carers’ needs. However, given what the minister has said, I will seek to withdraw amendment 43.

Amendment 43, by agreement, withdrawn.

The Deputy Presiding Officer: The next group is group 14. Amendment 44, in the name of Rhoda Grant, is the only amendment in the group.

Rhoda Grant: Carers often tell us about their struggle to get help for themselves and for the person who they care for. Their time is often taken up by their caring role, with little left for them to go and do battle, yet it seems as though we are asking them to do all the time to get the services that they need for the person who they are looking after. Little time is left for carers to look for the services that support carers’ needs. The provision of advocacy services would enable carers to have someone to speak for them and do some of the work that is required to access the support that they need.

I move amendment 44.

Jamie Hepburn: We must ensure that advocacy support for carers is targeted at carers who need it most. Not all carers will want or require an independent advocate in every instance, and I am not convinced that providing a right to advocacy to all carers, as Rhoda Grant’s amendment 44 seems to envisage, would be a proportionate or cost-effective measure.

Carers will want to access support from a range of sources, including carer organisations. Indeed, people will want to access a variety of support at different times. We need a solution that promotes the sustainable development of advocacy services and recognises the important place of support services in a wider framework.

The bill provides for information and advice services in every local authority area on a statutory basis. Local authorities will provide as wide a range of information and advice as they can, and section 31(2)(d) sets out that they must provide information and advice about advocacy services for carers.

I know that there could be more independent advocacy for carers and I accept that services can be patchy, but I am also aware that some local authorities and health boards are investing in carer advocacy services. Carer information strategy plans show investment in carers centres, which provide carers with information and advice, including information about advocacy services.

I let Ms Grant and the rest of the chamber know that my officials have been working with the Scottish Independent Advocacy Alliance, the Coalition of Carers in Scotland and others to produce carer advocacy guidance. COSLA has seen and is content with the draft guidance, which we aim to publish soon. We will ensure that the guidance is referenced and highlighted in the guidance that accompanies the bill.

We are providing resources for support to be provided to carers under the bill. That will include any form of support to meet carers’ personal outcomes, which could include advocacy. We have also funded Carers Scotland to produce a self-advocacy toolkit for carers. The toolkit is available on the Carers Scotland website.

On the basis of the work that is under way, our commitments and the unnecessarily wide-ranging nature of amendment 44, I ask Rhoda Grant to consider withdrawing the amendment.

Rhoda Grant: I am grateful for the information about the carer advocacy guidance, which I am sure many carers will find useful. I very much hope that the self-advocacy website will also point carers in the direction of where to find personal advocacy services because, sometimes, they need people to do that legwork. Given that advocacy is covered in the bill, given that there will be the self-advocacy website and given the reassurances, I seek to withdraw amendment 44.

Amendment 44, by agreement, withdrawn.

Section 32A—Carers’ charter
Amendments 16 to 19 moved—[Jamie Hepburn]—and agreed to.

Section 36—Interpretation
Amendment 45 moved—[Nanette Milne]—and agreed to.

Amendment 20 moved—[Jamie Hepburn]—and agreed to.

Section 37—Regulations
Amendments 46 and 47 not moved.

The Deputy Presiding Officer: That ends consideration of the amendments. Thank you all.
The Deputy Presiding Officer (John Scott):
The next item of business is a debate on motion S4M-15561, in the name of Jamie Hepburn, on the Carers (Scotland) Bill. I invite members who wish to speak in the debate to press their request-to-speak button now or as soon as possible. I further invite members who are leaving the chamber to do so quickly and quietly, please.

15:58

The Minister for Sport, Health Improvement and Mental Health (Jamie Hepburn): I am delighted to open the stage 3 debate on the Carers (Scotland) Bill. If the Parliament agrees to pass the bill, as I hope it will after the debate, today will mark a key change in our recognition of the contribution of carers across Scotland. The bill will also extend carers' rights in order to improve their health and wellbeing, so that they can continue to care, if they so wish, and have a life alongside caring. I am sure that we can all agree that those outcomes are worth achieving.

I am sure that colleagues in the chamber will join me in acknowledging what is done every day by Scotland's 745,000 adult carers and the 44,000 young carers who are under the age of 18—almost 800,000 carers in all.

I thank colleagues on the Health and Sport Committee, the Finance Committee and the Delegated Powers and Law Reform Committee for their diligent and expert scrutiny of the bill. I extend my thanks to members who have discussed the bill with me and those who lodged a range of amendments, both at stage 2 and for today's stage 3.

I thank the many key interests with whom I have engaged during the bill's passage through Parliament, who generously gave of their time and experience to enhance it. I include in that the national carer organisations: Carers Scotland, the Coalition of Carers in Scotland, the Carers Trust Scotland, Shared Care Scotland, the Minority Ethnic Carers of People Project—MECOPP—the Scottish young carers service alliance and Crossroads Caring Scotland. I also thank Marie Curie, Enable Scotland, local authorities, health boards and the Convention of Scottish Local Authorities.

I believe that the process of engagement and parliamentary scrutiny has improved the bill as introduced. It was a good piece of legislation, and I believe that it was enhanced at stage 2. The bill that we are debating at the final parliamentary stage is even better, having been amended during stage 3.

Above all, I thank the hundreds of thousands of carers across Scotland—those who have engaged with and helped to improve the bill and the many others who play an important role for their loved ones, their communities and our society. I am sure that the Parliament will wish to record its collective thanks to Scotland's carers, some of whom care in very challenging circumstances.

The bill does not sit in isolation from the world in which it will operate. Although many of the key drivers for change to support carers on a much more sustainable basis are provided for in the bill, the wider economic, social and educational context in which it will operate is also important.

Scotland has a growing population of older people who are successfully living longer, although often with multiple and complex physical and mental healthcare needs. We need to support Scotland's carers so that they, in turn, can support, if they so wish, the many people who have illnesses and disabilities or who are frail, many of whom have dementia.

Health and social care integration is one of Scotland's major reform programmes. At its heart, health and social care integration is about ensuring that those who use services get the right care and support at every point in the care journey, whatever their needs. That includes carers, whether as service users themselves or as providers of care.

We want the health and social care workforce to fully recognise and value carers. That applies to schools, colleges and universities, too, where young carers can be fully encouraged and supported if we value their caring role and ensure that they are children and young people first and foremost. The implementation of the Children and Young People (Scotland) Act 2014 also has a key role in ensuring that that happens. The Social Care (Self-directed Support) (Scotland) Act 2013 has an important role, too, as it forms the basis of good support, providing people with flexibility, choice and control. Like everyone in our society, carers will benefit from the range of actions that the Government is taking to encourage a flourishing economy and a healthier nation.

We are continuing to support both adults and young carers in 2016-17, subject to the Parliament's final approval of the budget. We are providing more than £8 million in 2016-17 for the voluntary sector short breaks fund, health board carer information strategies and other initiatives. Those include a grant to Shared Care Scotland for the innovative respite pilot, which links the hospitality industry to the provision of short breaks; a grant to the Coalition of Carers in Scotland to work with carers on the integration joint boards and on other strategic partnerships; continued workforce development; a record ninth annual...
young carers festival; the carer positive scheme, which recognises employers who support carers in the workforce; and another carers parliament.

The bill extends the rights of carers in law. The right to an adult carer support plan or a young carer statement is open to all who fall within the now much wider definition of “carer” that we are legislating for. Many more carers than ever before can request or be offered a plan or statement and an assessment of their need for support. The bill is based on the principle of prevention. Providing small interventions at an early stage or at the right time can prevent a crisis and the consequent breakdown in care. Enabling people to request an adult carer support plan or a young carer statement as soon as they become a carer can result in an early assessment of their need for support and thereby reduce the risk of any need for crisis intervention at a later stage.

Carers have said to me how important it is that they are involved as individuals in discussions about support for them as a carer and for the person they care for. I recognise that. The principle of carer involvement is a theme that runs through many of the bill’s provisions. Carers are to be consulted on an individual basis and also at a strategic level, such as in the preparation of the local carer strategy and the carers charter, and in carer services.

An important amendment by Nanette Milne at stage 2, which was further finessed today at stage 3, provides carers with the right to be involved with the process of discharging from hospital the person they care for.

Short breaks are a key form of support to help carers recharge their batteries, as they often say themselves. With my support, Nanette Milne lodged important amendments for stage 3 regarding short breaks.

The bill requires local authorities to set local eligibility criteria, a matter that we debated earlier. Those eligibility criteria will allow the local authority to determine whether it is required to provide support to a carer. There is a view that eligibility criteria should be set nationally. Again, I refer to the debate that we have just had. I understand that view, but I have concluded that individual local authorities, as bodies that are democratically accountable to their electorate, should be able to make decisions that are based on the needs of their caring population.

**Johann Lamont (Glasgow Pollok) (Lab):** That appears to contradict the view of the Cabinet Secretary for Finance, Constitution and Economy, who has put severe limits on what local authorities can do, as they are funded—or not funded—by a package that is going to lead to cuts.

**Jamie Hepburn:** I am afraid that I do not agree with that. Given that we are talking about care today, I might reflect on the fact that we are providing a substantial package of support—some £250 million—half of which will go towards ensuring that those who work in the care sector are paid the living wage. I would have thought that Ms Lamont would welcome that, but I have heard scant welcome for it from the Labour benches. I regret that intervention, because I want to try to move forward on the basis of the broad consensus with which we have approached the subject today.

Local eligibility criteria will enable each local authority to determine whether carers’ identified needs call for the provision of support, taking into account the total resource that is available to meet local demand for support. However, I want to ensure consistency of approach across Scotland. I believe that that can be achieved through the national matters that will be set out in regulations and which will underpin local eligibility criteria. As I made clear in my response to the Health and Sport Committee’s stage 1 report, the national carer organisations’ work on nationally set criteria will help to influence the regulations relating to those national matters. I set that out again today.

I am committed to continuing to work with key stakeholders to share ideas and views about how local eligibility criteria should work in practice. That will inform development of regulations and guidance under the bill.

To be clear, we will look closely at the efficacy of the approach that is taken. I have retained a power in the bill so that ministers can, by way of regulations, introduce national eligibility criteria, if that is felt to be necessary down the line. I described that power earlier as one that we are holding in reserve. Let me be clear that the Government will not hesitate to use it should it find that it has to.

Finally, I will say a word about implementation. Resources to support implementation of the bill are set out in the financial memorandum. I have confirmed to the Finance Committee that the Scottish Government expects to use the maximum costs that are set out in the financial memorandum for planning purposes. Those costs are £19.4 million in 2017-18; they rise to £88.52 million in 2021-22 and on a recurring basis thereafter. I believe that that represents a substantial commitment to the bill.

The passage of the bill is only part of the journey. We have done much to support Scotland’s carers outwith the bill, and we will continue to do that. In the weeks and months ahead, a significant effort will be required to ensure that we, along with key interests, including carers and their representative organisations,
pave the way for commencement of the bill in 2017-18.

There will be challenges ahead. I am committed to working collaboratively with stakeholders to undertake the necessary planning and to co-produce a significant number of regulations and guidance. I extend that offer to members—if they want to speak to me about any of these matters, I will always be willing to hear from them. I know that all parties have a genuine desire for the bill to be implemented successfully and to achieve the positive outcomes for carers that it aspires to achieve, to which we all collectively aspire.

I move,

That the Parliament agrees that the Carers (Scotland) Bill be passed.

16:09

Rhoda Grant (Highlands and Islands) (Lab):

There are a large number of people whom I need to thank for their work on the bill over the past weeks and months. I thank our committee clerks and the legislation team for all their help and support. I thank the minister for his constructive approach—I believe that the bill will be better because all parties have worked together to get the best bill that we can for carers. I also thank the minister’s officials for their role in making the process work. Most of all, I thank carers groups and representatives. The many groups and individuals in the Highlands and Islands who contacted me and took the time to share their experiences with me gave me a real insight into what was needed in the bill.

In addition, I thank the national carer organisations, the members of which the minister listed, which worked closely with all parties during the process, thereby informing the debate. On a personal level, I would also like to thank Clare Lally for all her help and advice to me. She has been a star and has made the process much easier for me.

There are many aspects of the bill that we agree on, but there are still areas of disagreement, the greatest of which is the funding that is to be allocated to it, which is woefully inadequate. We are really concerned that, although the bill offers hope, it will not deliver because of the lack of funding. This year, councils are facing a cut of £0.5 billion to their budgets, and they are being forced to cut support rather than increase it. Carers tell us continually that they want more than warm words; I really hope that the bill will not be just warm words.

We need to make it clear that more funding is required to make the bill work for carers. More funding is needed for assessments, for support, for breaks and for replacement care. We are told that the estimates that have been used are wrong. The position needs to be kept under review and, when it is required, funding must be allocated to make sure that the bill works.

The bill allows local authorities to set their own criteria for who will be supported under the bill and to decide on the kind of support that will be offered. We tried to have included in the bill some national criteria for who should be given priority for support in order to ensure a minimum level of support for carers, but COSLA did not support that approach. It was clear that it wanted to support carers, whose role it really values; its concern was that funding increased services for carers would lead to cuts in service for those who are cared for because the bill is not properly funded. If support were to be cut for cared-for clients, that would simply increase the burden on carers.

Carers fear that the lack of national eligibility criteria will mean that they will experience a postcode lottery. That is the case with support for cared-for clients. Different local authorities offer different levels of service and levy different charges for those services. A care package depends on where someone lives and not on the level of support that they need. The national criteria that we tried to set were very modest. They would have guaranteed support for those in greatest need of urgent support: carers whose role is going to end or is at risk of ending because they can no longer continue without support. We all want to support carers long before they reach that stage, but surely they must be given support when they reach it. If they are not, the likelihood is that the carer and their loved one will require to be cared for by the state, and that is simply a false economy.

With the right funding, the bill could make a real difference to and change the lives of carers who look after their loved ones and who often give up their own careers and social lives to support family and friends.

Elderly parents who care for their adult children are worried sick about who will look after their children when they no longer can. We also know that there are carers as young as three years old whose lives revolve around caring for parents and siblings.

One teacher told me about a pupil in her school who was usually sleepy and unkempt. One day, he seemed a bit animated and was watching the clock with a sense of anticipation. Seeing that interest, the teacher made the most of the situation and asked him whether he was doing something nice after school. He said that he knew that there would be a delivery waiting for him when he got home. She asked what it was, expecting him to say that it was a gift from somebody who lived at a distance. He told her that it was a
did not recognise ourselves as carers; we just serious illness or in the terminal stages of life. We involved in looking after loved ones following though I and other family members had been ago, I knew almost nothing about carers, even the bill through its parliamentary stages.

endorse the thanks that have already been given to all those who have helped with the progress of the bill. Let us not disappoint them. 

are asking for in return is a drop in the ocean in public purs e £10.3 billion every year. What they have been carried out by carers. They save the services and support.

Volunteers are often the only people who support carers, and their role has grown in our communities. That work is often led by carers themselves or by people who were previously carers and who have seen the gap in support—when their caring role has ended, they have come forward to provide that support to others. Carers really value those services, as they are local and the people who run them understand the situations that carers are in. Although it falls on local authorities to put the provisions of the bill in place—I am sure that it will also be up to joint boards and lead agencies in time—I very much hope that they will use the expertise in the voluntary sector and in carers groups to deliver services and support.

I conclude simply by paying tribute to the work that has been carried out by carers. They save the public purse £10.3 billion every year. What they are asking for in return is a drop in the ocean in comparison. Let us not disappoint them.

16:15

Nanette Milne (North East Scotland) (Con): I endorse the thanks that have already been given to all those who have helped with the progress of the bill through its parliamentary stages.

When I first entered Parliament nearly 13 years ago, I knew almost nothing about carers, even though I and other family members had been involved in looking after loved ones following serious illness or in the terminal stages of life. We did not recognise ourselves as carers; we just wanted to give support to our relatives. Outside agencies were rarely involved.

My grannie, who had severe dementia, lived with us for the last two years of her life. This was many years ago, but I remember that, after she died, my mother was a physical and emotional wreck, having been with her day and night, coping with soiled clothes and bedding without even a washing machine.

Thankfully, things are not like that nowadays, although many carers still do not recognise themselves as carers. Help is available, but many carers still do not receive the support that they deserve in carrying out their caring role.

As we know, there are an estimated 745,000 adult carers and 44,000 young carers in Scotland today. The value of the care that they provide is reckoned to be around £10.3 billion per year. Clearly, they are invaluable and indispensable. However, caring can have a detrimental effect on a carer’s health and wellbeing, which can ultimately have an adverse impact on the person being cared for.

At present, local authorities have a duty to assess a carer’s ability to care, and they have the power to provide support where necessary. Health boards can be required to publish a carer information strategy, setting out how carers will be informed of their right to request an assessment. It is accepted, however, that that is not enough, and many carers are still not indentified.

The Carers (Scotland) Bill aims to provide better and more consistent support to all carers, both young and adult, by enshrining their rights in law so that they can continue to care, if they so wish, in good health and able to have a life besides caring—and, in the case of young carers, to have a childhood similar to that of their non-carer peers.

Carers and carer organisations warmly welcomed the bill at stage 1, although it was accepted that it would require significant amendment if it was to achieve its laudable aim of improving the lives of the many carers who make such a valuable contribution to our society. Financial provision was at the fore of the concerns that were expressed, because legislation such as the bill cannot be successful unless the entitlements and promises are properly and adequately funded. I am not convinced that that has been fully resolved yet. It could be a hurdle to overcome in providing proper support and services to people who are entitled to them, particularly at a time of significant constraints on council funding. The Parliament and the Government should monitor that extremely carefully in the next parliamentary session.

The amendments that we have approved at stages 2 and 3 have strengthened the bill.
significantly and I am pleased that they are to the satisfaction of people who are at the coal face of caring.

I will focus briefly on my stage 3 amendments, because they should make a real difference to carers. I have felt strongly for some time that, in many instances, hospital discharge could be better planned if the main carer was identified and discharge planning started as early as possible in the patient’s journey through hospital care. There are many examples of good practice in that respect, but the opposite is all too common and legislation should ensure that good practice is the case everywhere. To illustrate my point, I will give two examples, one of which I mentioned at stage 2 and which shocked me.

At a meeting that I attended—as did Rhoda Grant—to discuss the bill, a carer told us about getting just two hours’ warning of her husband’s discharge from hospital on oxygen, which is a flammable substance. The home was heated by an open gas fire and they had a gas cooker, both of which had to be quickly disconnected before her husband’s arrival home. It took several days until alternative heating and cooking facilities could be installed. That is clearly no way to treat a carer or a cared-for person.

My other example concerns a friend of mine with dementia, who is cared for by her husband. Following admission and treatment for an acute illness, she would have been discharged home without discussion or planning had not their daughter, who lives in another town, refused it because she felt that her father could no longer cope without support. It took considerable time to get a care package in place, which resulted in a classic case of delayed discharge because no thought had been given early on in my friend’s stay in hospital to what might be needed when she went home.

I am pleased to say that there is a happy ending because my friend’s husband is delighted with the support that he now gets at home. Moreover, a few days of care home respite is provided regularly, which allows him to plan to have a couple of days away from his caring role when he needs them. He now feels that he can cope much better and his own health is no longer being put at risk because he can look forward to regular short breaks when he can resume a more normal life.

Those are only two examples but they are replicated throughout the country. The bill that I hope we will pass today could make for a better life for many people who might otherwise suffer adverse effects from being carers and, indeed, who might have to curtail their caring roles because of the impact on their health and wellbeing. Time will tell whether the Carers (Scotland) Bill has the desired effect of improving the lives of young and adult carers. I hope that it will do so. It might not yet not be perfect but, by and large, it has the approval of carer organisations. I also hope that continuing work between them and the minister in preparing regulations and guidance will refine its provisions further.

The Scottish Conservatives appreciate the help and co-operation that we have received from the minister and his officials. We will be happy to vote for the Carers (Scotland) Bill at decision time.

16:21

Joan McAlpine (South Scotland) (SNP): It gives me great pleasure to speak in the debate. Just before the debate, I met a group of carers who came to the Parliament with Enable Scotland to celebrate the inclusion in the bill of emergency planning and future planning, for which Enable had campaigned. We cannot exaggerate the sense of achievement that people feel, not only about succeeding in that but about the bill overall, which gives them proper rights for the first time. The psychological shift that is involved in that is important. Many people, particularly a certain generation, do not like asking for help, but there is a shift when the rights are enshrined in law. The fact that emergency planning will now be part of those rights has made a big difference.

A year ago, Enable came to the cross-party group on carers, which I co-convene, and presented a piece of work called “Picking up the pieces: Supporting Carers with Emergency Planning”, which surveyed the extent of emergency and long-term planning for carers throughout the country. It also identified the difficulties faced by carers when an emergency prevents them from caring. Such emergencies can be long or short term. They are usually unexpected and could be as simple as a car breaking down or a bus not turning up so that the cared-for person does not get the help that they need. Obviously, they can also be something much more serious: a hospital admission, an accident or sudden illness can result in the cared-for person being separated from essential support.

The problem is particularly acute if there is no wider family support and if the cared-for person's needs are so great that they cannot be left alone to look after themselves. Fear of such a situation occurring is a constant source of stress for the carer. Related to that, for older carers in particular, are questions of what happens if the crisis is not resolved and what happens if there is no long-term plan. Will their loved one be placed in unsuitable accommodation? For example, a young person with a learning difficulty could be put into residential accommodation for older folk. Will the cared-for person be moved away from the area and away from their friends, their routine, their
support networks and their leisure activities—everything that they enjoy and that is essential to their quality of life? Putting in place a long-term plan for suitable accommodation in a place that the cared-for person knows and feels happy with is absolutely essential.

Enable’s presentation clearly struck a chord with all the carers present at the cross-party group, not just those who care for someone with a learning disability. “Picking up the pieces” was not just about carers looking after someone with a learning disability. Enable found that emergency planning varied across the country. There were some very good examples and some bad examples. After that presentation the cross-party group identified emergency planning as a priority for the bill.

Initially there was disappointment that emergency planning would be covered by regulations, but the minister listened carefully to representations from Enable, other carers groups and MSPs such as me. I am pleased that he took on board our arguments and put emergency and long-term planning in the bill. It is difficult to exaggerate the sense of achievement that that brought to campaigners. The minister emphasised emergency and long-term planning in his speech and comments today; the fact that he sees it as so important is very welcome.

Jen Savage, Enable’s director of campaigns and external affairs, said:

“Enable Scotland is absolutely delighted with the announcement. We congratulate the First Minister”—who of course first announced the change regarding emergency planning—

“for listening to the voices of carers of people who have learning disabilities about their worries about the future, and deciding to change the Carers Bill to make things better.”

Enable is already very much on the ball. It has prepared a toolkit to take forward the emergency planning provisions. I have it here—I know that I am not really supposed to show it to members, but it is very well worth looking at. There is an emergency plan that goes with the toolkit, which encourages people to answer the questions that they have in their heads about the needs of the people for whom they care, but which they do not necessarily always articulate. It is really important that the plan is not just in the carer’s head but written down. I recommend the toolkit to everyone in the chamber.

16:26

Johann Lamont (Glasgow Pollok) (Lab): It is a privilege for me to be involved in the debate and, over the years, to have met and worked with carers, whether those in my family, those whom I knew during my time as a schoolteacher or those whom I know now. Carers are determined to change the lives of those for whom they care and to ensure that their needs are fully addressed. I recognise the importance for them of this stage in their campaign.

Of course, there is a blunt truth: carers’ work saves the state a fortune. The level of impact on carers’ lives, their ability to work, their ability to have time for themselves and the resulting sense of isolation that they suffer is hard to fully appreciate. Across the Parliament there is recognition of the role of carers in supporting their loved ones and in shaping a proper understanding of the needs of those who are being cared for and the needs of carers themselves. Carers have been at the forefront of creating better understanding of the needs of those with disability or illness who need help, and how that support should be delivered.

We have seen great change, from the recognition of the right of people with learning disabilities to live as independently as possible, to the recognition of the rights of siblings and the families of a child with disabilities, to the needs of those living with dementia. That has been driven by carers and campaigning organisations themselves. Joan McAlpine is absolutely right to highlight Enable’s campaign, because it speaks to an issue that is not really about resources but about understanding how the simple things can make a huge difference to people. We recognise carers’ determination to ensure that the voices of those who are being cared for are fully heard and understood.

As someone who meets carers regularly, I know—as they know—that there is a long way to go. Carers still talk of battle and struggle; of being overstretched, with insufficient respite and anxieties about quality of care. We should understand the financial and emotional impact on them and their families. Nobody here would wish to oppose carers’ rights, and I recognise what Joan McAlpine said about the breadth of support to ensure that we do the right thing. However, as I said in the stage 1 debate, carers’ rights must be enforceable if they are to be rights at all. Anything else would be a cruel deceit. The challenge for all of us is to ensure that those rights are enforceable. Over the last wee while we have been exercised by the debate on taxation and the impact on local government of cuts to its funding, but there can be no doubt about the importance of that debate when we reflect on the needs of carers. The funding of local government is not knockabout. It is not an academic debating point. It is about the real world and real lives. It is about care workers losing their jobs and the remaining care workers being left to support more people with less time and fewer resources. Those carers
are the people who know how much the cuts will matter.

Joan McAlpine: I appreciate what Johann Lamont says about care workers and their importance. Since she raises the issue, will she tell us whether she will be encouraging Labour local authorities to support the package that gives £250 million to pay care workers the living wage?

Johann Lamont: Absolutely. There is no doubt about the Labour Party’s commitment to the living wage and to respect for care workers. The point that I would make is that care workers will lose their jobs. They will not have the living wage. The issue is about properly funding local government.

I say this as a carer: the cuts will mean that carers will be left to pick up the slack, fill the gaps in care and manage the strains on paid care support. There will also be cuts to the support that carers can receive from carers centres and other things that help to sustain them. That is how serious the cuts will be to the lives of carers.

I do not doubt the sincerity of the minister’s recognition of the importance of carers, but it is his job—more than it is the job of anyone else in the chamber—to translate that commitment into the allocation of proper resources. Of course we can support the bill’s intention, but I emphasise again the fact that the intention will only be realised if resources are made available.

I am concerned about the lack of response to COSLA’s view that the bill’s intentions are not funded, which is set in the context of a local government settlement in which COSLA has identified a £500 million cut in this year alone. I am sure that, like me, the minister would abhor an approach in which we as a Parliament confer rights but do not resource them, then denounce local government when those rights are not realised.

Members should not get me wrong. I know that local government can fall short, and it has had to understand fully that it needs to deliver services in a better way. However, we need to respond to the question of resources.

I am happy to support the bill as a recognition of the stage that carers have got to in making their case to Parliament. I welcome the bill’s aspiration. However, we need seriously to reflect on the consequences for carers and others of an aspiration that remains only that. We need to debate how we resource what we are all committed to: delivering for carers across Scotland.

Johann Lamont: On the amendment.

Joan McAlpine: I appreciate what Johann Lamont says about care workers and their importance. Since she raises the issue, will she tell us whether she will be encouraging Labour local authorities to support the package that gives £250 million to pay care workers the living wage?

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16:31

Jim Hume (South Scotland) (LD): I support the bill and I am pleased that it has reached and been amended at stage 3. I hope that it will provide a framework of support for the 745,000 adult carers and more than 44,000 young carers—that figure is just an estimate; the number of young carers may be double that. The implementation of the framework through the bill as amended will mean that hundreds of thousands of people will without doubt get the support that they need.

It is important to remember that caring for someone can have a mental and physical toll. Marie Curie notes the importance of providing support to carers of people with terminal illness, both during the time of their caring role and after it. A number of amendments sought to provide person-centred, specialised services. A major framework of action and support that can provide such services is of course the integration of health and social care. Integration joint boards will have the opportunity of providing those services, while avoiding duplication of work and giving carers more options. I thank the Scottish Government for its amendments and, in her absence, I thank Nanette Milne for her stage 2 amendments, which provided for far more involvement of carers in NHS procedures. The admission, care and discharge of a person can best be supported and facilitated when information on what is best for them is presented, and carers are the people who can best provide that information.

I was encouraged that a better definition for the timescales for the preparation of support plans was agreed at stage 2. The minister’s amendments set out better timescales for young and adult carers.

Other parts of the bill should be considered, such as whether eligibility criteria should be local or national. The decision was in favour of the local formulation. Should the bill be reviewed, it may be worth revisiting whether that allows for flexibility and adaptation to local needs and circumstances.

Jamie Hepburn: Mr Hume will have heard my remarks and I hope that he accepts them in good faith. We will monitor the efficacy of the approach that we have legislated for. If we find that it is not working on the ground, we will not hesitate to use the reserved position that we have retained—in the face of COSLA’s opposition—and institute national eligibility criteria by way of regulation.

Jim Hume: I appreciate that the minister has put that on the record. I never doubted that he would mention the commitment to review the approach, which he made in good faith. I am glad to hear the minister’s words. The goal should be to ensure that a minimum level of service is provided and that carers across Scotland are not in any way victims of a postcode lottery. I am glad that the minister will keep an eye on that.
I was wary of Rhoda Grant’s amendment on the scrutiny of support services that are provided to carers. The national carer organisations said, “We would caution that amendment 38 would be difficult to implement”, so I am glad that it was not moved.

The national carer organisations also noted that through the Public Bodies (Joint Working) (Scotland) Act 2013 there are multiple channels to monitor carers’ experiences and an extra layer of inspection is not needed. If we were to add that extra layer of inspection, we would also have to provide support and back-up for that work. I identified that issue in relation to amendment 43, which was withdrawn. We know that the budgets of councils and other public bodies are being cut, which is adding more responsibilities to already stretched resources, so it would not have been wise to pass amendment 43. Although the ability to invite every person on the register of carers for an annual health check would have been welcome in principle, we needed to be realistic. The register would exist only for those willing to self-identify and who agreed to their registration. Trying to fulfil the register’s positive purpose would risk the diversion of resources from where they are needed most.

I am glad that we have reached this stage of the Carers (Scotland) Bill and I hope that it will be passed. We will certainly support it. Its implementation will be swift and straightforward and it will benefit all those whom it seeks to help.

16:36

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP): Legislation can take a long time to work its way on to the statute books, but it is just the tip of an iceberg. Underneath it, a host of people and organisations from all walks of life strive to improve situations that impact on them in different ways. That is especially true for the Carers (Scotland) Bill. Only a few short weeks after being elected in 2007, I was invited along to meet the South Lanarkshire Carers Network, which spoke about its aspiration for a carers bill. Just over a year ago, I joined Robert Anderson, who is the chairman of the South Lanarkshire Carers Network, and Jamie Hepburn, the minister, to officially open the network’s new headquarters. The organisation was started in 1990 by Robert.

Robert Anderson characteristically says that the MBE that was awarded to him is a testament to solid partnership working, which is something that we have seen with the bill. When he accepted his MBE last January, he said:

“Above anything else I hope receiving this MBE underlines to people in a caring role that they are not alone—and help and support is available to them.”

Robert knows what it is like to be someone’s unpaid carer. His wife, Nan, suffered two strokes. Sadly, after many years of caring for her, Robert said goodbye to Nan just a few weeks ago. He said:

“I was a full time salesman at the time but was suddenly thrust into a new world, with new responsibilities, from cleaning the house, managing finances to helping with my wife’s needs. It was then I realised that there wasn’t a lot of support or information available for people in my situation—especially when the chips are down … The caring role often feels overwhelming and can leave the person feeling very isolated, as they can soon become cut off from peers and friends because of the demands. I realised things then needed to change”.

He also said that he has been profoundly impressed by the depth and scale of commitment of everyone involved.

Unpaid carers are immensely giving and generous. For those who do get paid, the bill, along with the budget, brings the prospect of a decent pay improvement. While Westminster makes a great hue and cry about its fantastic new national wage of £7.20 an hour, the Scottish Government has taken on the guidance of the Living Wage Foundation and increased the rate to £8.25. That is a difference of £36 in an average week—a huge difference to people who take on a caring role as their profession.

As I said, for some people the origins of the bill go back almost a decade, and probably go back many more years for others. It has been two years since the formal consultation on legislation to support carers and young carers in Scotland, and a great deal of input has been taken on board. We heard that in many contributions this afternoon.

As we have heard—and as the Scottish Government has recognised—there are an estimated 745,000 adult carers, with 44,000 young carers. It is easy for us to look on and admire carers and take them for granted; they deserve better than that. They deserve to lead a fulfilling life, to be properly paid and to get professional and accessible support and advice. If my mother had had such support 30-odd years ago when she was looking after my father, who had motor neurone disease, we might have had a much easier life when we were growing up. However, we managed, which is what happens. We have grown up a lot from that outdated perception of the dutiful, stoical and unpaid carer who never reached breaking point and had no recourse to state support of any kind.

Since 2007, there have been many interventions and much investment in this area, and that work has been manifested in this bill, which sets out a very practical and important way of giving carers a better deal and proper recognition. The Scottish Government has, in the evolution of the bill, been working towards improving outcomes for carers
with a range of initiatives such as the reshaping care for older people change fund; the voluntary short breaks fund, which has helped more than 32,000 carers; and the carer information strategy. With health board funding, significant progress has been achieved on carer identification and support; indeed, that was one thing that the South Lanarkshire Carers Network did very well.

I pay tribute to the South Lanarkshire Carers Network; to COVEY Befriending, which is an organisation that supports young carers in my constituency; and to all the organisations that we have heard about this afternoon. However, this is just the start of another journey. I hope that the bill gives carers the life that they need—the responsibility is on us to ensure that we deliver it.

16:41

Jayne Baxter (Mid Scotland and Fife) (Lab): There are almost 800,000 carers in Scotland. Although around 30,000 to 40,000 people stop caring for a loved one each year, the overall number hardly varies, because a similar number replaces them. According to Carers UK, the economic value of that unpaid care is in excess of £10 billion, which is an enormous amount of money that is saved for our public services; the emotional value of that support and care is inestimable.

Many of us here will have our own experiences of the role that carers play. If one’s friends or family were affected, few would hesitate to help. However, the responsibility of caring for a vulnerable person often goes way beyond helping; it can be more demanding and stressful and go on for much longer than carers might have predicted at the outset of their caring responsibilities.

The care that is needed and provided is vital. Too often, it is not apparent to others; it goes on behind closed doors and away from the agencies that can provide help. Indeed, many carers do not even recognise themselves as such—they simply think that they are doing what is right. As a consequence, the value of that care is not always recognised by the public or by those who provide public services. In fact, the care is often taken for granted. Too often, support service providers do not even know that someone is a carer. People often care for loved ones alone, with little or no external support or engagement with support services, and we need to identify carers at the earliest possible stage, so that they know what support is available to them.

It is common for carers with additional support needs not to be identified as such. One of the challenges that face organisations that wish to support young carers in particular is to actually identify who and where they are; after all, many young people either do not see themselves as having that role or do not want to ask for help. That is why it is so important to take a multi-agency approach to all stages of the care process and to enshrine that in law to ensure that all agencies know their roles and responsibilities in the field.

Underpinning the moves to change that situation for the better is the preparation of carer strategies by the NHS and local government. That work is important, because the NHS can provide a great deal of support for not just the person being cared for but carers themselves. Far too often, however, carers are not aware of the support that is available to them. The needs of carers must be at the forefront of all our minds and at the centre of policy in this field. Indeed, it is clear that we need a coherent, multi-agency approach for most carers.

At stage 2, my colleague Rhoda Grant was able to introduce into the bill a carers charter to ensure that carers know their rights. However, there are many gaps in the bill that still need to be addressed. I supported all the amendments in Rhoda Grant’s name, because they began the process of addressing those gaps. They sought to introduce bereavement support, requirements in relation to planning, a duty to provide advocacy, a general practitioner register of carers, an appeals mechanism, provisions on equalities and national criteria for assistance.

Many people questioned the national criteria that were the subject of an amendment at stage 2. I am pleased that Rhoda Grant considered the issue carefully and worked with local authorities and carers organisations to find a solution to the problem. Along with the Health and Social Care Alliance Scotland, I am concerned that the proposed introduction of eligibility criteria that are defined locally by local authorities will lead to a postcode lottery of support for carers across Scotland. As the alliance put it,

“Whilst local best practice and scope for local variation to satisfy varying needs and caring trends are to be fully supported, we do not believe that there is any justification for a variation in the levels of need which trigger an entitlement to carer support."

Although the Government did not support Rhoda Grant’s amendments in that regard today, I note the minister’s willingness to address the matter should it become an issue for carers in the months and years to come.

The introduction of a duty to support carers, which is linked to eligibility criteria, is the gateway to new rights for carers. In light of that, clear rights must be available to all, rather than being left at the discretion of local criteria. Support for carers and the people to whom they provide care in considering what arrangements should be in place
in an emergency is a vital preventative measure. Effective emergency and future planning is another hugely important aspect of the bill. The security that comes with knowing that a plan is in place should an unexpected event happen is hugely positive for carers.

Marie Curie raised the important issue of what happens to carers who are nearing the end of their caring role. Marie Curie said that planning for the end of the caring role should begin as soon as is appropriate and should be part of the adult carer support plan and young carer statement. The organisation is also surely correct to express concern about the lack of information and advice for people at the end of their caring role.

We should be continuously looking to improve the framework in the bill. Carers issues should be part of the policy-making process. I hope that the bill will improve carers’ lives, but we must recognise that there is much more for us to do.

The Deputy Presiding Officer: We move to the closing speeches. I call Jackson Carlaw—I can give you a generous four minutes.

16:47

Jackson Carlaw (West Scotland) (Con): I might disappoint you, Presiding Officer, by not fully utilising them.

The Deputy Presiding Officer: That will be fine.

Jackson Carlaw: In an afternoon in which we draw all the deliberations on the Carers (Scotland) Bill to a conclusion, I acknowledge the bill’s importance. Throughout its progress it has enjoyed cross-party support and engaged a great many organisations, who had high hopes and expectations of what it might achieve. Many organisations were involved in discussions with all parties as we considered amendments and moved towards this afternoon’s conclusion, and many of those organisations have been named by members during the amendment stage and this short debate.

The bill will improve the lives of some 800,000 carers and the very many people to whom they offer support and care. As Nanette Milne said, the hidden benefit to the country can be quantified; it is more than £10 billion. That is a remarkable testament to the commitment that so many people give, so willingly.

The bill has been improved by amendments, not least those that were lodged by Rhoda Grant and Nanette Milne. The success of Nanette Milne’s amendments on the important issues of carer involvement in hospital discharge and short breaks was made possible by the support of the minister, who has engaged in a consensual manner with everyone who has sought to improve the bill. We find ourselves able to commend the minister who promoted the bill as an example to his colleagues, who are sometimes more bullish in their approach. The bill is an example of what can be achieved on a cross-party basis, on a matter on which there is considerable agreement to start with.

The future funding in relation to the bill will determine its ultimate success. I will not pursue that argument this afternoon, but I acknowledge the important comments that Johann Lamont made in that regard.

Nanette Milne talked about the experiences of her mother and grandmother in times past—I will not be more specific. In the years to come, many more people will find themselves involved in the care of relatives and loved ones. The bill is designed to ensure that their experience will be very much better than that of past generations. I commend the bill, which Scottish Conservatives will be delighted to support at decision time.

16:50

Rhoda Grant: This has been a good debate. Many of us can draw on our own experiences, as many of us have been carers at one point or another. However, we would not be here in this chamber if we had a long-term caring role. As Jayne Baxter said, many people have that role for a lifetime. Parents of disabled children and carers for people with long-term conditions, for example, do not see their caring role as one that will end; they see it as part of their day-to-day lives. It is hard for us to appreciate what that means, especially if that role is unsupported. People in that position face huge difficulties. I have a constituent whose own health is failing and who finds it difficult to see what the future holds, because she does not know how long she can continue to provide care and she does not know what support there will be for her.

We all agree that carers need more support, but there are dividing lines, and I want to go back to those. We are keen that the eligibility criteria be set nationally for the carers who are most in need, so that they do not face a postcode lottery and can get help when they need it. There are powers to impose national eligibility criteria, and the minister should consider using them if need be. However, the problem is that he would have to consider how to fund that approach. I sometimes think that the funding and the national eligibility criteria are very much two sides of the same coin. We need to ensure that carers get the support that they need. As Johann Lamont said, rights need to be enforceable or they are not rights at all. That is important. If the funding is not available locally to provide the support for carers, there will be no support at all.
The committee heard evidence about the cost of carrying out an assessment. That was hugely underestimated in the financial memorandum. More funding has been put into short breaks, but one carer told me that, because of the complex needs of the person she was caring for, it would cost thousands of pounds to replace her for one week. Carers save the state a fortune, as Johann Lamont said, and we need to ensure that, when they need our support, we acknowledge the amount that they save us. That carer was saving the state thousands and thousands of pounds but, because of the amount of money that is involved in replacing the care that she gives, we cannot see how she will get a break.

Nanette Milne talked about planning for discharges from hospital. We have both heard of the case in which a person was sent home on oxygen, which meant that they could not use their gas fire or their cooker—they could not eat and they were freezing cold. How on earth could someone think that they could send someone home in those circumstances? We often hear of someone being discharged and going back to a house that is not appropriate for them any more, as they can no longer access bedrooms, bathrooms or whatever. A lot more thought has to be given to how we send people home and also how the carer will cope when we do that.

Emergency and future planning are important, and I am glad that they are in the bill. I am also glad that the minister pointed out that bereavement support and planning will be part of that future planning. The way in which we support carers who are providing care in a palliative setting is difficult enough, but what happens when they lose the person they love is difficult, too, and we cannot abandon them at that point.

Short breaks really have to be for the good of the carer, not respite for the cared-for person. The cared-for person might need to get away for a change of scene and a break from their surroundings, but that does not give the carer a short break in the same way. We need to think separately and differently about breaks for the carer.

A number of people talked about the workforce, and we need to involve all the relevant bodies and voluntary organisations in the preparation of the plans and statements, not only because they have a real insight into the issues but because there are not enough social workers to do that work. That was one of the worries about the bill. Where would we find all the social workers to do the necessary work? They are already overworked. Plans and statements need to be based on the needs of the carer, rather than on budgets.

GMB told me that, when its members look at support plans for cared-for people, they often omit interventions because they know that they cannot be funded from the budget. That is really not right.

Joan McAlpine talked about the living wage for care workers. Labour members have asked the Government for that, but it has voted down our attempts to introduce it. Joan McAlpine also talked about the £200 million for community care. That money is going into the health budgets, not the local government budgets, so it will do nothing to help local government and its funding crisis.

Jamie Hepburn: On a point of information, that funding will go to health and social care partnerships, which are an integral partner of local government. It is important to place that on the record.

Rhoda Grant: It will indeed go to health and social care partnerships, but it is going through the health budgets, not the local government budgets, so the health boards have control over that money and how it is spent. I hope that local government will have some influence, but it is not being given that money. That might be a political point so that health budgets are not cut, as the Government promised, rather than about where the funding goes at the end of the day.

Joan McAlpine: We have spent hours and years discussing health and social care integration. The care packages are delivered by people in the community and the joint boards. Surely Rhoda Grant is not suggesting that the health board is directing social workers who deliver the care packages.

Rhoda Grant: Many of the joint boards will not be set up until this April, and the money is going to health boards, not to local government, as the Scottish Government keeps saying. The health boards are expected to put that money into the joint partnerships. Local government has no control over that money; it depends on health boards putting it into the joint pot.

If the Scottish Government wanted to give that money to local government, why was it not in the local government budget? That is either political expediency or a way of punishing local government for saying that the Scottish Government is cutting its budgets. That takes us away from the support of carers, but it is really important that smoke and mirrors are not used for that money and that we recognise that local government will bear the cost of the bill and that it will be for it to deliver what is asked.

A number of members have talked about carers’ need to self-identify. Jayne Baxter pointed out that carers—especially young carers—often do not recognise that they are carers. Carers need to be asked what we can do to support them. They need to be referred to services, not signposted or asked
to self-refer. We need to take the burden off carers for their own support.

In conclusion, we owe it to carers to ensure that the bill is not the last word. It is an important step, but we are far from there. We owe it to carers to continue to seek better ways in which we can support them in the future.

16:58

Jamie Hepburn: I thank all the members who have contributed to the debate; they have done so with genuine respect for Scotland’s carers. I welcome the insight that has been shown and the helpful and informative contributions that have been made. There is a clear sense of cross-party support for the bill and, more important in many ways, there is a clear sense of collective support for Scotland’s carers.

I thank all those who have been involved in the bill’s progress through Parliament. Many have spoken in debates, served on the various committees that have considered the bill and lodged amendments to the bill. That was often done on behalf of carers or carers representative groups. All those efforts and that engagement have significantly enhanced the bill. It is thanks to that interest, care and attention that the bill takes the form on which the Parliament will vote at decision time.

It would be remiss of me not to thank again all the carer interests that helped to shape the bill. I thank carers for providing their input directly or through their representative organisations. It would also be remiss of me not to pick up on a point that Christina McKelvie made. I was glad to meet Robert Anderson on two occasions to discuss not only the bill but the wider work of the South Lanarkshire Carers Network. His work is a good example of interaction with the legislative process. As Christina McKelvie said, he sadly lost his wife recently. I was aware of that and I put on record my condolences to him.

I agree totally with Rhoda Grant, Nanette Milne and Jackson Carlaw that the engagement in the Parliament has ensured that the bill is better now than it was when it was introduced. I am loth to pick out anyone in particular, but the manner in which Ms Grant and Ms Milne engaged in seeking to amend the bill was particularly co-operative. That emphasises the point that improving the lives of Scotland’s carers is a shared agenda.

It is right that we recognise that Scotland’s carers are integral to our society. They provide vital care and support to their families, friends and neighbours, often in challenging circumstances.

The current legislation, which we seek to change and widen to cover all carers today, requires that a carer must care regularly and substantially and that the person for whom they care must be eligible for a community care assessment before the carer can request a carer’s assessment. We know that few assessments are carried out compared with the number of carers. Even when a carer’s assessment is undertaken, the local authority has discretion about whether to provide the support.

I am pleased that, when the bill is passed today—as I am sure it will be—it will mean that many more people will be able to ask for or be offered an adult carer support plan or a young carer statement as a means of assessing their need for support. Furthermore, the bill widens the definition of a carer so that people who care intermittently—perhaps because the person for whom they care has an illness that does not occur regularly—can also ask for or be offered an adult carer support plan or a young carer statement.

The adult carer support plan or young carer statement will record the outcome of the discussion with the practitioner in relation to identifying the carer’s personal outcomes and needs, as well as any support that the local authority is to provide to meet those needs. The plan or statement can also be of therapeutic value in itself. Many carers feel a sense of loneliness and isolation, and an empathetic assessment can help the carer to feel more supported.

There will be circumstances in which the adult carer support plan or young carer statement needs to be prepared quickly. Many carers care for people with a terminal illness or provide end-of-life care. I was glad that Marie Curie raised that issue directly with our Administration, and we have amended the bill to provide powers for the Scottish ministers to introduce regulations to put in place an expedited process for such carers.

I was also glad to hear voices calling for emergency planning and future planning to be recognised as part of the assessment process. Joan McAlpine spoke of the role of Enable, which I acknowledge as well. It is heartening that Enable clearly expects us to pass the bill, because it has already worked on its emergency planning toolkit. I congratulate it on that endeavours. I am behind the curve a little because, unlike Ms McAlpine, I have not seen that toolkit. However, it is good that Enable is engaged in the process and I look forward to seeing it. That is the kind of creative work that needs to happen throughout Scotland. The Government will be happy to engage in that process.

The bill places a duty on local authorities to provide support if the carer’s identified needs meet the local eligibility criteria. As consideration has to be given in the first instance to whether a carer’s needs can be met by the provision of services that
are available generally in the community or services that are provided to the cared-for person, even a carer who has lower-level needs may get some support. That is quite different from the current position.

One general service for which the bill provides is the information and advice service. Each local authority’s information and advice service will provide information and advice about a range of issues that are important to carers, including income maximisation, education and training, advocacy, carers’ rights and health and wellbeing. To take account of carers’ views, the bill also refers to information and advice about emergency care and future planning.

The information and advice service will be available to all. It is important to recognise that, as we have amended the bill to add advice on bereavement services, it will allow former carers who are transitioning to a life without a caring role to take advantage of the support that the service will offer.

An important amendment was made at stage 2 to clarify that local authorities do not need to set up those services from new. Many good third sector information and advice services already exist and we want to encourage local authorities to build on what is already available. They do not need to reinvent the wheel; they can use existing services.

The bill makes specific provision for young carers, in recognition of their particular needs. The definition of young carers has been extended so that young carers who reach the age of 18 and are still at school can continue with a young carer statement, which will help them with the transition to any adult carer support plan while ensuring that there is no gap in provision. The young carer statement will continue to have effect until an adult carer support plan is in place. I have already spoken today about our commitment to ensuring that good guidance is in place to further support the transition arrangements.

There is also the local carer strategy, which has to involve carers and their representative organisations. That is another important step forward.

A number of members have raised issues about resourcing for the provisions in the bill. Maybe I was not listening, but I certainly do not recall the issue having been raised before. It has been suggested that, when the attractiveness of national eligibility criteria was considered, there was some form of financial consideration, but I want to be absolutely clear that that did not factor into my determination of the way forward. That is evidenced by the fact that we have retained the provision that might subsequently allow us to institute national eligibility criteria by regulation.

I am clear that we will resource the provisions of the bill. The financial memorandum sets out £19.4 million in 2017-18, rising to £88.52 million in 2021-22 and on a recurring basis thereafter.

Rhoda Grant: Given the number of concerns that people have about the resourcing of the bill and the costs of its delivery, if the money that is set out in the financial memorandum for being put into delivery does not cover the costs of the bill, will the minister revisit the issue?

Jamie Hepburn: As welcome as it was, Ms Grant’s intervention was unnecessary. I will go on to say what I was going to say.

I still consider the financial memorandum to be our best estimate. It has been informed largely by local government and COSLA figures. During the debate, Johann Lamont said that I had not responded to COSLA’s concerns, which was a surprise to me, because I met COSLA in advance of stage 1 and heard its concerns. I asked COSLA for alternative figures and I am still waiting for them.

To take on board the further concerns that were expressed, I established the finance review group, of which COSLA is a key member. I have heard nothing from that review group that leads me to question the assumptions in the financial memorandum. Any financial memorandum is always a best estimate and I stand by this one. I have seen nothing that would cause me to question the assumptions that have been made therein.

Johann Lamont: If COSLA comes forward with figures that confirm that there is a problem, will the minister give a commitment to look at them and change the financial memorandum to ensure that the rights that we all want to establish are properly resourced?

The Deputy Presiding Officer: Minister, could you begin to wind up, please?

Jamie Hepburn: I can, indeed.

What Johann Lamont said seems to be a case of reading between the lines. I have specifically said to COSLA that I am happy to take any figures that it provides and I am still waiting for them. I have also established the finance review group, on which COSLA sits. If it comes forward with any new information, of course I will consider it; that is my clear commitment to those who are involved in the process and to Parliament.

I introduced the bill because I want to accelerate the pace of change and build on what has been achieved. The bill is a huge step forward in helping to ensure that carers can continue to care if they
so wish. People having good health and a life while they are caring are aims that we want to be achieved. I hope that tonight we will unite to back the Carers (Scotland) Bill.
18:15

The Presiding Officer (Tricia Marwick): There are two questions to be put as a result of today's business. The first question is, that motion S4M-15561, in the name of Jamie Hepburn, on the Carers (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament agrees that the Carers (Scotland) Bill be passed.

The Presiding Officer: The Carers (Scotland) Bill is passed. [Applause.]
Carers (Scotland) Bill
[AS PASSED]

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Carers (Scotland) Bill
[AS PASSED]

An Act of the Scottish Parliament to make provision about carers, including the identification of carers’ needs for support through adult carer support plans and young carer statements; the provision of support to carers; the enabling of carer involvement in certain services; the preparation of local carer strategies; the establishment of information and advice services for carers; and for connected purposes.

PART 1

KEY DEFINITIONS

“Carer”, “young carer” and “adult carer”

1 Meaning of “carer”

10 (1) In this Act “carer” means an individual who provides or intends to provide care for another individual (the “cared-for person”).

(2) But subsection (1) does not apply—

(a) in the case of a cared-for person under 18 years old, to the extent that the care is or would be provided by virtue of the person’s age, or

15 (b) in any case, to the extent that the care is or would be provided—

(i) under or by virtue of a contract, or

(ii) as voluntary work.

(3) The Scottish Ministers may by regulations—

10 (a) provide that “contract” in subsection (2)(b)(i) does or, as the case may be, does not include agreements of a kind specified in the regulations,

20 (b) permit a relevant authority to disregard subsection (2)(b) where the authority considers that the relationship between the carer and the cared-for person is such that it would be appropriate to do so.

(4) In this Part “relevant authority” means a responsible local authority or a responsible authority (see section 36(1)).
Meaning of “young carer”

In this Act “young carer” means a carer who—

(a) is under 18 years old, or

(b) has attained the age of 18 years while a pupil at a school, and has since attaining that age remained a pupil at that or another school.

Meaning of “adult carer”

In this Act “adult carer” means a carer who is at least 18 years old but is not a young carer.

“Personal outcomes” etc.

Meaning of “personal outcomes”

(1) In this Act “personal outcomes”, in relation to carers, includes outcomes which would, if achieved, enable carers to provide or continue to provide care for cared-for persons.

(2) The Scottish Ministers may by regulations make further provision about personal outcomes, including provision about—

(a) which outcomes may be personal outcomes,

(b) the matters to which a relevant authority is to have regard in considering which outcomes may be personal outcomes.

Meaning of “identified personal outcomes” and “identified needs”

(1) In this Act “identified personal outcomes”, in relation to a carer, means the personal outcomes which are identified as relevant to the carer.

(2) In this Act “identified needs”, in relation to a carer, means the needs for support (if any) which are identified in order to meet the carer’s identified personal outcomes.

(3) In this section “identified” means identified by virtue of section 7 or 12.

PART 2

ADULT CARER SUPPORT PLANS AND YOUNG CARER STATEMENTS

CHAPTER 1

ADULT CARER SUPPORT PLANS

Duty to prepare adult carer support plan

(1) In this Act an “adult carer support plan” means a plan prepared by a responsible local authority setting out—

(a) an adult carer’s identified personal outcomes,

(b) an adult carer’s identified needs (if any), and
(c) the support (if any) to be provided by the responsible local authority to an adult carer to meet those needs.

(1A) If a responsible local authority identifies a person as an adult carer, the responsible local authority must offer the person an adult carer support plan.

(2) The responsible local authority must prepare an adult carer support plan in relation to a person if—
(a) the person accepts an offer under subsection (1A), or
(b) subsection (4) applies.

(4) This subsection applies if a person who appears to the responsible local authority to be an adult carer requests an adult carer support plan.

(4A) A responsible local authority must exercise its functions under this section in a manner which encourages equal opportunities and in particular the observance of the equal opportunity requirements (within the meaning of Section L2 of Part 2 of schedule 5 of the Scotland Act 1998).

(5) For the purposes of this Chapter the “responsible local authority”, in relation to an adult carer, means the local authority for the area in which the cared-for person resides.

6A Adult carers of terminally ill cared-for persons

(1) The Scottish Ministers must by regulations prescribe timescales for the preparation of adult carer support plans in relation to adult carers of terminally ill cared-for persons.

(2) For the purposes of this section and section 11A, a cared-for person is terminally ill at any time if at that time the person suffers from a progressive disease and death in consequence of that disease can reasonably be expected within 6 months.

7 Adult carers: identification of outcomes and needs for support

(1) The Scottish Ministers may by regulations make provision about the identification of adult carers’ personal outcomes and their needs for support, including—
(a) how personal outcomes and needs for support are to be identified,
(b) the process for doing so (including arrangements for the involvement of adult carers and cared-for persons),
(c) who may carry out identification,
(d) the sharing of information about adult carers and cared-for persons for the purpose of identifying personal outcomes and needs for support,
(e) the factors to be taken into account in identifying adult carers’ personal outcomes and needs for support,
(f) the circumstances in which adult carers’ personal outcomes and needs for support should be reviewed.

(2) In identifying an adult carer’s personal outcomes and needs for support, a responsible local authority must, in particular, take into account any impact that having one or more protected characteristic (within the meaning of section 149(7) of the Equality Act 2010) has on the adult carer.
8 **Content of adult carer support plan**

(1) An adult carer support plan must contain—

(a) information about the adult carer’s personal circumstances at the time of preparation of the plan, including—

(i) the nature and extent of the care provided or to be provided,

(ii) the impact of caring on the adult carer’s wellbeing and day-to-day life,

(b) information about the extent to which the adult carer is able and willing to provide care for the cared-for person,

(ba) information about whether the adult carer has arrangements in place for the provision of care to the cared-for person in an emergency,

(bb) information about whether the adult carer has arrangements in place for the future care of the cared-for person,

(c) information about the identification of the adult carer’s personal outcomes, including about the carer’s identified personal outcomes,

(d) information about the identification of the adult carer’s needs for support, including—

(i) if the adult carer has identified needs, those needs,

(ii) if no needs for support are identified, that fact,

(e) information about the support available to adult carers and cared-for persons in the responsible local authority’s area,

(ea) if the adult carer does not reside in the responsible local authority’s area, information about the support available to adult carers in the area where the adult carer resides,

(f) if the adult carer’s identified needs meet the local eligibility criteria, information about the support which the responsible local authority provides or intends to provide to the adult carer to meet those needs,

(g) if the adult carer’s identified needs do not meet the local eligibility criteria, information about the support which the responsible local authority provides or intends to provide to the adult carer,

(h) information about whether support should be provided in the form of a break from caring,

(i) information about the circumstances in which the plan is to be reviewed.

(2) Each second and subsequent adult carer support plan must also contain information about the extent to which any support provided under a previous plan has assisted in the achievement of the adult carer’s identified personal outcomes.

(3) The Scottish Ministers may by regulations make provision about—

(a) other information which an adult carer support plan must (or must not) contain,

(b) the form of adult carer support plans.
9 **Review of adult carer support plans**

The Scottish Ministers may by regulations make provision about the review of adult carer support plans, including—

(a) the circumstances in which plans are to be reviewed,

(b) the frequency of review,

(c) the procedure for review,

(d) arrangements for obtaining the views of adult carers and cared-for persons.

**Provision of information about plan**

10 **Adult carer support plan: provision of information to carer etc.**

(1) The responsible local authority must provide the persons mentioned in subsection (2) with the information contained in the adult carer support plan.

(2) Those persons are—

(a) the adult carer to whom the plan relates, and

(b) any other person the adult carer requests.

(3) Subsection (1) does not apply to the extent that the responsible local authority considers that provision of the information would not be appropriate.

(4) The information is to be provided as soon as practicable after—

(a) the plan is prepared, or

(b) in the case of a revised plan, the revised plan is prepared.

**CHAPTER 2**

**YOUNG CARER STATEMENTS**

**Duty to prepare young carer statement**

11 **Duty to prepare young carer statement**

(1) In this Act a “young carer statement” means a statement prepared by a responsible authority setting out—

(a) a young carer’s identified personal outcomes,

(b) a young carer’s identified needs (if any), and

(c) the support (if any) to be provided by the responsible local authority to a young carer to meet those needs.

(1A) If a responsible authority identifies a person as a young carer, the responsible authority must offer the person a young carer statement.

(2) The responsible authority must prepare a young carer statement in relation to a person if—

(a) the person accepts an offer under subsection (1A), or

(b) subsection (4) applies.
(4) This subsection applies if a person who appears to the responsible authority to be a young carer requests a young carer statement.

(5) Subsection (2) applies whether or not the young carer requires a child’s plan in accordance with section 33 of the 2014 Act.

(7) Where the responsible authority, in relation to a young carer, is not the responsible local authority, the responsible authority must not provide the young carer statement to the young carer without the approval of the responsible local authority.

(7A) A responsible authority must exercise its functions under this section in a manner which encourages equal opportunities and in particular the observance of the equal opportunity requirements (within the meaning of Section L2 of Part 2 of schedule 5 of the Scotland Act 1998).

(8) For the purposes of this Chapter—

“responsible authority” has the meaning given by sections 17 and 18,

“responsible local authority” means the local authority for the area in which the cared-for person resides.

11A Young carers of terminally ill cared-for persons

The Scottish Ministers must by regulations prescribe timescales for the preparation of young carer statements in relation to young carers of terminally ill cared-for persons.

12 Young carers: identification of outcomes and needs for support

(1) The Scottish Ministers may by regulations make provision about the identification of young carers’ personal outcomes and their needs for support, including—

(a) how personal outcomes and needs for support are to be identified,

(b) the process for doing so (including arrangements for the involvement of young carers and cared-for persons),

(c) who may carry out identification,

(d) the sharing of information about young carers and cared-for persons for the purpose of identifying personal outcomes and needs for support,

(e) the factors to be taken into account in identifying young carers’ personal outcomes and needs for support,

(f) the circumstances in which young carers’ personal outcomes and needs for support should be reviewed.

(2) In identifying a young carer’s personal outcomes and needs for support, a responsible authority must, in particular, take into account any impact that having one or more protected characteristic (within the meaning of section 149(7) of the Equality Act 2010) has on the young carer.

Content and review of young carer statement

13 Content of young carer statement

(1) A young carer statement must contain—
(a) information about the young carer’s personal circumstances at the time of the preparation of the statement, including—
   (i) the nature and extent of the care provided or to be provided,
   (ii) the impact of caring on the young carer’s wellbeing and day-to-day life,

(b) information about the extent to which the young carer is able and willing to provide care for the cared-for person,

(c) information about the extent to which the responsible authority considers that the nature and extent of the care provided by the young carer is appropriate,

(ca) information about whether the young carer has arrangements in place for the provision of care to the cared-for person in an emergency,

(cb) information about whether the young carer has arrangements in place for the future care of the cared-for person,

(d) information about the identification of the young carer’s personal outcomes, including about the young carer’s identified personal outcomes,

(e) information about the identification of the young carer’s needs for support, including—
   (i) if the young carer has identified needs, those needs,
   (ii) if no needs for support are identified, that fact,

(f) information about the support available to young carers and cared-for persons in the responsible local authority’s area,

(fa) if the young carer does not reside in the responsible local authority’s area, information about the support available to young carers in the area where the young carer resides,

(g) if the young carer’s identified needs meet the local eligibility criteria, information about the support which the responsible local authority provides or intends to provide to the young carer to meet those needs,

(h) if the young carer’s identified needs do not meet the local eligibility criteria, information about the support which the responsible local authority provides or intends to provide to the young carer to meet those needs,

(i) information about whether support should be provided in the form of a break from caring,

(j) information about the circumstances in which the young carer statement is to be reviewed.

(2) Each second and subsequent young carer statement must also contain information about the extent to which any support provided under a previous statement has assisted in the achievement of the young carer’s identified personal outcomes.

(3) For the purpose of subsection (1)(a)(ii), the responsible authority is—

(a) to assess the wellbeing of a young carer by reference to the extent to which the matters listed in section 96(2) of the 2014 Act are or, as the case may be, would be satisfied in relation to the young carer, and

(b) in doing so, to have regard to the guidance issued under section 96(3) of the 2014 Act.
(4) The Scottish Ministers may by regulations make provision about—
   (a) other information which a young carer statement must (or must not) contain,
   (b) the form of young carer statements.

14 Review of young carer statements

The Scottish Ministers may by regulations make provision about the review of young carer statements, including—
   (a) the circumstances in which statements are to be reviewed,
   (b) the frequency of review,
   (c) the procedure for review,
   (d) arrangements for obtaining the views of young carers and cared-for persons.

Provision of information about statement

15 Young carer statement: provision of information to carer etc.

(1) A responsible authority must provide the persons mentioned in subsection (2) with the information contained in the young carer statement.

(2) Those persons are—
   (a) the young carer to whom the young carer statement relates,
   (c) any other person the young carer requests.

(3) Subsection (1) does not apply to the extent that the responsible authority considers that provision of the information would not be appropriate.

(4) The information is to be provided as soon as practicable after—
   (a) the statement is prepared, or
   (b) in the case of a revised statement, the revised statement is prepared.

Continuation of young carer statement

16 Continuation of young carer statement

Despite the fact that a young carer has attained the age of 18 years, any young carer statement prepared in relation to that carer continues to have effect until the carer is provided with an adult carer support plan.

Meaning of responsible authority: young carers

17 Responsible authority: general

(1) For the purposes of this Chapter the “responsible authority”, in relation to a young carer, is—
   (a) where the young carer is a pre-school child, the health board for the area in which the child resides,
   (b) where the young carer is not a pre-school child, the local authority for the area in which the child resides.
Part 3—Provision of support to carers

Chapter 1—Eligibility criteria

18 Responsible authority: special cases

(1) Where in pursuance of a decision of a local authority or health board a young carer who is a pre-school child resides in the area of a health board which is different to that in which the young carer would otherwise reside, the health board for the area in which the young carer would otherwise reside is the responsible authority in relation to the young carer.

(2) Where the young carer is a pupil at a public school which is managed by a local authority other than the one for the area in which the young carer resides, that other authority is the responsible authority in relation to the young carer.

(3) Where the young carer is a pupil at a grant-aided school or an independent school, the directing authority of that school is the responsible authority in relation to the young carer.

(4) Subsection (3) does not apply where the young carer is such a pupil by virtue of a placement by the local authority for the area in which the young carer resides.

(5) In this section “grant-aided school”, “independent school” and “public school” have the meanings given by section 135 of the Education (Scotland) Act 1980.

PART 3

PROVISION OF SUPPORT TO CARERS

CHAPTER 1

ELIGIBILITY CRITERIA

Local eligibility criteria

19 Duty to set local eligibility criteria

(1) Each local authority must set the local eligibility criteria which it is to apply in its area.

(2) Local eligibility criteria are the criteria by which the local authority must determine whether it is required to provide support to carers to meet carers’ identified needs.

(3) Before setting its local eligibility criteria, a local authority must—

   (a) consult such persons and bodies representative of carers as the local authority considers appropriate, and

   (b) take such steps as it considers appropriate to involve carers.

(4) A local authority must, when setting its local eligibility criteria, have regard among other things to such matters as the Scottish Ministers may by regulations specify.

20 Publication and review of criteria

(1) Each local authority must publish its local eligibility criteria.
(2) The first local eligibility criteria must be published before the end of the period of 6 months beginning with the day prescribed by the Scottish Ministers by regulations.

(3) Each local authority must carry out a first review of its local eligibility criteria before the end of the period, prescribed by the Scottish Ministers by regulations, beginning with the day on which the criteria are published.

(4) Each local authority—
   (a) must thereafter review its local eligibility criteria before the end of the relevant period,
   (b) may from time to time carry out such a review.

(5) The relevant period is the period of 3 years beginning with whichever is the later of the day on which the local authority last published—
   (a) its local eligibility criteria, or
   (b) a statement under subsection (6)(b).

(6) Following a review under subsection (3) or (4), the local authority—
   (a) may set revised local eligibility criteria,
   (b) must, where it does not set revised criteria, publish a statement to that effect.

(7) Subsection (1) and section 19(4) apply to revised local eligibility criteria set under this section as they apply to criteria set under section 19.

National eligibility criteria

(1) The Scottish Ministers may make regulations setting out national eligibility criteria.

(2) National eligibility criteria are the criteria by which each local authority must assess whether it is required to provide support to carers to meet carers’ identified needs.

(3) Where regulations under this section are made and have not been revoked—
   (a) the national eligibility criteria set out in them apply in place of any local eligibility criteria published under section 20,
   (b) sections 19 and 20 do not apply, and
   (c) references in sections 8(1)(f) and (g), 13(1)(g) and (h) and 22(3) to local eligibility criteria are to be read as references to national eligibility criteria.

(4) Regulations under this section may modify any enactment (including this Act).

CHAPTER 2
DUTY TO PROVIDE SUPPORT TO CARERS

Duty to provide support

(1) This section applies where a carer has identified needs which cannot be met by services or assistance—
   (a) provided to the cared-for person (other than care provided by virtue of section 23 in order to provide the carer with a break from caring), or
(b) provided generally to persons in the area of the responsible local authority or, where the carer does not reside in the area of that authority, in the area where the carer resides.

(2) The responsible local authority must determine whether any of those needs are eligible needs.

(3) A carer’s eligible needs are the carer’s identified needs which meet the local eligibility criteria.

(4) The responsible local authority—
   (a) must provide support to the carer to meet the carer’s eligible needs, and
   (b) may provide support to the carer to meet the carer’s other identified needs.

(5) Subsection (4)(a) applies—
   (a) in the case of an adult carer, whether or not the carer’s eligible needs may also, following assessment under section 12A(1) of the 1968 Act, call for the provision of community care services to the carer under that section,
   (b) in the case of a young carer, whether or not the carer’s eligible needs may also be met by the provision of services to the carer under section 22(1) of the 1995 Act.

(6) In this section the “responsible local authority”, in relation to a carer, means the local authority for the area in which the cared-for person resides.

**23 Provision of support to carers: breaks from caring**

(1) A local authority, in determining which support to provide to a carer under section 22(4), must consider in particular whether the support should take the form of or include a break from caring.

(2) The Scottish Ministers may by regulations make provision—
   (a) about the form of support that may be provided as a break from caring,
   (b) where the regulations provide for a break from caring to take the form of the provision of care for the cared-for person, about the role of the cared-for person in relation to how that care is provided.

(3) Support provided by virtue of subsection (1) may be provided on a regular basis or on a temporary basis and may be provided for varying periods of time.

(4) In providing support by virtue of subsection (1), a local authority must have regard to the desirability of breaks from caring being provided on a planned basis.

(5) Section 19(2) of the Social Care (Self-directed Support) (Scotland) Act 2013 applies in relation to support provided as a break from caring as it applies in relation to any other support.

**24 Charging for support provided to carers**

In section 87 of the 1968 Act (power of local authority to charge for services and accommodation provided under certain enactments)—

(a) in subsection (1), for “section 3(4) of the Social Care (Self-directed Support) (Scotland) Act 2013 (asp 1)” substitute “section 22(4) of the Carers (Scotland) Act 2015”,
(b) in subsection (1A)(a), for “section 3(4) of the Social Care (Self-directed Support) (Scotland) Act 2013 (asp 1)” substitute “section 22(4) of the Carers (Scotland) Act 2015”.

**PART 4**

**CARER INVOLVEMENT**

### 25 Duty to involve carers in carer services

(1) Each local authority must take such steps as it considers appropriate to involve the persons mentioned in subsection (3) in carer services of that local authority.

(2) Each health board must take such steps as it considers appropriate to involve the persons mentioned in subsection (3) in carer services of that health board.

(3) Those persons are—

(a) carers in the area of the local authority or, as the case may be, the health board, and

(b) such persons and bodies representative of carers as the local authority or, as the case may be, the health board considers appropriate.

(4) “Carer services” means services provided, or to be provided, by the local authority or, as the case may be, the health board to—

(a) carers in relation to the care they provide, or intend to provide, for cared-for persons,

(b) cared-for persons in relation to the care they receive.

(5) Subsection (4) does not apply to—

(a) services which are contained in a children’s services plan (within the meaning of section 8 of the 2014 Act) if the persons mentioned in subsection (3) have been consulted in relation to the preparation of that plan,

(b) services provided by virtue of functions which have been delegated under an integration scheme (within the meaning of section 1(3) of the Public Bodies (Joint Working) (Scotland) Act 2014) or which are to be carried out in conjunction with those functions.

(6) “Involvement”, in relation to carer services, includes involvement in considering—

(a) what needs might call for the provision of services,

(b) what services might be provided to meet those needs,

(c) how those services might be provided, and

(d) how the provision of those services might be evaluated.

### 25A Carer involvement in hospital discharge of cared-for persons

(1) Each health board must ensure that, before a cared-for person is discharged from hospital, it involves any carer of that person in the discharge.

(2) A health board fulfils the duty in subsection (1) by—

(a) taking such steps as it considers appropriate to—
(i) inform the carer, as soon as reasonably practicable, of the intention to discharge the cared-for person, and

(ii) invite the carer to give views about the discharge of the cared-for person, and

(b) taking account, so far as it is reasonable and practicable to do so, of any views given by the carer in making decisions relating to the discharge of the cared-for person.

(3) This section applies only—

(a) where the health board can identify without delay that a person is the carer of the cared-for person, and

(b) where it appears to the health board that the cared-for person is likely to require care following discharge.

(4) In this section “health board” means—

(a) in the case of the state hospital (within the meaning given by section 102 of the National Health Service (Scotland) Act 1978), the State Hospitals Board for Scotland constituted by order under section 2(1)(b) of that Act,

(b) in the case of a hospital mentioned in subsection (5), a health board constituted under section 2(1)(a) of that Act.

(5) The hospitals referred to in subsection (4)(b) are—

(a) a health service hospital (within the meaning given by section 108(1) of the National Health Service (Scotland) Act 1978), or

(b) where a person receives accommodation or services in a hospital other than a health service hospital under arrangements made by a health board, such a hospital.

26 Involvement of, assistance to and collaboration with carers

In section 1(1) of the Social Care (Self-directed Support) (Scotland) Act 2013 (general principles applicable in carrying out certain care functions), after paragraph (c) insert—

“(d) Part 2 or 3 of the Carers (Scotland) Act 2015.”.

27 Care assessments: duty to take account of care and views of carers

(1) Section 12A of the 1968 Act (duty of local authority to assess needs) is amended in accordance with subsections (2) to (4).

(2) In subsection (1)(b)—

(a) for sub-paragraph (i) substitute—

“(i) if an adult carer provides, or intends to provide, care for that person, of the care provided by that carer,

(ia) if a young carer provides, or intends to provide, care for that person, of the care provided by that carer,”;

(b) in sub-paragraph (ii)—

(i) “both” is repealed,

(ii) “and of the views of the carer” is repealed,
(iii) “, in either case,” is repealed.

(3) After subsection (1) insert—

“(1A) In subsection (1)(b)(i) and (ia), the reference to the care provided by a carer means—

(a) in the case of an adult carer who has an adult carer support plan, the information about that care set out in that plan,

(b) in the case of a young carer who has a young carer statement, the information about that care set out in that statement.

(1B) In—

(a) assessing the needs of a person for services under subsection (1)(a),

(b) deciding under subsection (1)(b) whether those needs call for the provision of any services, and

(c) deciding how any such services are to be provided,

a local authority must take account of the views of the carer, in so far as it is reasonable and practicable to do so.”.

(4) In subsection (8)—

(a) before the definition of “community care services” insert—

““adult carer” and “adult carer support plan” have the meanings given by the Carers (Scotland) Act 2015,”,

(b) after the definition of “person” insert—

““young carer” and “young carer statement” have the meanings given by the Carers (Scotland) Act 2015.”.

(5) Section 23 of the 1995 Act (children affected by disability) is amended in accordance with subsections (6) and (7).

(6) In subsection (4)—

(a) for paragraph (a) substitute—

“(a) if an adult carer provides, or intends to provide, care for the child, of the care provided by that carer,

(aa) if a young carer provides, or intends to provide, care for the child, of the care provided by that carer,”,

(b) in paragraph (b)—

(i) sub-paragraph (ii) is repealed (together with the “and” immediately before it),

(ii) for “child or carer” substitute “or child”.

(7) After subsection (4) insert—

“(5) In subsection (4)(a) and (aa), the reference to the care provided by a carer means—

(a) in the case of an adult carer who has an adult carer support plan, the information about that care set out in that plan,
(b) in the case of a young carer who has a young carer statement, the information about that care set out in that statement.

(6) In—

(a) determining the needs of a child under subsection (3),

(b) deciding whether to provide any services under section 22(1), and

(c) deciding how any such services are to be provided,

a local authority must take account of the views of the carer, in so far as it is reasonable and practicable to do so.

(7) In this section—

“adult carer” and “adult carer support plan” have the meanings given by the Carers (Scotland) Act 2015,

“young carer” and “young carer statement” have the meanings given by the Carers (Scotland) Act 2015.”.

PART 5

LOCAL CARER STRATEGIES

Duty to prepare local carer strategy

(1) Each local authority and relevant health board must jointly prepare a local carer strategy.

(2) A local carer strategy means a document setting out—

(a) plans for identifying relevant carers and obtaining information about the care they provide or intend to provide to cared-for persons in the local authority’s area,

(b) an assessment of the demand for support to relevant carers,

(c) the support available to relevant carers in the authority’s area from—

(i) the authority,

(ii) the relevant health board,

(iii) such other persons and bodies as the authority and relevant health board consider appropriate,

(d) an assessment of the extent to which demand for support to relevant carers is currently not being met,

(e) plans for supporting relevant carers,

(ea) plans for helping relevant carers put arrangements in place for the provision of care to cared-for persons in emergencies,

(eb) an assessment of the extent to which plans for supporting relevant carers may reduce any impact of caring on relevant carers’ health and wellbeing,

(f) the intended timescales for preparing adult carer support plans and young carer statements,

(g) such other information as the authority and relevant health board consider appropriate.
(3) A local carer strategy must contain information relating to the particular needs and circumstances of young carers.

(4) Before preparing a local carer strategy, the local authority and the relevant health board must jointly—

(a) consult such persons and bodies representative of carers as they consider appropriate, and

(b) take such steps as they consider appropriate to involve relevant carers.

(4A) In this section “relevant carers” means—

(a) carers who reside in the area of a local authority (whether or not they provide or intend to provide care for cared-for persons in that area), and

(b) carers who do not reside in the authority’s area but who provide or intend to provide care to cared-for persons in that area.

(5) In this Part “relevant health board”, in relation to a local authority, means—

(a) if the area of the local authority is the same as that of a health board, that health board,

(b) if the area of the local authority is not the same as that of a health board, the health board within whose area the area of the local authority falls.

29 Preparation of local carer strategy

In preparing a local carer strategy, the local authority and the relevant health board must have regard among other things to—

(a) any plans for the provision of services relevant to young carers which are set out in the children’s services plan prepared for the area of the local authority under section 8 of the 2014 Act,

(b) the aims set out in section 9(2) of the 2014 Act,

(c) the criteria for assessing the wellbeing of children and young people set out in section 96 of the 2014 Act,

(d) any national health and wellbeing outcomes prescribed under section 5 of the Public Bodies (Joint Working) (Scotland) Act 2014,

(e) any arrangements for the carrying out of integration functions relevant to carers which are set out in the strategic plan prepared for the area of the local authority under section 29 of the Public Bodies (Joint Working) (Scotland) Act 2014,

(f) any other local or national plans relating to the provision of social work services and health services as the authority and relevant health board consider appropriate.

30 Publication and review of local carer strategy

(1) Each local authority and relevant health board must jointly publish their local carer strategy.

(2) The first local carer strategy is to be published before the end of the relevant period (within the meaning of section 37(10) of the Public Bodies (Joint Working) (Scotland) Act 2014) during which section 28 comes into force.
(3) Each local authority and relevant health board—
   (a) must jointly review their strategy before the end of the period mentioned in subsection (4),
   (b) may from time to time carry out such a review.

(4) That period is the period of 3 years beginning with whichever is the later of the day on which the local authority and relevant health board last published—
   (a) their local carer strategy, or
   (b) a statement under subsection (6)(b).

(5) In reviewing their local carer strategy, section 28(4) applies.

(6) Following a review under subsection (3), the local authority and relevant health board—
   (a) may prepare a revised local carer strategy,
   (b) must, where they do not prepare a revised strategy, publish a statement to that effect.

(7) Subsection (1) and section 29 apply to a revised local carer strategy prepared under this section as they apply to a local carer strategy prepared under section 28.

PART 6
INFORMATION AND ADVICE FOR CARERS

Information and advice service

31 Information and advice service for carers

(1) Each local authority must establish and maintain, or ensure the establishment and maintenance of, an information and advice service for relevant carers.

(2) The service must provide information and advice in particular about—
   (a) carers’ rights, including those set out in the carers’ charter,
   (b) income maximisation for carers,
   (c) education and training for carers,
   (d) advocacy for carers,
   (e) health and wellbeing (including counselling) for carers,
   (ea) bereavement support services for carers following the death of a cared-for person,
   (f) emergency care planning and future care planning for carers.

(3) The information and advice must be accessible to, and proportionate to the needs of, the persons to whom it is provided.

(3A) In providing information and advice about the matters mentioned in subsection (2), the service must, in particular, identify information and advice likely to be of particular relevance to persons who have one or more protected characteristics (within the meaning of section 149(7) of the Equality Act 2010).

(4) In this section “relevant carers” has the meaning given by section 28(4A).
Short breaks services statements

32 Short breaks services statements

(1) Each local authority must prepare and publish a short breaks services statement.

(2) A short breaks services statement means a statement of information about the short breaks services available in Scotland for carers and cared-for persons.

(3) The information must be accessible to, and proportionate to the needs of, the persons to whom it is provided.

(4) The Scottish Ministers may by regulations make further provision about the preparation, publication and review of short breaks services statements.

Carers’ charter

32A Carers’ charter

(1) The Scottish Ministers must prepare a carers’ charter.

(2) A carers’ charter is a document setting out the rights of carers as provided for in or under this Act.

(2A) Nothing in the charter is to—

(a) give rise to any new rights, or

(b) alter any existing rights.

(2B) The charter may also contain such other information as the Scottish Ministers consider appropriate.

(3) The Scottish Ministers may from time to time revise the charter prepared under subsection (1).

(4) The Scottish Ministers must—

(a) before preparing the charter under subsection (1) or revising it under subsection (3)—

(i) consult such persons and bodies representative of carers as the Scottish Ministers consider appropriate,

(ii) consult such other persons as the Scottish Ministers consider appropriate,

(ii) take such steps as they consider appropriate to involve carers,

(b) lay the charter or revised charter before the Scottish Parliament, and

(c) publish the charter or revised charter in such manner as they consider appropriate.

PART 7

GENERAL PROVISION

Guidance and directions

33 Guidance and directions to local authorities

(1) Section 5 of the 1968 Act (powers of the Scottish Ministers) is amended as follows.

(2) In subsection (1), after “Children’s Hearings (Scotland) Act 2011 (asp 1)” insert “and the Carers (Scotland) Act 2015”.

Part 7—General provision
(3) In subsection (1B), after paragraph (t) insert—

“(u) the Carers (Scotland) Act 2015.”.

### 33A Guidance and directions to health boards and directing authorities

(1) Each health board and each directing authority must have regard to any guidance issued by the Scottish Ministers about the exercise of functions conferred by this Act.

(2) The Scottish Ministers may issue directions to health boards and directing authorities, either individually or collectively, about the exercise of functions conferred by this Act.

(3) Each health board must comply with any direction issued to it under this section.

(4) Each directing authority must comply with any direction issued to it under this section.

### Assistance to and by voluntary organisations etc.

### 34 Financial and other assistance to voluntary organisations etc.

In section 10(1) of the 1968 Act (financial and other assistance to voluntary organisations etc.), for “and (p)” substitute “, (p) and (u)”.

### 35 Assistance by voluntary organisations etc.

In section 4 of the 1968 Act (provisions relating to performance of functions by local authorities), after “Children’s Hearings (Scotland) Act 2011 (asp 1)” insert “or Part 2, 3, 4, 5 or 6 of the Carers (Scotland) Act 2015”.

### PART 8

#### Interpretation

(1) In this Act—

“1968 Act” means the Social Work (Scotland) Act 1968,

“1995 Act” means the Children (Scotland) Act 1995,

“2014 Act” means the Children and Young People (Scotland) Act 2014,

“adult carer” has the meaning given by section 3,

“adult carer support plan” has the meaning given by section 6,

“carer” has the meaning given by section 1,

“directing authority” has the meaning given by section 45 of the 2014 Act,

“grant-aided school” has the meaning given by section 18(5),

“health board” (except in section 25A) means a health board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978,

“identified needs”, in relation to a carer, has the meaning given by section 5(2),

“identified personal outcomes”, in relation to a carer, has the meaning given by section 5(1),

“independent school” has the meaning given by section 18(5),

“part-time carer” has the meaning given by section 19(3),

“school” has the meaning given by section 18(5),
“local eligibility criteria” has the meaning given by section 19(2),
“named person”, in relation to a young carer, has the meaning given by section 32 of the 2014 Act,
“national eligibility criteria” has the meaning given by section 21(2),
“personal outcomes” has the meaning given by section 4,
“public school” has the meaning given by section 18(5),
“relevant authority” has the meaning given by section 1(4),
“relevant carers” has the meaning given by section 28(4A),
“responsible authority”, for the purposes of Chapter 2 of Part 2 (young carer statements), has the meaning given by sections 17 and 18,
“responsible local authority”, in relation to a carer, means the local authority for the area in which the cared-for person resides,
“terminally ill”, in relation to a cared-for person, has the meaning given by section 6A(2),
“young carer” has the meaning given by section 2,
“young carer statement” has the meaning given by section 11.

(2) In this Act references to the provision of support by a responsible local authority include references to support the provision of which is secured by the authority.

37 Regulations

(1) Any power of the Scottish Ministers to make regulations under this Act includes power to make—
(a) different provision for different purposes,
(b) incidental, supplementary, consequential, transitional, transitory or saving provision.

(2) Regulations under—
(za) section 1(3),
(zb) section 6A(1),
(a) section 7(1),
(aa) section 11A,
(b) section 12(1),
(c) section 19(4),
(d) section 21(1),
(da) section 23(2),
(e) section 38(1) which add to, replace or omit the text of an Act,
are subject to the affirmative procedure.

(3) All other regulations under this Act are subject to the negative procedure.

(4) This section does not apply to regulations under section 40.
38 Ancillary provision

(1) The Scottish Ministers may by regulations make such incidental, supplementary, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes of, or in connection with, any provision made by or under this Act.

(2) Regulations under subsection (1) may modify any enactment (including this Act).

39 Consequential modifications

The schedule contains modifications consequential on the provisions of this Act.

40 Commencement

(1) This section and sections 36 to 38 and 41 come into force on the day after Royal Assent.

(2) The remaining provisions of this Act come into force on such date as the Scottish Ministers may by regulations appoint.

(3) Different days may be appointed for different purposes.

(4) Regulations under subsection (2) may include transitional, transitory or saving provision.

41 Short title

The short title of this Act is the Carers (Scotland) Act 2015.
SCHEDULE
(introduced by section 39)

CONSEQUENTIAL MODIFICATIONS

Social Work (Scotland) Act 1968

5 1 (1) The Social Work (Scotland) Act 1968 is amended as follows.
    (2) Sections 12AA and 12AB are repealed.

Children (Scotland) Act 1995

2 (1) The Children (Scotland) Act 1995 is amended as follows.
    (2) Sections 24 and 24A are repealed.

Community Care and Health (Scotland) Act 2002

10 3 (1) The Community Care and Health (Scotland) Act 2002 is amended as follows.
    (2) Section 9(2) is repealed.
    (3) Sections 11 and 12 are repealed.

Public Services Reform (Scotland) Act 2010

15 3A In schedule 13 of the Public Services Reform (Scotland) Act 2010, after the entry relating to the Adoption and Children (Scotland) Act 2007, insert—

“Carers (Scotland) Act 2015”.

Social Care (Self-directed Support) (Scotland) Act 2013

20 4 (1) The Social Care (Self-directed Support) (Scotland) Act 2013 is amended as follows.
    (2) In section 1 (general principles)—
        (a) in subsection (1)(b), for “to 24” substitute “and 23”,
        (b) in subsection (6)(a)—
            (i) for “or, as the case may be, section 12AA of that Act or section 23(3) or 24” substitute “, section 23(3)”,
            (ii) after “1995 Act” insert “or by virtue of section 7 or 12 of the Carers (Scotland) Act 2015,”,
        (c) in subsection (6)(b), for “section 3(4)” substitute “section 22 of the Carers (Scotland) Act 2015”.
    (3) Section 3 (support for adult carers) is repealed.
    (4) In section 7 (choice of options: adult carers)—
        (a) in subsection (1), for “(the “supported person”) under section 3(4)” substitute “an adult carer or, as the case may be, a young carer under section 22(4) of the Carers (Scotland) Act 2015”,
        (b) after subsection (4) insert—
“(4A) Subsection (4B) applies where the supported person is an appropriate person in relation to the young carer.

(4B) Before making a choice in pursuance of subsection (2) or (3)(b), the supported person must, so far as practicable and taking account of the maturity of the young carer—

(a) give the young carer an opportunity to indicate whether the young carer wishes to express the young carer’s views,

(b) if the young carer wishes to do so, give the young carer an opportunity to express them, and

(c) have regard to any views expressed by the young carer.”,

(c) after subsection (6) insert—

“(7) In this section—

“the 1989 Act” means the Children Act 1989,


“adult carer” has the meaning given by section 3 of the Carers (Scotland) Act 2015,

“appropriate person”, in relation to a young carer, means—

(a) a parent or guardian having parental responsibilities or parental rights in relation to the young carer under Part 1 of the 1995 Act,

(b) a person in whom parental responsibilities or parental rights are vested by virtue of section 11(2)(b) of the 1995 Act,

(c) a person having parental responsibilities or parental rights by virtue of section 11(12) of the 1995 Act,

(d) a parent having parental responsibility for the young carer under Part 1 of the 1989 Act,

(e) a person having parental responsibility for the young carer by virtue of—

(i) section 12(2) of the 1989 Act,

(ii) section 14C of the 1989 Act, or

(iii) section 25(3) of the Adoption and Children Act 2002,

(f) a parent having parental responsibility for the young carer under Part 2 of the 1995 Order,

(g) a person having parental responsibility for the young carer under Article 12(2) of the 1995 Order,

(h) a person in whom parental responsibilities or parental rights are vested by virtue of a permanence order (as defined in section 80(2) of the Adoption and Children (Scotland) Act 2007),

“supported person” means—

(a) where the support is to be provided to an adult carer, the adult carer,
(b) where the support is to be provided to a young carer—

(i) if the young carer is under 16 years of age, an appropriate person,

(ii) if the young carer is 16 years of age or over, the young carer,

“young carer” has the meaning given in section 2 of the Carers (Scotland) Act 2015.”,

(d) the title to that section becomes “Choice of options: adult carers and young carers”.

(5) In section 10 (provision of information: children under 16)—

(a) in subsection (1), for “section 8” substitute “section 7 or 8”,

(b) in subsection (2)—

(i) before first “child” insert “young carer or, as the case may be,”,

(ii) before second “child” insert “young carer or”,

(c) in subsection (3), before “child” insert “young carer or”,

(d) in subsection (4), after “meaning” insert “—

(a) in relation to a young carer, as in section 7(7),

(b) in relation to a child,”.

(6) In section 11(3) (local authority functions), after “1968 Act” insert “, section 22 of the Carers (Scotland) Act 2015”.

Public Bodies (Joint Working) (Scotland) Act 2014

5 (1) The Public Bodies (Joint Working) (Scotland) Act 2014 is amended as follows.

(2) In Part 1 of the schedule—

(a) in the entry for the Social Work (Scotland) Act 1968, “12AA, 12AB,” is repealed,

(b) in the entry for the Children (Scotland) Act 1995, after “19” insert “to 23, 25”,

(c) after the entry relating to the Social Care (Self-directed Support) (Scotland) Act 2013, insert—

“Sections 6, 11, 19, 22, 23, 28, 31 and 32 of the Carers (Scotland) Act 2015.”.
Carers (Scotland) Bill

[AS PASSED]

An Act of the Scottish Parliament to make provision about carers, including the identification of carers’ needs for support through adult carer support plans and young carer statements; the provision of support to carers; the enabling of carer involvement in certain services; the preparation of local carer strategies; the establishment of information and advice services for carers; and for connected purposes.

Introduced by: Shona Robison
On: 9 March 2015
Bill type: Government Bill