

# **Consultation on the Carers (Waiving of Charges for Support) (Scotland) Regulations 2014 to Accompany the Social Care (Self-Directed Support) (Scotland) Act 2013**

## **The Scottish Government's response to the Consultation**

**17 April to 10 July 2013**

## **Background**

1. The Social Care (Self-directed Support) (Scotland) Act 2013 (“the SDS Act”) was passed by the Scottish Parliament on 28 November 2012 and received Royal Assent on 10 January 2013. Between April and June 2013, the Scottish Government consulted on proposals on Regulations and Statutory Guidance to accompany the Act.
2. The regulations and guidance discussed within this document refer specifically to those relating to the waiving of charges for support to carers.
3. This document provides the Scottish Government’s response to the matters raised in the consultation.

## **Responses**

4. The Scottish Government would like to thank the individuals and organisations that responded to the consultation. In total, we received 39 responses (3 from individuals and 36 from groups and organisations). A list of the 36 groups and organisations who responded is provided in [Annex A](#).

## **Next Steps**

5. The Scottish Government will introduce a final set of Regulations to the Scottish Parliament prior to the planned commencement of date for the SDS Act on 1 April 2014. The Government will also amend the draft statutory Guidance we consulted on and will issue a final version of the Regulations and Guidance prior to the commencement date.

## **What We Heard**

6. Respondents welcomed the opportunity to respond to the consultation with all respondents acknowledging the need to support unpaid carers in Scotland. There were mixed views about the scope and nature of the Regulations and Guidance. However most respondents agreed that they were not straightforward and were couched in terms that were sometimes confusing and unnecessarily complicated.
7. Some respondents, notably the carers’ organisations, fully supported the principle of waiving charges. They were clear that as providers of services to cared-for people, carers should not be charged for the support they receive to help them maintain their caring role and to have a life alongside caring. They felt it was important to have a consistent approach across the country to the waiving of charges. A few local authorities too agreed with the waiving of charges or took the view that in relation to short breaks in particular, the carer should provide a contribution towards the cost of the break. Some respondents did not support the Scottish Government introducing Regulations at all which they regarded as unnecessarily prescriptive. Rather, decisions about waiving of charges should be made locally. A few respondents thought that the Regulations would treat carers

differently from service users who do not have a carer in that the financial circumstances of the cared-for person are deemed to be irrelevant to the provision of care and support. Many respondents commented on the financial viability of the proposals.

## **Introduction**

8. Self-directed support (SDS) is the principle that people have informed choice about the way that their care and support is provided to them by taking control of the money spent on that support. The national strategy on self-directed support, and the legislation which underpins the strategy, aims to provide greater choice and control to individuals, enabling them to better tailor their own support and to achieve positive outcomes. The Act give people a range of options for how their social care is delivered, beyond just direct payments, empowering people to decide how much ongoing control and responsibility they want over their own support arrangements.
  
9. The draft Carers (Waiving of Charges for Support) (Scotland) Regulations 2014 and accompanying Guidance set out various types of services being delivered to carers with circumstances where the local authority would be required to waive the charge and the extent to which the charge would be waived.

## **Objectives of the Regulations and Statutory Guidance**

### What we heard:

10. Comments made on both the Regulations and Statutory Guidance were varied. These included:
  - significant agreement between the respondents around the need to support carers in their caring role.
  - a need to look at the individual needs of the carer.

## **Regulations - Examples of Support**

### What we heard:

11. The list of example services may be too prescriptive and includes examples of services not offered by particular local authorities. However, some of the examples of support provided on the list are presently provided by some local authorities free of charge to carers.
  
12. Providing a specified list of services goes against the intentions of Self-directed Support and personalised services.
  
13. A specified list of services may be counterproductive as carers may need to make a case to access services not contained on the list.

14. It needs to be clearer whether these services (particularly short breaks) are solely for carers or also for the individuals they care for.

15. However, some respondents did not express views on the list of services or thought that it was acceptable and helpful.

#### Our conclusions:

16. The Government believes that the list helps to illustrate the types of services that local authorities could provide to carers. However, in light of comments received we will make amendments to this section of the Guidance to clarify that this is not an exhaustive list and is for illustrative purposes only. There is no intention to convey that all the services on the list must be provided to carers in all circumstances.

### **Taxi Fares and Driving Lessons**

#### What we heard:

17. The provision of taxi fares and/or driving lessons needs to be based on the individual need of carers.

18. The examples included in the draft Guidance include reference to rural settings. It needs to be clear that these would not be offered to only those in a rural setting as there are examples where this would also be appropriate in an urban environment.

19. The guidance indicates that the provision of these services should be in cases of exceptional circumstance. This is too subjective and open to interpretation.

#### Our conclusions:

20. We will make it explicit within the Guidance that these services would be offered in instances where the local authority has assessed them as an individual need for the carer and has agreed to provide them.

21. As we are making changes so that this section aligns more closely with assessed individual need, we will also remove the reference to rural settings and exceptional circumstances.

### **Short Breaks**

#### What we heard:

22. Short breaks should be provided in instances where the local authority assesses it as a required support for the carer and agrees to provide that support. Some respondents made clear that there should be a flexible definition of short break and that it does not only encompass holidays.

23. Local authorities need to decide for themselves how much they will contribute towards the cost of a short break. There was an affordability issue.

Our conclusions:

24. We will make the Guidance more explicit that any support provided in any form, including short breaks, is done so based on the assessed need of the carer and where the local authority agrees to meet that need.

## **Holidays Together**

What we heard:

25. Many respondents took the view that the additional costs of supporting the cared-for person should be met by their own support package that has been provided to meet their own needs. Moreover, this may be an unrealistic expectation of local government to meet these costs. Others supported the proposal that the additional costs associated with specialist equipment or larger rooms etc to enable the break away together to take place should be waived.

Our conclusions:

26. As this is a provision to support the cared-for individual we intend to remove these provisions from both the Guidance and Regulations.

## **Replacement Care**

What we heard:

27. Most respondents said that the Guidance reference to replacement care being provided in situations of 'social isolation' is not a useful marker and should be removed.

28. The suggestion that relatives, friends, neighbours or volunteers step in to provide replacement care is, in many cases, unrealistic, especially where the cared-for person has complex needs. The needs of the cared-for person may mean these alternatives are not viable. Moreover, the proposal undermines the fact that carers are skilled and knowledgeable individuals.

29. A few responses suggested that the approach to replacement care in the Regulations could lead to inequity between cared-for individuals who have a carer and service users who do not have a carer. Those with a carer could be subject to charges being waived, whilst those without would still be expected to contribute under normal charging arrangements.

30. Some respondents thought that it was not helpful to categorise replacement care as either support for the cared-for person or for the carer and that a whole system

approach was required. They noted that replacement care often benefited both the carer and cared-for person. Other respondents stated that the Scottish Government should provide guidance on the treatment of replacement care. Yet others proposed that they would treat replacement care depending on what it was and what it achieved as support for the carer or for the cared-for person.

31. Some respondents stated that charges should be waived for replacement care as replacement care was needed to allow the carer to have a break.

Our conclusions:

32. We will give further thought to the issues but we are minded that where local authorities take the view that replacement care meets the carer's needs, then charges should be waived.

**Summary**

33. The consultation has raised helpful issues and concerns relating to both the Regulations and Guidance.
34. These are being considered in the final Regulations and Guidance that will support the SDS Act when it comes into force on 1 April 2014.

**Responses from groups and organisations**

Aberdeenshire Council  
ADSW  
Angus Council  
Care Inspectorate  
Carers of West Lothian  
Children in Scotland  
City of Edinburgh Council  
COSLA  
Cornerstone (The Fragile X Society)  
Crossroads Caring Scotland (Stirling)  
East Dunbartonshire Council  
East Lothian Council  
Encompass  
Falkirk Council  
Glasgow City Council  
Inverclyde CHCP  
Law Society of Scotland  
Learning Disability Alliance Scotland  
National Carers Organisations Group  
NHS Lothian  
NHS Lothian (East and Midlothian CHP)  
North Argyll Carers Centre  
Perth and Kinross Council  
Renfrewshire Carers Centre  
Renfrewshire Council  
RNIB Scotland  
Scottish Borders Council  
Scottish Council on Deafness  
Scottish Independent Advocacy Alliance  
Shared Care Scotland  
South Lanarkshire Council  
Stirling Council  
Princess Royal Trust for Carers  
The Scottish Young Carers Services Alliance  
VOCAL  
West Lothian Council  
West Dunbartonshire CHCP



© Crown copyright 2014

You may re-use this information (excluding logos and images) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or e-mail: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

ISBN: 978-1-78412-336-9 (web only)

The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

Produced for the Scottish Government by APS Group Scotland  
DPPAS25764 (03/14)

Published by the Scottish Government, March 2014

w w w . s c o t l a n d . g o v . u k