

Consultation Questions

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

Yes	No
√	

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

Yes	No
	√

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:

Comments

South Lanarkshire Council would agree that support provided directly to carers, in their own right, should not be subject to a charge.

We support the position adopted by ADSW that while accepting the aspirations for improving support outcomes in relation to short breaks, the draft regulations need to be accompanied by clear Guidance. There is no reference to the allocation of individual budgets, which will have a financial limit based on eligible need, and the choice and control which can then be exercised by carers and those they care for as to how their available budgets are spent. It should be clear that the level of funding will be set by the local authority and if the carer wishes to access a more expensive break e.g. to go abroad, they will need to meet additional costs. There also needs to be clarity about what is meant by the 'whole cost'. When a budget is allocated the carer will have flexibility around what they purchase to meet the assessed need. However, additional costs, such as transport because the carer has chosen to travel significant distances or travel abroad, can't be met by the local authority.

Additional expenditure associated with the needs of the cared for person is addressed within the welfare benefits system. Many people are in receipt of Disability Living Allowance and associated benefits which are designed to meet expenses incurred as a result of their additional needs. We would therefore suggest that, where the local authority is meeting the cost of the carer's break, additional costs for the cared for person could be met at the discretion of the local authority but this should not be a duty.

Loss of the income generated from charges to the cared for person for replacement care, when a carer takes a short break, will amount to a significant budget cut for local authorities unless funding is allocated from Government for implementation. When this is added to the requirement to fund the whole cost of the carer's break it increases the financial burden on the local authority. We suggest that this could lead to greater prioritisation of eligible support for carers to those who are most at risk, with less emphasis on prevention for carers who may be at risk in the future.

Where replacement care cannot take place at home, it may take place in a residential setting. The total cost of the break will include accommodation and meals. We would suggest that charges are waived only for the care and support element.

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)

Comments Whilst support to carers is a fundamental strand on maintaining people in their own communities and one we would wholly endorse, the act and the accompanying regulations create a level of expectation and demand for activities which hitherto would not have been resourced via social work. Local Authorities will require to consider these non care services in a way which will need to take account of the procurement rules that apply generally.

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

Comments

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

Yes	No
	√

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.

Comments

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
√	

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

Comments

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
	√

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

Comments We agree that supporting carers to continue in their role is hugely important and that there will be many circumstances in which it is not appropriate to levy a charge.

However, we do not believe that that the whole cost of a short break should automatically be met by the local authority. This creates unrealistic expectations about how far public funding can be used to support carers' choices and may in practice require the local authority to have a much narrower conversation about what type of short break can be supported. It would be much better to have an arrangement whereby the local authority is expected to 'contribute' to the total cost of a short break with a judgement being made relative to the length, expense and utility of that break.

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
	√

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

Comments

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
	√

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

Comments The most significant policy implication that flows from the draft regulations is in respect of replacement care. Insofar as carers can benefit from a short break away from the person they care for, the local authority has an important role in facilitating that. However, in these circumstances the whole cost of the short break – including any replacement care - will be met by the local authority where

other people such as friends, relatives, neighbours or volunteers are not available to provide replacement care free of charge. The circumstances where the local authority would waive charges for replacement care are therefore very likely to include those of *social isolation* where there is no one known to the carer, young carer or cared-for person.

The point has been made by Cosla and others that:

- Many carers care for a person with complex needs – in these circumstances, it is unlikely that a friend, relative, neighbour or volunteer would have the capability and confidence to assume the caring role in the absence of the main carer;
- Under these regulations, the financial circumstances of the cared for person are deemed to be irrelevant to the provision of care and support – which is inconsistent with the way a local authority would approach social care provided to a person who does not have a carer's support – thereby creating a 'fairness' or 'equity' issue;
- The regulations indicate that the whole cost of the short break provided or arranged by the local authority will be met by the local authority – but it is silent about what procedural tool the local authority would use to come to a view about what level of expenditure is appropriate.

In summary, it is our position that:

- We do not believe that replacement care within the context of a short break should automatically be provided free of charge. We believe that replacement care should be based on ability to pay.
- We do not believe that that the whole cost of a short break should automatically be met by the local authority. This creates unrealistic expectations about how far public funding can go to support carers' choices and may in practice require the local authority to have a much narrower conversation about what type of short break can be supported. It would be much better to have an arrangement whereby the local authority is expected to 'contribute' to the total cost of a short break with a judgement being made relative to the length, expense and utility of that break.
- We suggest that it should be made clear that this applies solely to replacement care to benefit the carer, based on carer's assessment and eligible need, and not to care at home services or day services which provide coincidental breaks for carers.

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.

Comments The proposals will undoubtedly create further financial pressures on local authorities at a time when resource constraints are significant. This coupled with the changing demographic profile which suggests a trend of more people

coming into the system and for longer periods may cause significant demands which have to be resourced by prioritising need in a way that could undermine the whole philosophy of the national strategy.

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:

Comments

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**.