

POLICY NOTE

THE CARERS (WAIVING OF CHARGES FOR SUPPORT) (SCOTLAND) REGULATIONS 2014

SSI 2014/65

1. The above instrument was made in exercise of the powers conferred by section 87(5) of the Social Work (Scotland) (Act) 1968 (“the 1968 Act”), sections 15(2)(c) and (d) and 22(1)(a) of the Social Care (Self-directed Support) (Scotland) Act 2013 (“the 2013 Act”) and all other powers enabling them to do so. The instrument is subject to negative procedure.

Policy Objectives

2. Section 3 of the 2013 Act introduces a power for local authorities to provide support to adult carers. In order for carers to receive support, a local authority must decide whether or not to provide the support after the carer has received a carer’s assessment. Where the local authority decides to provide the support, it must offer the carer the opportunity to choose one of the four options for self-directed support which are also available to social care users as set out in the 2013 Act.
3. Where a local authority provides services to children under section 22 of the Children (Scotland) Act 1995 (“the 1995 Act”), then under section 8 of the 2013 Act, the authority must provide the child (young carer) with the opportunity to choose one of the four options for self-directed support.
4. Section 87(1) of the 1968 Act allows a local authority to make charges in respect of services provided under section 3(4) of the 2013 Act and section 22 of the Children (Scotland) Act 1995. The services provided encompass support to carers and to young carers. The policy objective is that carers and young carers should not be charged for the support that they receive. This is because carers and young carers are providers of services to the people they care for, helping to maintain cared-for people in their own homes. Because carers and young carers are not to be charged, Regulations are required to set out the circumstances in which charges will be waived.
5. The policy objective is also to ensure that local authorities do not means test or require a contribution in relation to direct payments to carers and young carers.

Consultation

6. A public consultation on draft Regulations and accompanying draft Guidance took place from 17 April to 10 July 2013. A total of 39 responses were received from across the social care sector including COSLA, local authorities, Health Boards, the National Carers Organisations and other Third Sector organisations.
7. The consultation included questions on both of the draft Regulations and draft Guidance. Many of those responding to this consultation welcomed the opportunity to do so and noted their broad agreement with ensuring support to carers resulting in good outcomes.

8. Nonetheless, different views emerged amongst respondents on a number of key issues including:
 - whether local authorities should have discretion to waive charges according to local circumstances or whether this should be established by the Scottish Government;
 - whether charges should be waived for the total cost of short breaks or whether carers should make a contribution;
 - whether replacement care should be viewed as support for the carer or for the cared-for person or for both; and
 - whether there should be more of a focus on an outcomes-based approach rather than setting out a list of examples of support to carers where waiving of charges would apply.
9. There was some agreement that the draft Regulations were overly complicated and therefore unworkable. The final Regulations are more straightforward and workable.
10. A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website:

Impact Assessments

11. An equality impact assessment has been completed on The Carers (Waiving of Charges for Support) (Scotland) Regulations 2014 and is attached.

Financial Effects

12. Presently, most local authorities support carers as a consequence of services put in place for cared-for persons. For those that do support carers directly, information gathered indicates that some do not charge them at all and others seek a minimal contribution. The Scottish Government appreciates that waiving charges for support to carers could result in future income foregone. It will be important for local authorities with the Scottish Government to evaluate the impact of the Regulations.

Scottish Government
Directorate for Chief Nursing Officer, Patients, Public and Health Professions