

Consultation Questions

Question 1(a): Is paragraph 9 clear and easy to understand? (please tick)

Yes	No
X	

Question 1(b): Do you agree with the waiving of charging circumstances as set out in paragraph 9? (please tick)

Yes	No
	x

Question 1(c): If you do not agree with the waiving of charging circumstances as set out in paragraph 9, please state your reasons below:

We agree that support provided to the carer in his/her own right (Lines 1 and 2) should be provided without charge; however, there needs to be a link between the support provided to the carer and the individual budget which has been agreed. At present the waiving of charges for carers support is not set within the wider context in which it will be delivered. More clarity is required as to what the schedule to the regulations means by whole charge. Presumably carers could choose to pay some of the costs independently where their preferred service is beyond that which the Local Authority has agreed to provide.

More clarity is required in line 3 particularly regarding what constitutes 'extra costs', e.g. would this include travel expenses? There will be practical difficulties separating out what are core costs for a service user and the additional costs incurred as a result of his/her additional needs. This is likely to lead to some inconsistency of approach. In addition, the 'extra costs' of being able to access a break are more than likely taken into account in the personal budget for a supported person or met within, for example, welfare benefits. The wording of the guidance appears to muddy the waters significantly, will create practical difficulties for practitioners and could lead to confusion and misuse across different areas.

The meaning of replacement care (lines 5 and 6) appears open to wide interpretation and is somewhat contradictory. On the one hand it is being presented as the Local Authority as provider of last resort but on the other the indication is that where the Local Authority are the provider the extent of the support they should provide without charge goes far beyond current arrangements. The implementation of this waive of charge for all replacement care would have a significant financial implication for local authorities and it is unclear how such additional financial pressures could be managed without further Government funding.

Question 2(a): Are you content with the examples of support to carers and young carers, as set out in paragraph 10, where charges will be waived? (please tick)

No

Question 2(b): If you are not content, please state your reasons below:

Once the Regulations are finalised Local Authorities will have no discretion as to whether or not to charge for the listed services. They will, however, have discretion to decide whether to provide the service in the first place. The interplay between duties and powers within the Regulations is not sufficiently clear and there is a risk of misinterpretation. The only duties in relation to carers are to assess needs (if requested) and to consider the outcomes. There is no duty to provide support, even if it is clear that it would benefit the carer.

We believe carers support is delivered at two levels; Advice and information (e.g. Carers support groups, advocacy etc which tend to be centrally funded) and Direct practical support (e.g. assistance with domestic tasks, having a break from caring etc which would be funded through the provision of a personal budget). It is our view that these differences should be recognised and that the Regulations deal with these separately. We felt that the specific examples with relation to direct practical support had a narrow focus and there either needs to be a comprehensive list or a focus on outcomes to be achieved i.e. an outcomes rather than service focus.

Question 2(c): Are there further examples that you would like to add? (please tick)

Yes	No
	X

Question 2(d): If there are further examples that you would like to include in the list, please state these below and also set out your reasons for suggesting their inclusion.

Question 3(a): Do you agree with the exceptional circumstances set out in paragraphs 12 (with examples) and 13 about support to carers to help pay for driving lessons and taxi fares? (please tick)

Yes	No
	X

Question 3(b): If you do not agree, please state your reasons below:

At paragraph 11 of the consultation document, there is discussion of direct payments to assist with general household tasks. It is noted that this form of support may be provided to either the service user or the carer. Local Authorities will need to be clear how this type of support is provided and to whose assessment it relates, given that there will be financial implications i.e. a chargeable service to the cared-for but subject to waive of charge for a carer. It would be useful to have further clarification in the guidance as to the approach which would be consistent with the principles of the legislation.

This section fails to consider how the carer or cared-for may use their existing welfare benefits to fund services. There is also no reference to the types of creative or innovation solutions to there may be support/ assistance needs.

By specifically highlighting payment of taxi costs at para 12 there may be some expectation created that this is how transport will/should be provided. It would be preferable to have a less prescriptive approach and to recognise that how a carer might access a particular service/ support is part of the approach he/she will take to decisions about their overall budget. Continuing to para 13 there is an unhelpful emphasis on transport that appears over emphasised and is of limited relevance in the context of an outcomes focused approach.

Transport to hospital for a cared for person is the responsibility of the NHS and should not be included as an example.

The document appears to set the parameters of what a carer can use their budget for which seems to go beyond the waiving of charges.

Question 4(a): Do you agree with the waiving of charges as set out in paragraphs 14 and 15 with regard to short breaks? (please tick)

Yes	No
	X

Question 4(b): If you do not agree, please set out your reasons below:

As noted earlier some further clarification of 'whole cost' is required as no attempt appears to be made in the guidance as to parameters. Similar to the above response para 14 and 15 appear to say what a carer may use their budget for, when such decisions are a part of the overall consideration a carer needs to make once allocated their personal budget, in line with their personal outcomes. Some reference is again required to existing personal and community resources to meet these outcomes in the first instance.

The potential for Local Authorities to experience increased financial pressure as a result of implementation needs to be considered further.

Question 5(a): Do you agree with the position set out in paragraph 16 that when the carer and cared-for person take a break together, then as well as waiving the cost of the break for the carer, the additional costs of the break to enable the break to take place will also be met by the local authority? (please tick)

Yes	No
	X

Question 5(b): If you do not agree, please state your reasons below:

Additional costs for the cared for person are addressed through existing benefits and the individual budget for the supported person. Where additional supports, not met by this, are identified the Local Authority should have the power to assist at their discretion but not a duty to do so. The main focus should be on the outcome to be achieved and not on a specific service to be provided.

Question 6(a): Do you agree with the position set out in paragraphs 17 and 18 that local authorities will waive the cost of replacement care when they provide or commission replacement care in circumstances when others cannot provide replacement care free of charge? (please tick)

Yes	No
	X

Question 6(b): If you do not agree with the position, please set out your reasons below:

We agree that the provision of replacement care is essential to supporting carers in their caring role and that every carer should be afforded an opportunity for a break from caring. However, we have some concerns about the position set out in para 17 and 18 in terms of its lack of clarity.

Para 17 implies that replacement care is care provided to enable the carer to go out and leave the cared-for person at home. This paragraph also implies that the first point of call for replacement care will be other unpaid carers.

Para 18 outlines the role of the Local Authority as a provider of last resort and envisages that such a role would largely only come into play in circumstances of social isolation. It is our view that this interpretation is somewhat limited and that there will be a whole range of circumstances in which replacement care will not be provided by other unpaid carers.

During this consultation there has been some level of debate within Local Authorities about the type of replacement care that would be considered to come under the waive of charge regulations. One interpretation is that replacement care is care provided at home for a short period to enable the carer to undertake some activity outwith the home. Another interpretation is that replacement care includes any care provided to the cared-for person in the event of his/her carer taking a break from caring e.g. if a carer went on holiday and the cared-for person did not stay at home and went to residential respite care then the cost of that respite place

would be waived. The latter interpretation would have significant financial implications for Local Authorities which would appear to sit at odds with the move to increase short breaks provision i.e. sustainability. This second interpretation, however, appears to be the that of the Scottish Government (information provided by Alun Ellis during a Shared Care Scotland Webinar on 21st June and wording of para19). Further clarification is therefore required as to what types of replacement care come under the meaning of lines 5 and 6.

There also needs to be clarification about the designation of support provided primarily to meet the needs of the supported person and which also has benefits to the carer. e.g. day services, etc.

Question 7: Do you have any additional comments? If so, please use the space below to provide these further comments. Local authorities may wish to comment on any financial consequences arising from the Regulations. If so, please set out estimates of anticipated support to be provided to carers and cost estimates.

The document continually fails to emphasise the consideration of other available resources and appears to prescribe specific solutions but without any parameters or limits. Consequently this discourages creative thinking and co-production and additionally creates the potential for local authorities to experience significant financial pressure.

The document does not appear to sit well with the Statutory Guidance accompanying the 2013 Act and should follow the same values and principles.

These regulations appear to attempt to provide guidance around appropriate use of individual budgets for support to carers. If this is the intention then the title of the document is misleading and the guidance included insufficient. If unintentional this type of guidance is required but perhaps in a separate piece of guidance or within the Statutory Guidance. In essence, the purpose of this document is unclear.

Question 8: Do you have any comments on the draft Regulations as set out in this Annex A? If so, please use the space below to set out these comments:

The format of the regulations are helpful, clear and easy to understand. The content and the implications of the statements contained are commented on in the answers above.

Thank you for completing this consultation. Please return your completed 'Respondent Information Form' and this 'Consultation Response Form' to alun.ellis@scotland.gsi.gov.uk by **Wednesday 10th July 2013**.