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The Information Centre
An t-Ionad Fiosrachaidh

Social Justice and Social Security Committee

21st Meeting, 2023 (Session 6), Thursday,
21 September

Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023

Introduction

The [draft Carer's Assistance \(Carer Support Payment\) \(Scotland\) Regulations 2023](#) will create the 'Scottish version' of [Carer's Allowance](#). They were laid on 4 September alongside:

- [A draft policy note](#)
- Six impact assessments ([child rights](#), [data protection](#), [fairer Scotland](#) and [Island Communities](#), [equalities](#), [business and regulatory](#) impact assessments)
- [A response to the Scottish Commission on Social Security's scrutiny report](#)

The Scottish Fiscal Commission have published an updated [policy costing](#).

Before hearing from the Cabinet Secretary next week, the Committee will today hear from:

- Maggie Chiwanza, CEO, MECOPP
- Fiona Collie Head of Policy and Public Affairs, Scotland & Northern Ireland, Carers Scotland
- Judith Paterson, Interim Co-Chair, Scottish Commission on Social Security
- Paul Traynor, Head of External Affairs (Scotland), Carers Trust Scotland.

This paper provides background on the regulations before suggesting **five themes for discussion from page13 onwards**.

Background: carer benefits

There are currently three devolved social security benefits specifically for unpaid carers. These are:

- Carer's Allowance – administered by the Department for Work and Pensions (DWP)
- Carer's Allowance Supplement – administered by Social Security Scotland
- Young Carer Grant – administered by Social Security Scotland.

Carer's Allowance

[Carer's Allowance](#) pays £76.75 per week. It is a complex benefit with complex links to other benefits. In outline, the basic rules are that you can get Carer's Allowance if you:

- are an unpaid carer **over 16** who,
- provides **35 hours** a week of care to
- someone who gets certain **disability benefits**, such as the daily living component of Personal Independence Payment (PIP)

Some important exclusions include that you cannot get Carer's Allowance if you:

- earn more than **£139 per week** net (after deducting certain expenses)
- are in **full time education**.

Some important links to other benefits include:

- **'Overlapping benefits'**. Some benefits, e.g. the State Pension, 'overlap' with Carer's Allowance, so someone who gets the full State Pension will not get paid Carer's Allowance. They will have 'underlying entitlement' which can be important for National Insurance Contributions and eligibility for additional amounts in other benefits.
- **Premiums**. If you are entitled to Carer's Allowance (even if you don't receive it due to the 'overlapping benefit' rule) then you get additional amounts or 'premiums' added to other benefits.
- **It counts as income**. Carer's Allowance counts as income for means tested benefits, so an increase in Carer's Allowance can lead to a decrease in other benefits.
- **Carer's Allowance Supplement**. People who get Carer's Allowance from DWP also get Carer's Allowance Supplement (CAS) from Social Security Scotland.

This year, around 94,000 people in Scotland are expected to get Carer's Allowance, at a cost of around £373m. (Scottish Fiscal Commission forecast May 2023)

Carer's Allowance Supplement (CAS)

[CAS](#) is an automatic payment to people in Scotland who get paid Carer's Allowance on the qualifying dates. It is paid twice a year. This year each payment is £270.50.

It was introduced in 2018 as a temporary measure in order to increase the amount paid to carers, pending the introduction of Carer Support Payment (CSP). Although CSP is now being introduced, CAS will remain a separate payment.

This year, around 91,000 people are expected to get CAS, at a cost of around £49m.

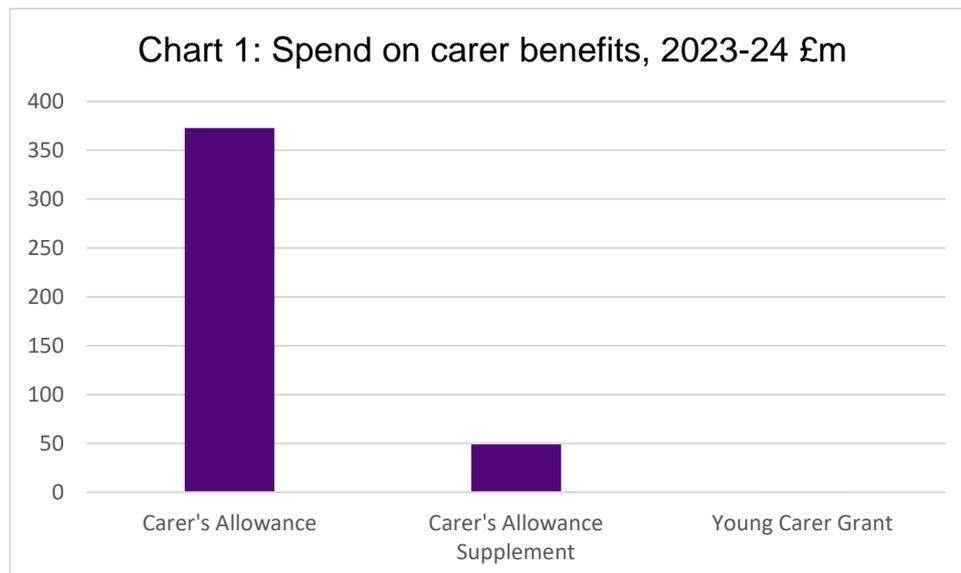
Young Carer Grant

[Young Carer Grant](#) is an annual payment of £359.65 to young carers aged 16, 17 and 18 who:

- don't get Carer's Allowance,
- care for up to three people who get certain disability benefits,
- do so for a combined total of 16 hours week.

In [2022-23, Social Security Scotland paid out 2,645 grants](#), totalling £0.8m.

Chart 1 below illustrates the different scale of these three benefits.



Sources: SFC May forecast, Young Carer Grant statistics

Carer Support Payment

Timetable for introduction

Carer Support Payment (CSP) will start as a pilot on 19 November 2023 in Dundee, the Western Isles and Perth. From spring 2024 more areas will be added until, on 1 October, it will be available across Scotland. It was previously expected that CSP would be available across Scotland from spring 2024. This delay saves £9m in 2024-25 and £10m in 2025-26 ([Scottish Fiscal Commission supplementary costing, September 2023](#)).

From February 2024, around 90,000 people currently getting Carer's Allowance from the DWP will start to be transferred across to Social Security Scotland. There isn't a specific date for the completion of case transfer, but [the Business and Regulatory Impact Assessment](#) (BRIA) re-iterates the commitment that "We remain on track to complete case transfer for all disability and carer benefits by the end of 2025." The Scottish Fiscal Commission's policy costing in May 2023 referred to the intention to complete case transfer by the end of 2024, but it is unclear whether this is still the case. The May 2023 policy costing had stated that:

"Timings for the completion of case transfer are still being finalised, but from discussions between the Scottish Government and the DWP, the current intention is that case transfer will begin at national launch and be completed by the end of 2024." ([Scottish Fiscal Commission, Economic and Fiscal Forecasts, May 2023 para A14](#)).

Once case transfer is complete, further changes to CSP will start to be made (see section below on future changes).

Policy Development

Carer benefits were a focus from the start of the devolution of social security. There has been extensive consultation and discussion on proposed policy changes.

2015

- agreement reached to devolve carer benefits
- [Carer Benefits Advisory Group](#) set up (membership includes today's witnesses.)

2016

- Scotland Act passed
- [Consultation on Social Security in Scotland](#). Increasing Carer's Allowance is a priority.
- Fairer Scotland report refers to existing commitment to extra support for carers of more than one disabled child.
- [Disability and Carer Benefits Expert Advisory Group](#) set up

2017

- Experience panels launched

2018

- Social Security (Scotland) Act passed and Social Security Scotland set up
- Carer's Allowance Supplement starts.

2019

- [Carer's Assistance policy position paper](#) (At that point Carer's Assistance was expected to start in 2021, on broadly the same terms as Carer's Allowance with case transfer by 2024).
- Young Carer Grant starts

2020

- Double payment of Carer’s Allowance Supplement, June 2020, under COVID legislation

2021

- [Scottish Carer’s Assistance discussion paper](#), leading to assessment of policy options
- Double payment of Carer’s Allowance Supplement December 2021, under the [Carer’s Allowance Supplement \(Scotland\) Act 2021](#)

2022

- [Scottish Carer’s Assistance consultation](#)

2023

- March: [Scottish Government responds to consultation](#)
- June: [Scottish Commission on Social Security \(SCOSS\) scrutiny report on draft regulations](#)
- 14 September: regulations laid, Scottish Government responds to SCOSS
- 19 November CSP starts in 3 pilot areas

2024

- February: case transfer starts
- Spring: further areas added
- 1 October: CSP available nationally

2025

- “We remain on track to complete case transfer for all disability and carer benefits by the end of 2025” (BRIA).

The various policies for implementation after case transfer do not yet have specific implementation dates. (See below on ‘future changes’).

SCOSS report and Scottish Government response

The Scottish Commission on Social Security is required to report on most devolved social security regulations. They reported on the CSP regulations in June, making 31 recommendations and three observations. The Scottish Government responded on 4 September accepting 26 in full and five in part (recommendations 13, 14, 16, 17, 23 were ‘partially accepted’). The following gives a very brief overview of the recommendations and the Scottish Government’s response as a guide to the type of issues raised. [For the detail, see the full response.](#)

Table 1: SCOSS report and Scottish Government response

| SCOSS report | Scottish Government response |
|--|--|
| Wider support and communications | |
| Work with carers on what changes would meet the aim to “recognise the vital caring role” and how wider carer support services could be better joined | Recognise that not all aims will be achieved at launch. Will build this and ‘wider support’ over time. At launch ‘wider support’ includes signposting. A |

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| up with social security (recommendation 1). Aims should be reinforced in communications with carers (recommendation 2). | communications and engagement strategy has been developed. |
| Young Carers in Education | |
| Consider widening access if research shows it wouldn't be detrimental (recommendations 3 and 4) | Will consider. |
| Extend Young Carer Grant to 19 yr olds (recommendation 5) | Will consider. |
| Setting payments at £0 | |
| Clarify provisions for setting CSP at £0 (recommendations 6, 7, 8) | Redrafted so that in some situations payments are temporarily stopped and in others set at £0. |
| Earnings – assessing, reporting changes, overpayments | |
| Detail processes for assessing earnings and learning from experience (recommendation 9) | Data agreements in place with HMRC and DWP. Mix of automated and manual processes. Only a small number of CSP clients expected to have complex earnings. Dedicated 'lessons learned' team in place. |
| Respond quickly to changes in circumstances to avoid overpayments arising (recommendation 10) | Access to HMRC employee earnings data, updated monthly. Annual review of self-employed carers (who aren't on PAYE systems). Payment 4 weekly in arrears as standard. |
| Clear information to carers on earnings rules (recommendation 11) | Developing a communications and engagement strategy |
| Data sharing with DWP important to ensure reserved benefits reflect CSP, and respond to changes (recommendation 12). | Data sharing agreements and processes are in place. |
| Appeal rights should be introduced against recovery of overpayments (recommendation 13). | Considering options for a formal right to review a decision that carer is liable for an overpayment |
| Consider writing off small overpayments (recommendation 14). | Will not recover overpayments that total less than £65. |
| Redesigning earnings rules should be a priority for future changes (recommendation 17) | "We are continuing to consider the responses to the consultation to inform our future approach". |
| Older carers | |
| Recommendations for information and communications for older carers (recommendation 15). It's confusing to require applications from individuals who have 'underlying entitlement' and | Letters will be clear that carers with underlying entitlement will not be paid, but can impact on other benefits. Plans for research on further action. |

| | |
|--|--|
| cannot be paid. Work towards a better solution (observation 2). | |
| Case transfer letters should link older carers to the Local Delivery Service and other face to face services (recommendation 16) | Local Delivery is only for Social Security Scotland benefits, but letters will signpost to other support. |
| Technical recommendations | |
| Recommendations to clarify definitions, drafting and references to other legislation (recommendations 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28,) | Accepted. (recommendation 23 on reference to school leaving age partially accepted) |
| 'Rival Carers' | |
| Clarify the scope of 'multiple applications rule' where there is more than one carer eligible for CSP for the same cared for person (recommendation 31). Consider the views of the disabled person when deciding which of two eligible carers are awarded CSP (recommendation 29). | Where two people are eligible, they will be encouraged to come to an agreement about which of them receives CSP. If they cannot, then Ministers will decide, based on factors including the 'best interests' of the cared for person. It is not our intention to involve the cared for person in all such decisions. |
| Work with DWP to adjudicate fairly where one carer applies for CSP and another for CA or UC carer element for the same cared for person (recommendation 30). | Legislation provides for SG and DWP to consult each other in such situations. Administrative processes are being finalised. |

Other written submissions

The Committee has received submissions from MEECOP, Scottish Carers Trust and Carers Scotland. Key themes from Scottish Carers Trust and Carers Scotland were:

- Concern that not all 16-19 year olds young carers will be entitled to CSP
- CSP at launch will not address issues around earnings thresholds
- Carers should have a choice of payment frequency
- Further changes are welcome, but there needs to be greater clarity on when case transfer will be completed and when further changes will be introduced, in particular:
 - Changing the earnings threshold
 - Carers Additional Person Payment
 - Extension of run on when cared for person dies
- Prompt development of plans for a payment to those with 'underlying entitlement' (Carers Scotland).

Carers Trust Scotland made similar points and also emphasised the importance of a take-up campaign.

MEECOP's submission focused on the additional barriers created for those whose first language is not English, particularly for a benefit which is very complex, like CSP.

What the regulations do

The following gives a very brief outline of the regulations. A summary is also available in the [Policy Note](#).

Basic entitlement

A person is entitled to CSP if they:

- are aged 16 or over (regulation 4)
- provide 'regular and substantial, unpaid care' to a 'cared for person' in receipt of a qualifying benefit (regulation 5).

Residence and Presence (regulation 6 to 11)

The general rule is ordinary residence in Scotland, habitual residence in the common travel area and having been 'present' in the common travel area for 26 out of the previous 52 weeks. Temporary absence is allowed of, normally, four weeks, but in some cases up to 26 weeks (regulation 7).

Exceptions to residence and presence rules are complex. Examples include people covered by certain agreements with other countries and people working abroad in the UK armed forces.

Entitlement to other benefits

Someone getting CSP cannot also, at the same time, get:

- Carer's Allowance
- Universal Credit's carer element or Young Carer Grant for a different cared for person (regulation 12).

Education (regulation 13)

A person under the age of 20 cannot get CSP if they are in full-time non-advanced education (e.g. school) except in exceptional circumstances, such as having no parental support.

Earnings (regulation 14 and Schedule 2)

A person cannot get CSP for any week where they earn £139 or more. Schedule 2 sets out how to calculate earnings. For example, deduction of tax and certain care charges, calculation of income from self-employment.

Making Payments

Payments can be made to appointees (i.e. someone appointed to receive benefit payments on behalf of the claimant) (regulation 15).

Carer Support Payment is £76.75 a week. Payment is set at £0 where an overlapping benefit results in no CSP being paid. Overlapping benefits are listed (regulation 16).

If the cared-for person dies, CSP continues for 8 weeks (regulation 16).

Getting CSP can mean that other benefits are reduced. This is because CSP counts as income for means-tested benefits. Therefore if a person gets a backdated award of CSP, this can mean that another benefit has been overpaid for that period. Regulation 17 allows for an offsetting process known as 'abatement' whereby the amount of backdated award that the carer receives can be reduced so that no 'overpayment' needs to be recovered.

Applications can be backdated by up to 13 weeks (regulation 18).

Carer Support Payment is paid either 4-weekly in arrears or weekly in advance (regulation 22).

Payments can be temporarily stopped if:

- Earnings go above the threshold
- The cared for person voluntarily relinquishes their qualifying benefit
- The individual isn't providing 35 hours a week of care.

CSP can be started again, without requiring a new application form, if any of these conditions change again within 26 weeks (regulation 23).

The regulations set out further situations where CSP payments will stop. These include where the cared for person's disability benefit is suspended, ended or reduced to £0 (regulation 23).

Only one person can be paid CSP in respect of a particular cared for person. If two people are eligible, then CSP will be awarded to whoever they agree between them or, failing that, as decided by Scottish Ministers taking into account various listed factors. Similarly, if one person gets CSP another person cannot get Carer's Allowance or Universal Credit's carer element for the same cared for person (regulation 24).

Continuing eligibility (regulation 25).

CSP is paid on the assumption that eligibility requirements continue to be met.

Deductions (regulation 26)

Deductions can be made from CSP 'at a reasonable level' and 'having regard to financial circumstances' in order to re-pay an overpayment of a Social Security Scotland benefit.

When changes take effect

Regulations 27 and 28 set out when increases and decreases to CSP take effect following, for example, changes in circumstances.

Suspensions

CSP can be suspended if required information is not provided, if there is an appointee and there is a risk of financial abuse or they are unable to continue to receive payments (regulation 29). Financial circumstances must be considered (regulation 30). Individuals must be given reasons and information about how to end the suspension and the right to review (regulation 31). Someone whose CSP has been suspended has a right to a review (regulation 32). Regulation 33 sets out when a suspension ends.

Determination without application

Part 6 of the regulations lists various circumstances in which CSP decisions are made without requiring an application from the client. Examples include:

- when Ministers become aware of a change in circumstances
- when there's been an underpayment or overpayment due to official error
- or to vary or stop a deduction from CSP that is in place to recover an overpayment of Scottish social security.

Temporary breaks from care (regulation 40)

CSP continues if either the carer or person cared is in hospital for up to four weeks.

Movement between Scotland and UK

Someone who gets Carer's Allowance in the rest of the UK who moves to Scotland will not need to make an application in order to change to CSP – Ministers can determine without application (regulation 41). Someone getting CSP moving to the rest of the UK will continue to get CSP for up to 13 weeks after the move (regulation 42) but it will stop if they awarded Carer's Allowance.

Redetermination (regulation 43)

If someone is unhappy with the decision on their CSP, they will have 42 days to request a redetermination and Scottish Ministers will have 56 days to make that redetermination.

Case Transfer (regulation 44, Part 2 of Schedule 1)

Individuals currently getting Carer's Allowance will be sent a notice of intention to transfer and a timescale. They do not need to make an application for CSP. Once Scottish Minister have made a determination of their entitlement, an award and decision letter will be sent. Transfer must be made within the period specified, unless there is good reason to extend it. Once CSP starts, Carer's Allowance stops. People who are appointees for Carer's Allowance will become appointees under CSP. However, Scottish Minister must review that appointment as soon as reasonably practicable.

Pilot (Regulations, 45, 46, 47 and Part 1 of Schedule 1)

The pilot will run from 19 November 2023 to 30 September 2024 in Perthshire and Kinross, City of Dundee, and the Western Isles.

How the rules differ from Carer's Allowance

The rules are largely the same as Carer's Allowance. The main differences are:

- **'Past presence'**. Before a carer can claim CSP, they need to have been 'present' in the common travel area (UK, Jersey, Guernsey, Isle of Man, Ireland) for 26 out of the previous 52 weeks. In Carer's Allowance the requirement is 56 out of the previous 104 weeks. (See regulation 6)
- **Education**. CSP is available to carers in full-time education who:
 - are aged over 20
 - are aged 16-19 and in advanced education (e.g. a degree)
 - in exceptional circumstances only (such as being without parental support or responsible for a child), those aged 16-19 in full-time non-advanced education, such as school education, are entitled to CSP.

In contrast, Carer's Allowance excludes anyone in full time education from claiming. People in part-time education are eligible under both benefits (see regulation 13).

- **No Advance Payment**. The regulations include provision for Carer Support Payment to be paid either weekly in advance or four-weekly in arrears – which mirrors Carer's Allowance (regulation 22). However the BRIA states that, in practice, it will be paid four-weekly in arrears, unless the individual was being paid weekly in advance before they transferred from Carer's Allowance or is caring for someone who is terminally ill. (BRIA para 8, fairer Scotland para 8)
- **Temporary stop**. CSP can be temporarily stopped if, for example, someone's earnings go over the threshold. It can then be re-started automatically if they come back into eligibility within the next 26 weeks (regulation 23). In Carer's Allowance a new application would be needed.
- **No Advance Applications**. Applications for CSP will not be accepted in advance. In contrast, Carer's Allowance applications can be accepted up to three months before a carer expects to become entitled. The BRIA states: "Our intention is the Carer Support Payment applications will be handled more quickly." The issue of advance applications will be kept under review (BRIA para 7). Awards can be backdated.

Future changes

Many of the changes that carer organisations have requested have been postponed until at least after case transfer is completed. The Scottish Government has four priorities for change.

Priorities for change

[The Business and Regulatory Impact Assessment](#) (BRIA) set out four policies for introduction "for as soon as practicable after case transfer completes":

- **Carer's Additional Person Payment** of £10 per week for carers getting CSP who care for more than one disabled person.
- **Increase from 8 to 12 weeks** of the period for which CSP is paid after the cared for person dies.
- Provision of **Short Term Assistance** "in some situations" where a carer is challenging the amount of CSP awarded. Provision of "support" where CSP stops because the person they are caring for is appealing their disability benefit award. This requires further work with DWP.
- Payment of **Carer's Allowance Supplement alongside CSP** rather than as a lump sum twice a year.

Potential changes

The BRIA also listed other "potential changes under consideration for the future". These are:

- Increase the amount of time that CSP is paid when the cared for person goes into hospital or a care home
- Allow people to add together hours of caring for more than one person in order to meet the 35 hours per week caring requirement
- Increasing the earnings threshold and allow CSP to continue for a period of time if that threshold is breached.

Last year's consultation had also asked for views on introducing a new payment for long term carers – in part to recognise that many older carers cannot be paid CSP/Carer's Allowance due to the overlapping benefits rule. 86% of respondents supported considering this further. The [Scottish Government's response to the consultation](#) stated that:

"This is a new policy idea and we consider this to be one of the longer-term Carer Support Payment options to be considered in the future. We would need to carry out further work, with carers, support organisations and others in government and public services to understand the impacts of this proposal. We therefore intend to explore this proposal further, as a longer-term change, in line with other ongoing work to support unpaid carers, and taking into consideration the consultation responses."

Policy Costing

The Scottish Fiscal Commission provides policy costings for new social security benefits. It has updated its previous CSP policy costing to account for the extension of the pilot period to October 2024. The delay to the start of national roll-out will save £9m in 2024-25 and £10 million in 2025-26.

The first full year of operation will now be 2025-26 rather than 2024-25 because CSP will be available in all areas of Scotland from October 2024 rather than spring 2024.

In 2025-26, CSP is forecast to cost £467m. This is £32m more than would have been spent on Carer's Allowance.

However, only **£7m is due to new rules introduced through these regulations** - specifically, the changes to rules on students, which is estimated to add around 1,500 people to the caseload.

The Scottish Fiscal Commission assumes that case transfer will be completed before 2025-26 and **have included the cost of future changes in their forecast costs**. However, it is important to note that the Scottish Government has not made firm commitments for a start date for these future changes. As noted the priorities are:

- Introducing the Carer's Additional Person Payment (CAPP) – forecast to cost £7m rising to £10m a year
- Extension of support following death of cared for person – included under 'other', implying minimal cost.

The most costly element is the expected increase in applications – which is a cumulative impact assuming all the changes are in place. This impact could be lower if not all the proposed changes are implemented.

The most costly 'rule change' would be changing the earnings limit, but this is, according to the Business Regulatory Impact Assessment "a potential change for the future" rather than a firm commitment.

The table below sets out the Scottish Fiscal Commission's costing.

Table 2: Policy Costing

| £ million | 2024-25 | 2025-26 | 2026-27 | 2027-28 | 2028-29 |
|---|----------|-----------|-----------|-----------|-----------|
| Total additional CSP: | 6 | 42 | 70 | 73 | 77 |
| <i>Of which:</i> | | | | | |
| Pilot | 0 | | | | |
| Reduction of restrictions for carers in full-time education | 4 | 7 | 7 | 7 | 7 |
| Higher earnings limit | | 5 | 21 | 22 | 23 |
| Other eligibility changes [1] | | 4 | 5 | 5 | 5 |
| Additional applications | 2 | 19 | 28 | 29 | 31 |
| Carer's Additional Person Payment (CAPP) | | 7 | 9 | 10 | 10 |

[1] Other eligibility changes include extension of period of support after the death of a cared for person or if the cared for person is admitted to a hospital or care home from 8 to 12 weeks; allowing carers to add together hours spent caring for more than one person; and adding Short-term Assistance (STA) to CSP qualifying payments.

Source: [SFC Supplementary Costing CSP, September 2023](#). NB of these STA and support after death of cared for person are policy priorities. Others are 'potential future changes' (p.7 BRIA).

Suggested themes

The following suggests five themes for discussion:

- Theme 1: carers in education
- Theme 2: overpayments
- Theme 3: future changes
- Theme 4: information, communications and wider support
- Theme 5: policy intention

Theme 1: Carers in education

The regulations extend eligibility to an estimated 1,500 students (Scottish Fiscal Commission forecast).

Both CSP and Carer's Allowance are available to:

- part-time students aged 16 or older

CSP extends entitlement to:

- all students aged 20 or older
- students aged 16 to 19, who are in full-time, advanced education.

Students aged 16-19 in full-time, non-advanced education (such as school) will only be eligible in exceptional circumstances, such as when they have no parental support.

The SCOSS report states compares Carer's Allowance with CSP noting that:

“Most young carers under 20 in full-time education will see no change.”

Carers Scotland and Carers Trust Scotland would like entitlement extended:

“We believe that the Scottish Government should extend entitlement to all unpaid carers over 16 years old in full-time advanced and non-advanced education to ensure equity, reduce unnecessary complexity and to ensure unpaid carers feel valued and get the financial support they need and deserve.”

Young Carer Grant

The [Young Carer Grant](#) is available to 16, 17 and 18 year old carers who are not getting Carer's Allowance or CSP. It pays £359 per year.

As SCOSS point out, this leaves 19 year old students in full-time, non-advanced education entitled to neither CSP nor the Young Carer Grant.

The submission from Carers Trust Scotland states that this is deeply unfair:

“meaning that they would be the only unpaid carer group over the age of 16 not entitled to any financial support.”

In response to SCOSS, the Scottish Government has said it would consider this issue further.

Making this change would require an amendment to [The Carer's Assistance \(Young Carer Grants\) \(Scotland\) Regulations 2019](#) rather than to the regulations before the Committee today. It is important to note that CSP pays nearly £4,000 over a full year compared to the £359 per year of Young Carer Grant.

Risk of incentivising carer role

The Scottish Government argue that they need to balance providing financial support to younger carers against incentivising them to take on a larger caring role. The Scottish Government state that the policy:

“reflects earlier stakeholder feedback on the importance of protecting young carers against inappropriate caring roles, and the need to avoid incentivising young carers to take on significant caring responsibilities.” (Scottish Government’s response to SCOSS report)

SCOSS points out that:

“This is a plausible risk to young carers’ right to education but not a view necessarily shared by carers and the organisations that support them.”

[They] “sought views from carers about the continued exclusion of young carers in full time non-advanced education. They told us that they were in favour of widening access to this group. They did not see caring as a choice and did not think that young carers would spend more time caring in order to get benefit. They thought it unfair that you people who were less academic would be excluded.”

Both Carers Trust Scotland and Carers Scotland state in their submissions:

“We do not share the Scottish Government’s concerns that extending eligibility to 16-19 year olds in full time non-advanced education would incentivise young people taking on significant caring rules. Instead, we believe this proposed rule adds unnecessary complexity, confusion and will further disadvantage many unpaid carers aged 16 to 19 years old.”

Members may wish to discuss:

- 1. Carers Trust Scotland and Carers Scotland do not accept the Scottish Government’s argument that extending payments might incentivise young carers to take on a larger caring role. Why not?**

2. **Witnesses argue that the proposed rules on education create unnecessary complexity. What might be the impact of that increased complexity?**
3. **The regulations as laid provide for full-time young carers in non-advanced education to access Carer Support Payment in exceptional circumstances, such as when they have no parental support. Is this sufficient or does eligibility need to be widened further?**
4. **Witnesses argue that the Young Carer Grant should be extended to 19 year olds. The Scottish Government is considering this further. Is this a change that needs to be prioritised? If so, why?**

Theme 2: Risk of Overpayments

Unintentional overpayments can easily occur in Carer's Allowance and SCOSS state that:

“there can be little doubt that confusion over earnings rules and overpayments will also be a feature of the system in Scotland.”

A National Audit Office's [investigation in 2019](#) highlighted £150 million in Carer's Allowance overpayments being recovered from 80,000 carers. Most of this was due to the earnings rules, and in some cases, overpayments had gone unrecognised for many years leading to large sums being recovered from carers. A subsequent [inquiry by Westminster's Work and Pensions Committee](#) highlighted the significant distress this caused and made recommendations to avoid re-occurrence. Their recommendations included:

- The design of Carer's Allowance, especially the 'cliff-edge', contributed to creating overpayments
- Case by case review on whether overpayments were worth pursuing.

The design that was highlighted as contributing to creating overpayments is copied over into CSP.

SCOSS recommended that Social Security Scotland must respond quickly to changes in earnings (recommendation 10), share data with DWP (to make sure changes are quickly and accurately taken into account in Universal Credit) (recommendation 12) and create clear information to help carers know when and how they need to report changes (recommendation 11).

Several measures intended to reduce the risk of overpayments have been introduced. These include:

- Not allowing advance applications
- Paying four-weekly in arrears as standard
- Monthly updates from HMRC's PAYE data on employee earnings
- Annual review with carers in paid work who aren't on PAYE such as self-employed carers
- Clear communications on when to report a change of circumstances

- Not recovering overpayments of under £65.

Advance applications and payments

In Carer's Allowance, applications can be made up to three months in advance of coming into eligibility. This allows for the time taken to get a decision on the cared for person's disability benefits. However, the Fairer Scotland Duty Impact Assessment states: "this provision is not currently well-used." It will not be available in CSP and "our intention is that Carer Support Payment applications will be handled more quickly." (Fairer Scotland Duty Impact Assessment p.6)

Carer's Allowance allows payments weekly in advance as well as in arrears. While both these options are included in the CSP regulations, [the Fairer Scotland Duty Impact Assessment](#) states (p.6) that practice will be to pay in arrears. However, if someone moving across from Carer's Allowance already has a 'weekly in advance' pattern, this will continue.

Challenging an overpayment liability

As part of its separate consultation on enhancing social security administration, the Scottish Government consulted on a proposal to introduce rights of challenge against Social Security Scotland's decision on overpayment liability. [All 25 consultation respondents who answered this question agreed with the proposal.](#)

In the Programme for Government, the Scottish Government said it will bring forward a social security bill this year. The detail has yet to be announced.

Simplifying earnings rules

The Scottish Government has also considered simplifying the earnings rules, but told SCOSS that:

"it was not possible to make significant changes while maintaining our commitment to mirror Carer's Allowance and protect safe and secure transfer."

Members may wish to discuss:

- 5. Is the Scottish Government is doing all it can to minimise the risk of overpayments?**
- 6. Does the risk of overpayment outweigh the benefit of allowing advance applications and advance payments?**

Theme 3: Future changes

The Scottish Government has been considering carer benefits since 2015, when it established the Carer Benefits Advisory Group. Two of today's witnesses are on that group.

Despite many years of policy consideration, ‘safe and secure transfer’ means that there is minimal change being made from launch. Further changes are expected once case transfer is complete, although there are no proposed start dates for them.

Priorities for change

As noted, the Business and Regulatory Impact Assessment sets out four policies for introduction “for as soon as practicable after case transfer completes”:

- **Carer’s Additional Person Payment**
- **Increase from 8 to 12 weeks** the period for which CSP is paid after the cared for person dies.
- Provision of **Short Term Assistance** “in some situations” where a carer is challenging the amount of CSP awarded.
- Payment of **Carer’s Allowance Supplement alongside CSP** rather than as a lump sum twice a year.

Potential changes

The BRIA also listed other “potential changes under consideration for the future”. These are:

- Increase the amount of time that CSP is paid when the cared for person goes into hospital or a care home
- Allow people to add together hours of caring for more than one person in order to meet the 35 hours per week caring requirement
- Increase the earnings threshold, and allow CSP to continue for a period of time if that threshold is breached.

Some of these future changes are very long-standing commitments. For example:

- The additional person payment was originally a commitment [made in 2016](#) to pay carers assistance to those caring for more than one disabled child.
- Carer’s Allowance Supplement was introduced in 2018 as a temporary measure to increase the level of carer’s assistance until increases could be provided through the replacement for Carer’s Allowance.
- The [2021 SNP manifesto](#) included a commitment to extend the length of time that payments continued following the death of a cared for person.

The Scottish Government consulted on CSP in 2022. The table below summarises the level of support for proposed future changes and the Scottish Government response in March 2023.

Table 3: Proposals for future changes in CSP consultation (2022)

| Scottish Government Proposal | Respondents | Scottish Government response (March 23) |
|---|--------------------|--|
| Extend eligibility for those in education | 97% agreed | From launch for some. Will continue to consider others. |
| 12 week run-on if cared for person dies | 89% agreed | First priority after case transfer |
| Carer's Additional Person Payment | 72% agreed | As soon as possible after care transfer |
| Pay Carer's Allowance Supplement at the same time as CSP | 62% | Will proceed, timing to be considered alongside other future changes |
| Add together hours caring for more than one person | 79% agreed | Will decide later how to take forward |
| 12 week run-on if enter hospital or care home | 87% agreed | Instead, set CSP at £0, so it will start again automatically on leaving. |
| Increase earnings threshold | 82% agreed | Will continue to consider. |
| Set at 16 hours @ real living wage | 67% agreed | |
| Earnings run-on | 77% agreed | |
| Payment for 'long term carer's – eg older carers with 'underlying entitlement' to CSP | 86% agreed | A new idea in 2022, so will continue to consider |

Broader policy aims of CSP

More broadly, SCOSS point out that the policy aims for CSP are different to the policy aims for Carer's Allowance. CSP:

“aims to recognised the vital caring role provided by unpaid carers which was not a stated aim of Carer's Allowance.”

This raises the issue of whether keeping broadly the same rules achieves these different policy aims. SCOSS state that:

“changes to the structure and eligibility rules, beyond those being introduced from the launch of Carer Support Payment, will be needed to achieve its aims.” (SCOSS report p.12)

In response, the Scottish Government stated:

“We recognise that Carer Support Payment from launch will not immediately fully achieve all of the aims we have for carers. These aims are intended to continue to guide the development o the benefit on an ongoing basis.”

Members may wish to discuss:

- 7. Which of the proposed future changes should be prioritised following case transfer and why? Are these different to the policies being prioritised by the Scottish Government?**
- 8. When would you expect all the proposed future changes to be in place?**

Theme 4: Information, communications and wider support

The Scottish Government intends to maximise take-up, link carers to wider support and improve delivery compared to Carer's Allowance.

All of today's witnesses emphasise the complexity of Carer's Allowance/Carer Support Payment – particularly the way it interacts with other benefits.

The submission from MEECOP emphasises the additional difficulties for those whose first language isn't English.

“Native English speakers can avail of specialist advisors through Citizens Advice for support and advocacy. However, for the communities we serve, they do not have access to the same level of resources outside of charities like us.”

The Fairer Scotland Duty Impact Assessment notes that Social Security Scotland's promotional materials are available in seven languages, and others can be provided on request. It also states that: “Carers from a range of ethnic backgrounds have been involved in user research” and that “we will run advertising campaigns to reach seldom heard groups.”

Carers Trust Scotland discusses benefit take-up saying:

“It is important that the transition to the Carer Support Payment is accompanied by a robust information campaign to avoid any potential confusion for those already in receipt of Carer's Allowance and to assist in the identification of new recipients.”

The Scottish Government's response to SCOSS discusses the Communications and Engagement Strategy:

“A key aim of the communications and engagement strategy for Carer Support Payment is to ensure that carers understand the benefit, and eligibility for this, and that all eligible carers are encouraged and supported to apply.”

“Improved delivery and join-up”

The Fairer Scotland impact assessment states that “we will deliver a service which has been informed by research and testing with the people who will use it, so that it work for them.” It highlights:

- Applications by phone, post or online, support from Local Delivery Teams
- Online forms can be saved and returned to
- As with Carer's Allowance, the number of hours spent caring for will be based on self-declaration
- Automated award decisions will lead to faster processing times. Manual intervention where necessary for more complex situations.
- Signposting of carers to wider support and services. "Our intention is to continue to strengthen how Carer Support Payment links carers to wider support beyond launch and alongside wider development of the benefit."

Members may wish to discuss:

- 9. Even though most of the rules are the same as Carer's Allowance, Carer Support Payment is intended to provide "an improved service from launch" (BRIA p.17). What do you expect from this "improved service"?**
- 10. At launch, carers will be signposted to other support, but provision of 'wider support' is intended to develop over time. What would be your priority for further development of 'wider support'?**

Theme 5: Policy intention

The SCOSS report states that: "Carer Support Payment is probably the most complex benefit to be devolved to Scotland with multiple interactions with reserved benefits. It is a challenge to develop regulations that completely and accurately cover all the eligibility and administrative rules required."

Throughout the process of SCOSS' scrutiny, there have been updates and re-drafting of the regulations. The SCOSS report set out various technical changes required to achieve the Scottish Government's policy. In their reply the Scottish Government fully accepted the majority of them and has made changes to the regulations to reflect this.

Members may wish to discuss:

- 11.(for SCOSS) Do the regulations as laid accurately reflect the Scottish Government's policy intentions?**
- 12. Are there any other issues on these regulations that witnesses wish to highlight for discussion with the Cabinet Secretary?**

Camilla Kidner
SPICe,
14 September 2023