

Carer's Allowance Supplement (Scotland) Bill

Policy Memorandum

Introduction

1. As required under Rule 9.3.3 of the Parliament's Standing Orders, this Policy Memorandum is published to accompany the Carer's Allowance Supplement (Scotland) Bill ("the Bill") introduced in the Scottish Parliament on 22 June 2021.
2. The following other accompanying documents are published separately:
 - Explanatory Notes (SP Bill 2–EN);
 - a Financial Memorandum (SP Bill 2–FM);
 - a Delegated Powers Memorandum (SP 2–DPM);
 - statements on legislative competence by the Presiding Officer and the Scottish Government (SP 2–LC).
3. This Policy Memorandum has been prepared by the Scottish Government to set out the Government's policy behind the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

Policy Objectives Of The Bill

4. The Bill aims to provide unpaid carers who receive Carer's Allowance with extra financial support in recognition of the extra burden the pandemic has placed on carers and due to the loss of income and increased costs many have faced as a result of the coronavirus outbreak. It is intended that this will help to mitigate negative financial impacts and help to relieve some of the stress associated with additional and different caring responsibilities. This is in line with the Scottish Government's broader policy objective to support carers to protect their health and wellbeing, so they can continue to care if they so wish, and have a life alongside caring.

This document relates to the Carer's Allowance Supplement (Scotland) Bill (SP Bill 2) as introduced in the Scottish Parliament on 22 June 2021

5. This extra support will be paid as an increased amount of Carer's Allowance Supplement for the period from 1 October 2021 to 31 March 2022. As the extra support for this period is intended to help address the effects of the coronavirus outbreak, the amount by which the Carer's Allowance Supplement is increased is referred to in this document as the 'Coronavirus Carer's Allowance Supplement'.

6. The Bill also proposes to confer a delegated power on the Scottish Ministers to enable the Scottish Ministers to introduce regulations to provide unpaid carers who receive Carer's Allowance with extra financial support if necessary.

7. The provision of Carer's Allowance Supplement under section 81 of the Social Security (Scotland) Act 2018 ("the 2018 Act") was intended as a short-term measure until Carer's Allowance for unpaid carers in Scotland was replaced by a new carer's assistance under the framework of the 2018 Act.

8. The delays to delivery of the programme for the devolution of social security resulting from the coronavirus pandemic mean that the provisions in section 81 of the 2018 Act will be in place for longer than previously anticipated. The Scottish Government considered limiting the use of the delegated power specifically to responding to the current coronavirus pandemic, but consider that recent experiences have highlighted the need for greater flexibility to respond to unforeseen future events and that a broader power would be more appropriate.

Background

9. Carer's Allowance Supplement (£231.40 in 2021-22) is a payment made twice annually to persons who, on the qualifying date for each supplement, were in receipt of Carer's Allowance and resident in Scotland (or otherwise met the eligibility conditions referred to in section 81(2A) of the 2018 Act).

10. Carer's Allowance Supplement payments are made in recognition of the vital role of carers and to address the fact that Carer's Allowance is otherwise the lowest of all working age benefits. It was initially set at a level which would raise Carer's Allowance to the equivalent of Jobseeker's Allowance but, following uprating of the supplement, the combined support was more than Jobseeker's Allowance in 2020-21.

11. The coronavirus outbreak has had an impact on many of Scotland's unpaid carers which is specifically connected to their caring role. While it is not possible to quantify this impact precisely, the Scottish Government considers that many unpaid carers will have experienced a loss of income and increased costs during the coronavirus outbreak.

12. In most cases, this is likely to be more severe for those unpaid carers with a more intensive caring role and lower financial resilience. The Scottish Government considers that the receipt of Carer's Allowance is a way of identifying these unpaid carers, because it requires 35 hours or more caring per week with a weekly income threshold of £128. Around 83,000 unpaid carers in Scotland receive Carer's Allowance, and they are more likely to be in the bottom half of income deciles and have poorer health and educational outcomes.

13. An increased amount of Carer's Allowance Supplement was also paid to carers in Scotland who qualified for Carer's Allowance on 13 April 2020 in recognition of the impact of coronavirus, through provisions made in the Coronavirus (Scotland) (No. 2) Act 2020 (paragraph 6 of schedule 1 of that Act temporarily modified the 2018 Act to insert a new section 81(4A)). The Scottish Government intend to provide for the expiry of this provision in September 2021 since this payment period has passed and it is no longer necessary.

Necessity And Urgency

14. In recognition of the extra burden the pandemic has placed on carers and the need for greater flexibility to respond to the changing needs of carers, the Bill provides for a delegated power to allow for future increased payments to be made via regulations.

15. In order to make a Coronavirus Carer's Allowance Supplement payment relating to the period of 1 October 2021 to 31 March 2022, the Bill's provisions are required to be in force ahead of the proposed December 2021 Carer's Allowance Supplement payment date. This will allow for an increased Carer's Allowance Supplement amount to be paid directly to carers.

Consultation

16. There has been no formal consultation on this proposal. However ongoing engagement with carer organisations in Scotland throughout the last year on the impact of the coronavirus outbreak on unpaid carers has been a key consideration in developing these provisions. These views have been sought through the Carer Benefits Advisory Group, which was set up in November 2015 to advise Scottish Ministers on developing policy for social security benefits for carers. Regular additional meetings were held in order to understand the impact of the coronavirus pandemic on carers. Carers organisations have noted the additional mental health and practical pressures experienced by carers across the country during the second lockdown. Members include Carers Scotland, the Carers Trust, Citizens Advice Scotland, and carer centres. In September 2020, Carers Scotland¹ carried out a survey of unpaid carers on their practical, emotional and financial experiences during the pandemic which highlighted that:

- 80% of carers in Scotland who responded to the survey reported that the needs of the person they care for have increased since the Covid-19 pandemic;
- 63% of carers have reported feeling more stressed;
- 55% of carers said it had an impact on their health and wellbeing;
- 29% of carers in Scotland who responded to the survey reported that they are struggling to make ends meet, with 10% revealing they were/had been in debt as a result of caring.

17. As a result of these concerns, carer organisations have highlighted that many carers require additional support in order for their caring role to remain sustainable in the long term.

Alternative Approaches And The Role Of Legislation

18. Outwith the social security system, a range of support is provided to carers including the right to an adult carer support plan or young carer statement, practical support, advice and information through Scotland's network of carers centres and information and extra support for young carers through Young Scot. Additional funding has also been made available to enable carer centres to provide support remotely during the pandemic and an extra £750,000 has been invested in the 'Time to Live'

¹ [Caring Behind Closed Doors: six months on - Carers UK](#)

scheme to allow for carers to take short breaks away from caring, usually virtually. Due to capacity of existing schemes the Scottish Government is unable to channel further support through these routes. Further, not all carers will benefit from the additional funding and a Coronavirus Carer's Allowance Supplement payment is the only way to get additional financial support to carers who typically will have the most intense caring roles and tend to be in the lower half of income deciles.

19. The Scottish Government has considered a range of options to increase payments to unpaid carers. Options other than a top up to Carer's Allowance Supplement would have dependencies on the UK Government, and/or would require the development of a new delivery mechanism which could put existing benefits, including the roll out of new benefits, at risk.

20. The Department for Work and Pensions deliver Carer's Allowance on the Scottish Government's behalf through an Agency Agreement. Under the terms of the Agreement, Carer's Allowance in Scotland must be delivered in the same way as it is south of the border. Scottish Ministers wrote to the Secretary of State for Work and Pensions on 25 March 2020 to express support for an increase to Carer's Allowance, should this be feasible to deliver. The UK Government has not increased Carer's Allowance in response to the coronavirus pandemic. The Scottish Government has powers to create new forms of carer's assistance under section 28 of the 2018 Act or short-term assistance under section 36 of the 2018 Act. Developing a completely new benefit in this way would require the UK Parliament to legislate to disregard the new payment from benefit payment calculations, and develop additional operational guidance. In contrast, in line with the Smith Commission agreement, Carer's Allowance Supplement payments are disregarded for the purposes of calculating other DWP income related benefits and Tax Credits. This would apply to the December 2021 Coronavirus Carer's Allowance Supplement, as it applied to the June 2020 extra payment. The legislation and agreements which apply to this relate to section 81 of the 2018 Act.

21. The Scottish Government has also considered different payment mechanisms. However, anything other than an automatic payment through Social Security Scotland in line with existing payment cycles would require firstly, the cooperation of the Department for Work and Pensions, for example to provide data on carers in receipt of Carer's Allowance. This in turn would require the development of new agreements over and above existing Agency and Service Level Agreements. Secondly, capacity within

the Social Security programme and Social Security Scotland to deliver and operate new systems would be needed for any new payment mechanism. Making a payment alongside the December 2021 Carer's Allowance Supplement payment would ensure that there is no risk to Social Security Scotland's capacity to deliver the nine existing benefits it already provides to people on low incomes. It would also have minimal impact on the Department for Work and Pensions.

22. New primary legislation is required to amend section 81 of the 2018 Act to provide for an increased payment of Carer's Allowance Supplement.

Effects On Equal Opportunities, Human Rights, Island Communities, Local Government, Sustainable Development Etc.

Equal opportunities

23. The Scottish Government has assessed the potential impact of the proposed measure on equal opportunities and no negative impacts have been identified in relation to any of the protected characteristics of age, disability, sex, pregnancy and maternity, gender reassignment, sexual orientation, race, religion or belief, marriage or civil partnership, either directly or indirectly. A full Equality Impact Assessment will be published on the Scottish Government website in due course.²

24. The Scottish Government anticipates that a Coronavirus Carer's Allowance Supplement payment in December 2021 will likely have a positive impact on women, as the majority of Carer's Allowance recipients (69%) are women.³ Evidence shows that women are more likely to rely on social security payments as part of their incomes than men, and there is some evidence that women typically act as 'poverty managers', going without food and other vital resources so that other family members do not.⁴ There is some initial evidence to show women may be

² This document has not yet been published.

³ Summary statistics for Carer's Allowance at May 2019, Social Security Scotland

⁴ Sources: Carer's Allowance Supplement Business Case 2018; Close the Gap (2020) Working Paper 21: Gender Pay Gap Statistics; and Engender (2016) Securing women's futures: using Scotland's social security powers to close the gender equality gap

disproportionately affected by the economic impact of the pandemic due to lower incomes and increased caring responsibilities.⁵

25. The Scottish Government also anticipates that it will have a positive impact on disabled people, as the person the carer looks after will be in receipt of disability benefits.⁶ The payment can help maintain the health and wellbeing of the carer, which has consequential positive impacts for the person who is cared for, and in cases where the carer lives with the cared for person, a potentially positive impact on overall household finances.

26. Carer's Allowance Supplement recipients tend to be in the bottom half of income deciles although the proportion of households experiencing poverty is similar to the rest of the population. There is an income threshold for Carer's Allowance which means that recipients cannot earn more than £128 per week (after deductions) through paid work (during 2020-21). While some recipients may have significant capital and non-earnings income, most are expected to have lower than average earnings. The New Policy Institute produced some research at UK level and reported that poverty levels among carers increases with the amount of care provided. More recent Family Resources Survey (FRS) information suggests that those caring for fewer hours are less likely to be in poverty and that this is the case up to around 20 hours after which it is not clear.⁷ Adults in the most deprived areas are more likely to provide regular unpaid care than those in the least deprived areas (18% versus 13% respectively).⁸ Coronavirus Carer's Allowance Supplement is expected to have a positive impact on the finances of carers on lower incomes which may reduce the economic inequality gap between carers.

⁵ Sources: <https://views-voices.oxfam.org.uk/2020/04/care-poverty-and-coronavirus-across-britain/> <https://www.carersuk.org/for-professionals/policy/policy-library/caring-behind-closed-doors-report>

⁶ Carer's Allowance eligibility is reliant on the cared for individual being in receipt of Personal Independence Payment - daily living component, Disability Living Allowance - the middle or highest care rate, Attendance Allowance, Constant Attendance Allowance at or above the normal maximum rate with an Industrial Injuries Disablement Benefit, Constant Attendance Allowance at the basic (full day) rate with a War Disablement Pension or Armed Forces Independence Payment

⁷ New Policy Institute (2016) [Informal Carers, Poverty and Work](#)

⁸ Scottish Government (2019) [Scottish Health Survey 2018 Volume 1 – Main Report](#)

Human rights

27. The Scottish Government has assessed the potential impact of the proposed measure on human and children's rights and has determined that no detrimental effects are anticipated.

28. The Scottish social security principles set out in section 1 of the 2018 Act recognise that social security is a human right. This is recognised in Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR):

“Article 9 : The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.”.

29. Bill makes amendments to the 2018 Act which is intended to have a positive impact on carer's access to support and ability to continue with their caring role if they wish. Section 1 is intended to make sure that carers have access to additional financial support. This improvement will promote the realisation of Article 8 of the Human Rights Act 1998:

“Article 8: Right to respect for private and family life, home and correspondence.”.

30. Young carers under 16 will not benefit directly from the further Coronavirus Carer's Allowance Supplement payment, as it is necessary to be 16 or over to apply for Carer's Allowance which is an income replacement benefit. However, the Scottish Government anticipates that the Bill will have indirect positive impacts on children and young people who are cared for by someone in receipt of Carer's Allowance and who receive extra financial support under the Bill through increased household income.

Island communities

31. The Scottish Government must consult island communities before making a material change to any policy, strategy or service which, in the Scottish Government's opinion, is likely to have an effect on an island community which is significantly different from its effect on other communities.

32. An Island Communities Impact Assessment (ICIA) has been conducted and will be published on the Scottish Government website in

due course.⁹ The Scottish Government does not consider that the provisions within the Bill will negatively impact upon, or directly or indirectly discriminate against those in island and rural communities.

33. It is considered that the provisions of the Bill related to an increased payment of Carer's Allowance Supplement will have a positive impact on the finances of carers in island and remote communities.

34. The Scottish Government has therefore concluded that no further changes to the Bill are necessary as a result of the ICIA.

Local government

35. The Scottish Government has assessed the potential impact of the proposed measure on local government and has determined that no adverse effect on local government is anticipated.

36. In relieving financial need amongst recipients of Carer's Allowance (who are typically in the lower half of income deciles), this may have a positive financial and operational impact on local government as it may help to reduce the number of carers who might otherwise have to apply to the Scottish Welfare Fund for occasional support in the form of Crisis or Community Care Grants.

Sustainable development

37. The Scottish Government undertook a Strategic Environment Assessment pre-screening report and this will be published on the Scottish Government website in due course.¹⁰ This identified that provisions in the Bill will have very limited environmental consequences based on the criteria set out in schedule 2 of the Environmental Assessment (Scotland) Act 2005.

38. There is no impact – positive or negative – on environmental protection as the Bill does not cover that type of area.

⁹ This document has not yet been published.

¹⁰ This document has not yet been published.

Fairer Scotland Duty Assessment

39. A Fairer Scotland Duty Assessment has been undertaken which notes that Coronavirus Carer's Allowance Supplement is expected to have a positive impact on the finances of carers on lower incomes which may reduce the economic inequality gap between carers. It also notes that as the majority of Carer's Allowance recipients (69%) are women, and women are therefore more likely to experience a positive impact on their finances as a result of the provisions in the Bill.

Children's Rights and Wellbeing

40. Coronavirus Carer's Allowance Supplement will mainly affect young people (16 and over) who are in receipt of Carer's Allowance and is expected to have positive impacts on those children and young people directly affected. As of August 2020, there are around 83,000 carers in receipt of Carer's Allowance in Scotland, of whom approximately a little over 1% are 16-18 years.¹¹ While some recipients may have significant capital and non-earnings income, most recipients are expected to have lower than average incomes.¹² Young carers may often not recognise themselves as carers, and as such may be less likely to receive support for their caring role. Studies have suggested that this is especially common among some minority cultural and ethnic communities.¹³ Publicity around Coronavirus Carer's Allowance Supplement may increase uptake of Carer's Allowance among eligible young carers including communication through carers organisations highlighting the availability of the support and the payment of Coronavirus Carer's Allowance Supplement in December 2021.

41. Coronavirus Carer's Allowance Supplement is expected to have an indirect impact on disabled children and young people who are cared for by someone in receipt of Carer's Allowance, such as increased household income.

¹¹ DWP Stat-Xplore: <https://stat-xplore.dwp.gov.uk/webapi/jsf/login.xhtml>

¹² Carers UK (2017) [State of Caring 2017](#), Carers Scotland (2017) [State of Caring in Scotland 2017](#)

¹³ Children and Young People's Commissioner Scotland (February 2017) "[Coping is difficult, but I feel proud](#)" - [Perspectives on mental health and wellbeing of young carers](#)

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Data Protection

42. A live data protection impact assessment (DPIA) has been produced for ongoing Carer's Allowance Supplement payments. The DPIA has been updated to reflect the increased payment amount. None of the provisions in the Bill are likely to have further data protection consequences.

Environment

43. None of the provisions in the Bill are likely to have environmental consequences.

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