

EQUALITY IMPACT ASSESSMENT RECORD

Title of policy/ practice/ strategy/ legislation etc.	Extension of Free Personal Care to Under 65s	
Minister	Cabinet Secretary for Health and Sport	
Lead official	Mike Liddle	
Officials involved in the EQIA	name	team
	David Fotheringham, Susan Brodie	Adult Social Care Policy
Directorate: Division: Team	DHSCI: Care, Support and Rights: Adult Social Care Policy	
Is this new policy or revision to an existing policy?	Revision to existing policy.	

Screening

Policy Aim

Free Personal Care to over 65s was introduced in 2002, following passage of the Community Care and Health (Scotland) Act 2002. The policy provided that local authorities should not charge for personal care, and that by regulations, Scottish Ministers would set out the amount payable to self-funding residential care home residents to contribute towards their personal care costs.

It was considered at the time of passage through the Scottish Parliament that as those of working age received different and more generous benefits than over 65s, there was sufficient reason to apply Free Personal Care to those over the age of 65, and not those below that age. The Parliament did, however, note that it would be a matter to review in time.

The extension of Free Personal Care to under 65s will ensure that under 65s are able to access personal care on the same financial basis as those over the age of 65. Local Authorities and Health and Social Care Partnerships will retain the responsibility to

assess an individual's care needs, and apply national eligibility criteria.

This policy contributes towards the following National Outcomes:

- We live longer, healthier lives.
- We have tackled the significant inequalities in Scottish society.
- Our people are able to maintain their independence as they get older and are able to access appropriate support when they need it.
- Our public services are high quality, continually improving, efficient and responsive to local people's needs.

Who will it affect?

It is estimated that up to 120 self-funding residents in care homes under the age of 65 will benefit from free personal and nursing care payments.

Around 9,000 adults between the age of 18 and 64 currently receive personal care services in their own homes, for which they may currently be charged. The extension of free personal care to those under the age of 65 would mean that subject to local authority assessment and eligibility criteria, these 9,000 adults would be able to apply for free personal care.

Following the extension of free personal care to under 65s, there would be a number of people who are not currently receiving personal care services (either through choice, including choice based on the cost of receiving the service, or potentially lack of awareness of the availability of services) or who are privately arranging personal care services, who would be eligible to apply to their local authority for free personal care services. Work is ongoing to identify the numbers of this group of people who might come forward.

Stage 1: Framing

Results of framing exercise

The Scottish Government considered the evidence from the introduction of Free Personal Care to over 65s in 2002, including the costs and take-up, as well as considering the way in which the application of eligibility criteria in 2010 affected the uptake of free personal care.

As part of the process of conducting the feasibility study, Scottish Government officials met with a number of representative organisations with an interest in social care and support, a number of campaign groups, and took part, together with COSLA, in a round table event with people who are in receipt of social care.

The Scottish Government received views from a number of stakeholders and members of the public to feed into this feasibility study. 96 responses were received, of which 83 were from individuals and 13 from organisations with an interest in social care.

Of the responses from members of the public, the vast majority were supportive of the extension of Free Personal Care to under 65s, and some noted that the policy was an important preventative measure, helping to delay or avoid the need for more costly residential or hospital-based care.

A virtual group comprising COSLA, Health and Social Care Partnership Chief Officer and Chief Finance Officer representatives informed the development of a survey of Local Authorities / Health and Social Care Partnerships in July 2017 on the likely costs of extension of free personal care to under 65s and sought respondents' views on the risks and opportunities of doing so which was analysed by Scottish Government.

Meetings were held by Scottish Government officials with Chief Finance Officers' and Chief Officers' networks; with stakeholder groups: Scotland Against the Care Tax, Alzheimer Scotland, Parkinson's UK, the Older People's Development Group, Scottish Care and Coalition of Care and Support Providers in Scotland (CCPS).

Written submissions were welcomed and received from the public and from organisations representing service users and/or providers of social care.

A round table meeting was held with Disabled People's Organisations on 10th August 2017, and a meeting with Mrs Amanda Kopel of the "Frank's Law" campaign on 11th August 2017.

Extent/Level of EQIA required

The EQIA has been informed by work undertaken during the Feasibility Study, by the work of the Implementation Advisory Group for the Extension of Free Personal Care, and by engagement with service users, providers, local authorities and Health and Social Care Partnerships, as well as other bodies involved in the delivery of social care.

The policy removes a distinction between over 65s and under 65s in the availability of free personal care, and it is considered that the EQIA as set out here gives due regard to the protected characteristics affected by the policy change.

Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic ¹	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
AGE	<p>The Feasibility Study was underpinned by National Statistics on age, free personal care, delivery of social care by local authorities and the Local Government Finance statistics (LFR3).</p> <p>As part of the Feasibility Study we solicited consultation responses from the public on the extension of free personal care to under 65s.</p> <p>We also met with</p>	<p>http://www.gov.scot/Topics/Statistics/Browse/Health/Data</p> <p>Social Care Survey Free Personal and Nursing Care (Scotland) statistics Scottish Care Homes Census Local financial return LFR3</p>	<p>During the work on the Feasibility Study, we surveyed local authorities on their charging policies, income from charging and administration costs for administering their charging policies.</p>

¹ Refer to Definitions of Protected Characteristics document for information on the characteristics

	<p>service users of all ages to discuss the impact of the extension of free personal care.</p>		
<p>DISABILITY</p>	<p>The Feasibility Study was underpinned by National Statistics on age, free personal care, delivery of social care by local authorities and the Local Government Finance statistics (LFR3).</p> <p>As part of the Feasibility Study we solicited consultation responses from the public on the extension of free personal care to under 65s.</p> <p>We also met with service users of all ages to discuss the impact of the extension of free personal care.</p> <p>A round table event</p>	<p>http://www.gov.scot/Topics/Statistics/Browse/Health/Data</p> <p>Social Care Survey Free Personal and Nursing Care (Scotland) statistics Scottish Care Homes Census Local financial return LFR3</p>	<p>During the work on the Feasibility Study, we surveyed local authorities on their charging policies, income from charging and administration costs for administering their charging policies.</p>

	was held with representatives from Disabled People's Organisations		
SEX	The policy is not expected to have any impact on equality in relation to this characteristic.	None noted	None noted
PREGNANCY AND MATERNITY	The policy is not expected to have any impact on equality in relation to this characteristic.	None noted	None noted
GENDER REASSIGNMENT	The policy is not expected to have any impact on equality in relation to this characteristic.	None noted	None noted
SEXUAL ORIENTATION	The policy is not expected to have any impact on equality in relation to this characteristic.	None noted	None noted

<p>RACE</p>	<p>The policy is not expected to have any impact on equality in relation to this characteristic.</p>	<p>None noted</p>	<p>None noted</p>
<p>RELIGION OR BELIEF</p>	<p>The policy is not expected to have any impact on equality in relation to this characteristic.</p>	<p>None noted</p>	<p>None noted</p>
<p>MARRIAGE AND CIVIL PARTNERSHIP (the Scottish Government does not require assessment against this protected characteristic unless the policy or practice relates to work, for example HR policies and practices - refer to</p>	<p>The policy is not expected to have any impact on equality in relation to this characteristic.</p>	<p>None noted</p>	<p>None noted</p>

Definitions of
Protected
Characteristics
document for
details)

Definitions of Protected Characteristics document for details)			
--	--	--	--

Stage 3: Assessing the impacts and identifying opportunities to promote equality

Having considered the data and evidence you have gathered, this section requires you to consider the potential impacts – negative and positive – that your policy might have on each of the protected characteristics. It is important to remember the duty is also a positive one – that we must explore whether the policy offers the opportunity to promote equality and/or foster good relations.

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	The policy does not impact on unlawful discrimination. It does act to ensure equality of treatment between all age groups.
Advancing equality of opportunity	X			People of all ages with an eligible care need will benefit from the extension of free personal care.
Promoting good relations among and between different age groups	X			By ensuring that people of all ages have access to personal care we are ensuring that all age groups are treated in the same way, fostering better relationships between age groups.

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	The policy does not impact on unlawful discrimination. It does act to ensure equality of treatment between all age groups and will enable disabled people who are assessed as requiring it to

					receive their personal care free of charge.
Advancing equality of opportunity	X				By extending free personal care to all under the age of 65, disabled people who are assessed as requiring it will receive their personal care free of charge.
Promoting good relations among and between disabled and non-disabled people	X				The changes will mean that both disabled and non-disabled people will be entitled to receive personal care free of charge should they require it, irrespective of their age.

Do you think that the policy impacts on men and women in different ways?

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The policy does not impact on men and women in different ways.
Advancing equality of opportunity			X	The policy does not impact on men and women in different ways.
Promoting good relations between men and women			X	The policy does not impact on men and women in different ways.

Do you think that the policy impacts on women because of pregnancy and maternity?

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision

Eliminating unlawful discrimination				X	The policy does not impact on women because of pregnancy and maternity.
Advancing equality of opportunity				X	The policy does not impact on women because of pregnancy and maternity.
Promoting good relations				X	The policy does not impact on women because of pregnancy and maternity.

Do you think your policy impacts on transsexual people?

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The policy does not impact differently transsexual people.
Advancing equality of opportunity			X	The policy does not impact differently transsexual people.
Promoting good relations			X	The policy does not impact differently transsexual people.

Do you think that the policy impacts on people because of their sexual orientation?

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The policy does not impact differently on people as a result of their sexual orientation.
Advancing equality of opportunity			X	The policy does not impact differently on people as a result of their sexual orientation.
Promoting good relations			X	The policy does not impact differently on people as a result of their sexual orientation.

relations				a result of their sexual orientation.
-----------	--	--	--	---------------------------------------

Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The policy does not impact differently on people as a result of their race.
Advancing equality of opportunity			X	The policy does not impact differently on people as a result of their race.
Promoting good race relations			X	The policy does not impact differently on people as a result of their race.

Do you think the policy impacts on people because of their religion or belief?

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The policy does not impact differently on people as a result of their religion or belief.
Advancing equality of opportunity			X	The policy does not impact differently on people as a result of their religion or belief.
Promoting good relations			X	The policy does not impact differently on people as a result of their religion or belief.

Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and Civil Partnership²	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The policy does not impact differently on people as a result of their marriage or civil partnership.

²

In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

Have positive or negative impacts been identified for any of the equality groups?	Yes – positive effects have been identified in relation to equality of treatment for those of all ages. It also provides positive effects for disabled people by enabling those who require it to receive personal care free of charge, meaning that overall social care charges will be lower for some service users.
Is the policy directly or indirectly discriminatory under the Equality Act 2010 ³ ?	No.
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	N/A
If not justified, what mitigating action will be undertaken?	N/A

Describing how Equality Impact analysis has shaped the policy making process

During the Feasibility Study and subsequent work on the implementation of the policy, we have met with various groups and organisations, significantly with Disabled People’s Organisations, to understand the impacts and potential knock-on effects of the policy.

While the legislation involved is a simple removal of the age limit at which people are eligible to receive free personal care, there will

³ See EQIA – Setting the Scene for further information on the legislation.

continue to be further discussion during the implementation phase to consider the effects of the policy on those receiving care.

As a result of discussions with service users including disabled people we are continuing to work on the implementation of free personal care to consider the issues raised. The legislation makes a simple change, but the way in which the legislation is implemented by local authorities will be subject to guidance from both the Scottish Government and COSLA, which is being considered by the Implementation Advisory Group, which includes in its membership the Scottish Commission on Learning Disability (SCLD), which represents the main client group affected, and a representative of Disabled People's Organisations.

Monitoring and Review

Monitoring of the uptake of free personal care by under 65s will be as part of regular data collection on free personal care as already undertaken.

We will monitor the costs and uptake, and monitor the overall impact on charges for social care.

Stage 5 - Authorisation of EQIA

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:
 - Eliminating unlawful discrimination, harassment, victimisation;
 - Removing or minimising any barriers and/or disadvantages;
 - Taking steps which assist with promoting equality and meeting people's different needs;
 - Encouraging participation (e.g. in public life)

- Fostering good relations, tackling prejudice and promoting understanding.

Yes No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes No Not applicable

Declaration

I am satisfied with the equality impact assessment that has been undertaken for the Extension of Free Personal Care to under 65s and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: Jamie MacDougall

Position: Deputy Director, Care, Support and Rights

Authorisation date: 27 April 2018