

CARERS (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

As required under Rule 9.3 of the Parliament's Standing Orders, the following documents are published to accompany the Carers (Scotland) Bill introduced in the Scottish Parliament on 9 March 2015:

- Explanatory Notes;
- a Financial Memorandum;
- a Scottish Government statement on legislative competence; and
- the Presiding Officer's statement on legislative competence.

A Policy Memorandum is published separately as SP Bill 61-PM.

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill. They do not form part of the Bill and have not been endorsed by the Parliament.

2. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section, or a part of a section, does not seem to require any explanation or comment, none is given.

THE BILL

3. The Bill comprises 41 sections and is divided into eight parts as follows—

- Part 1 – Key definitions
- Part 2 – Adult carer support plans and young carer statements
- Part 3 – Provision of support to carers
- Part 4 – Carer involvement
- Part 5 – Local carer strategies
- Part 6 – Information and advice for carers
- Part 7 – General provision
- Part 8 – Final provisions

4. The Bill also includes one schedule setting out consequential modifications and repeals of other enactments.

BACKGROUND

5. The Scottish Government published, on 22 January 2014, its formal consultation for proposed legislation to support carers and young carers in Scotland. The consultation was open for 12 weeks and closed on 16 April 2014. The Bill takes forward many of the issues that were raised in the consultation document. Explanation of the policy rationale behind the Bill can be found in the Policy Memorandum. The Bill makes provision in relation to the planning and provision of support for carers, about information and advice for carers and to facilitate carer involvement in certain services.

6. Part 1 of the Bill defines key expressions used in the Bill, such as carer, young carer and adult carer, and what is meant by personal outcomes, identified personal outcomes, and identified needs.

7. Part 2 is divided into two chapters. Chapter 1 places a duty on the responsible local authority to prepare an adult carer support plan. In this chapter the responsible local authority is the local authority in whose area the carer resides. The chapter also makes provision about what an adult carer support plan must contain and how this information should be provided to the adult carer.

8. It also gives power to the Scottish Ministers to make regulations about the identification of adult carers' personal outcomes and needs for support, for the purpose of preparing adult carer support plans, and about the review of adult carer support plans.

9. Chapter 2 places a duty on the responsible authority to prepare a young carer statement. It provides information on which is the responsible authority is in the case of a particular young carer (which may be the local authority, health board or directing authority of a school, depending on the circumstances of the young carer), what a young carer statement must contain and how this information should be provided to the young carer. Provision is also made to allow for any existing young carer statement to continue having effect until the carer is provided with an adult carer support plan.

10. It also gives the Scottish Ministers power to make regulations about how young carers' personal outcomes and needs for support should be identified and the process by which this should be undertaken, for the purpose of preparing young carer statements, and about the review of young carer statements.

11. Part 3 is divided into two chapters. Chapter 1 places a duty on local authorities to set out the local eligibility criteria by which it must determine whether it is required to provide support to a carer to meet the carer's identified needs. The chapter places a duty on the local authority so that they must consult and involve carers and bodies representative of carers before setting the local eligibility criteria. Local authorities must also have regard to any matters relevant to setting the local eligibility criteria as set out by the Scottish Ministers in regulations. The chapter also places a duty on the local authority to publish the local eligibility criteria and review them every three years.

12. This chapter also confers a power on the Scottish Ministers to set national eligibility criteria in place of local eligibility criteria set by local authorities.

13. Chapter 2 places a duty on local authorities to support carers whose identified needs cannot be met by general services in the community and which meet the eligibility criteria. The local authority also has power to provide support to meet other identified needs. When determining which support to provide to a carer, the local authority must consider whether the support should take the form of a break from caring.

14. Part 4 requires each local authority and each health board to take appropriate steps to involve individual carers and bodies representative of carers in the design, development, delivery and review of carer services provided by that local authority or health board.

15. Part 5 places local authorities under a duty to prepare a local carer strategy, in consultation with the health board and any other persons and bodies representative of carers and involving carers in such ways as the local authority considers appropriate. It sets out what is meant by a local carer strategy and what the document should contain. It also requires the local authority to publish and review its local carer strategy and to consult with the relevant health board and carers and carers' representative bodies during the review process.

16. Part 6 requires each local authority and health board to provide and maintain an information and advice service for carers in its area and specifies particular information that must be provided. Part 6 also provides that local authorities must prepare and publish a short breaks services statement, setting out details of the national short breaks services available across Scotland, which may include information about the services available in the local authority's area as well as in other areas of Scotland.

17. Part 7 contains general provisions relating to guidance and directions and to financial and other assistance to and by voluntary organisations in relation to carers.

18. Part 8 contains final provisions, including general interpretation and commencement.

19. The schedule contains minor and consequential amendments and repeals of other enactments made necessary by the provision made by the Bill.

COMMENTARY ON PARTS

PART 1 – KEY DEFINITIONS

Meanings of “carer”, “young carer” and “adult carer”

Section 1 - Meaning of “carer”

20. Section 1(1) defines a “carer” as an individual who provides or intends to provide care for another individual (a “cared-for person”). Subsection (2)(a) stipulates that subsection (1) will not apply, in the case of a cared-for person under 18 years old, to the extent to that the care is or would be provided by virtue of the person's age. This is to ensure that parents are not regarded as carers for the purposes of the Bill, except where they are the caring for that child for a reason other than the child's age. This will include parents of disabled children. Subsection (2)(b) stipulates that subsection (1) will not apply if the care is provided by virtue of a contract or as voluntary work.

21. Subsection (3) gives the Scottish Ministers a regulation-making power to set out what is meant by a contract for the purposes of subsection (2)(b)(i). For instance, this power might be used to provide that an agreement between a local authority and a kinship carer under the Looked After Children (Scotland) Regulations 2009 is not a “contract” for the purposes of subsection (2)(b)(i). That would mean that care provided under such an agreement would fall within the meaning of subsection (1) and the kinship carer would be a carer for the purposes of the Bill.

22. Subsection (3) also allows regulations to permit a relevant authority to disregard subsection (2)(b) if the authority considers it appropriate. For instance, this power may be used to provide clarification in relation to carers who provide elements of both paid care, by way of a contract with the person they care for, and unpaid care to the same person. Regulations under this subsection will be subject to the negative procedure (see section 37).

23. Subsection (4) defines “relevant authority” for the purposes of subsection (3) and of section 4 as including a responsible local authority which may be required to prepare adult carer support plans, and also a responsible authority which may be required to prepare young carer statements, under Part 2 Chapter 1 and Part 2 Chapter 2 of the Bill respectively: namely local authorities, health boards and, where applicable, directing authorities of grant-aided or independent schools.

Section 2 - Meaning of young carer

24. This section defines a “young carer” as a carer under 18 years old or who has reached 18 years while a pupil at school and remains a pupil at that or another school. This mirrors the definition of “young person” in section 22 of the Children and Young People (Scotland) Act 2014 so that the “named person service” under that Act and the provisions for young carers under this Bill can be coordinated. See, for instance, section 15 of the Bill which requires the young carer’s named person to be provided with information contained in the young carer statement.

Section 3 - Meaning of adult carer

25. This section defines an “adult carer” as a carer who is at least 18 years old but who is not a young carer.

Meanings of “personal outcomes” etc.

Section 4 – Meaning of “personal outcomes”

26. Subsection (1) defines “personal outcomes”, in relation to carers, as including outcomes which would, if achieved, enable carers to provide or continue to provide care for the cared-for persons. Personal outcomes are relevant to the assessment of a carer’s needs for support under Part 2 of the Bill.

27. Under subsection (2), the Scottish Ministers have power to make further provision about personal outcomes, including about the things that the relevant authority is to have regard to in deciding which outcomes may count as personal outcomes for the purposes of the Bill. Regulations under this subsection will be subject to the negative procedure (see section 37).

Section 5 - Meaning of “identified personal outcomes” and “identified needs”

28. Subsection (1) defines “identified personal outcomes”, in relation to a carer, as the personal outcomes identified by virtue of the assessment process in Part 2 of the Bill and which are relevant to the carer.

29. Subsection (2) defines “identified needs”, in relation to carer, as the needs for support (if any) which are identified by virtue of the assessment process in Part 2 of the Bill in order to meet the carer’s identified personal outcomes.

30. Subsection (3) defines “identified” with reference to sections 7 and 12 (under which the Scottish Ministers have powers to regulate the assessment process for identifying carers’ personal outcomes and needs for support).

PART 2 – ADULT CARER SUPPORT PLANS AND YOUNG CARER STATEMENTS

Chapter 1 – Adult carer support plans

Duty to prepare adult carer support plan

Section 6 - Duty to prepare adult carer support plan

31. Subsection (1) defines what an “adult carer support” plan is, namely a plan prepared by a responsible local authority that sets out an adult carer’s identified personal outcomes, identified needs and any support to be provided by the responsible local authority to meet those needs. The assessment process for identifying those outcomes and needs will be set out in regulations under section 7. Section 8 gives more information about the content of the adult carer support plan.

32. Subsection (2) states that a responsible local authority is required to prepare an adult carer support plan for a person if either subsection (3) or (4) applies.

33. Subsection (3) applies if the responsible local authority itself identifies the person as an adult carer, the responsible local authority then offers that person an adult carer support plan and that person accepts that offer.

34. Subsection (4) applies if a person who appears to the responsible local authority to be an adult carer requests an adult carer support plan: that is, if an adult self-identifies as a carer and the responsible local authority agrees that the adult comes within the definition of carer under section 1 of the Bill.

35. Subsection (5) defines the “responsible local authority”, in relation to an adult carer, as the local authority for the area in which the carer lives. This will still be the case where the adult carer lives in a different local authority area to one in which the cared-for person lives.

Section 7 – Adult carers: identification of outcomes and needs for support

36. Under this section, the Scottish Ministers may make regulations about the identification of adult carers’ personal outcomes and need for support. Such regulations could include provision about—

- how personal outcomes and needs for support are to be identified;
- the process for doing so (including arrangements for the involvement of adult carers and cared-for persons);

- who may carry out identification;
- the sharing of information about adult carers and cared-for persons for the purpose of identifying personal outcomes and needs for support;
- the factors to be taken into account in identifying adult carers' personal outcomes and needs for support; and
- the circumstances in which adult carers' personal outcomes and needs for support should be reviewed.

37. Regulations under this section will be subject to the affirmative procedure (see section 37(2)).

Content and review of adult carer support plan

Section 8 - Content of adult carer support plan

38. Subsection (1) sets out what information the adult carer support plan must contain, namely information about—

- the adult carer's personal circumstances at the time of preparation of the plan;
- the extent to which the adult carer is able and willing to provide care for the cared-for person;
- the adult carer's personal outcomes, including personal outcomes identified in the assessment process;
- the adult carer's needs for support, including needs identified in the assessment process, to meet those outcomes. If no needs are identified, this should be stated;
- the support generally available to the adult carer and the cared-for person in the area of the responsible authority;
- the support that the responsible local authority provides or intends to provide to the adult carer to meet such of the adult carer's identified needs as meet the local eligibility criteria (set under Part 3 of the Bill);
- the support the responsible local authority provides or intends to provide to the adult carer to meet the adult carer's other identified needs (that is, the identified needs that do not meet the local eligibility criteria but which the responsible local authority nevertheless plans to meet by virtue of section 22(4)(b));
- whether support provided should take the form of a short break from caring for the cared-for person; and
- the circumstances in which the plan is to be reviewed.

39. Subsection (2) provides that the second and subsequent adult carer support plan prepared for a carer must contain information on the extent to which any support provided under a previous plan has assisted in achieving the carer's identified personal outcomes.

40. Subsection (3) gives the Scottish Ministers power to make regulations about any other information an adult carer support plan must (or must not) contain, and the form adult carer support plans should take. Such regulations will be subject to the negative procedure (see section 37).

Section 9 - Review of adult carer support plans

41. This section enables the Scottish Ministers to make regulations about the review of adult carer support plans, including circumstances for review; frequency of review; procedure for review; and arrangements for obtaining the views of adult carers and cared for persons. Such regulations could for example include provision for review when the cared-for person is going to be discharged from hospital. Regulations under this subsection will be subject to the negative procedure (see section 37).

Provision of information about plan

Section 10 - Adult carer support plan: provision of information to carer etc.

42. Subsections (1) and (2) require the responsible local authority to provide the information contained in the adult carer support plan to the adult carer to whom the plan relates and to any other person(s) at the carer's request.

43. Subsection (3) provides that subsection (1) does not apply where the responsible local authority considers that provision of the information would not be appropriate. For instance, the local authority may remove sensitive information relating to the carer or the persons they care for, before providing the adult carer support plan to someone other than the carer.

44. Subsection (4) provides that the information provided under subsection (1) is to be provided as soon as practicable after the plan is prepared or, in the case of a revised plan, as soon as practicable after the revised plan is prepared.

Chapter 2 – Young carer statements

Duty to prepare young carer statement

Section 11 - Duty to prepare young carer statement

45. This section creates an equivalent in relation to young carers as section 6 does in relation to adult carers. Subsection (1) defines what a “young carer statement” is, namely a statement prepared by the responsible authority that sets out a young carer's identified personal outcomes, identified needs and any support to be provided by the responsible local authority to the young carer to meet those needs. The process for identifying those outcomes and needs will be set out in regulations under section 12. Section 13 gives more information about the content of the young carer statement. Sections 17 and 18 determine who the responsible authority is in relation to a young carer.

46. Subsection (2) requires the responsible authority to prepare a young carer statement if subsection (3) or (4) applies.

47. Subsection (3) applies where the responsible authority itself identifies a person as a young carer, offers the person a young carer statement, and the person accepts the offer.

48. Subsection (4) applies where a person who appears to the responsible authority to be a young carer requests a young carer statement.

49. Subsection (5) provides that subsection (2) will apply whether or not the young carer also requires a child's plan in accordance with section 33 of the Children and Young People Scotland Act 2014. So a young carer, who may have a child's plan under that Act because he or she has a wellbeing need, will always have a young carer statement as well, focussing distinctly on the young carer's needs as a carer.

50. Subsection (6) requires the responsible authority to notify the young carer's named person when the responsible authority offers a young carer statement under subsection (3) or a young carer requests a young carer statement under subsection (4). Along with section 15(2)(b) on the provision of the information contained in the young carer statement to the young carer's named person, this is to ensure a more integrated approach to young carers' welfare.

51. Subsection (7) provides that where the responsible authority, in relation to a young carer, is not the responsible local authority, the responsible authority must not provide the young carer statement to the young carer without the approval of the responsible local authority. This is because it is the responsible local authority which would actually provide support to the young carer to meet any needs that are identified.

52. Subsection (8) defines "responsible authority" for the purposes of Chapter 2 as having the meaning given by sections 17 and 18. It also defines "responsible local authority" for the purposes of Chapter 2 as the local authority for the area in which the carer resides.

Section 12 – Young carers: identification of outcomes and needs for support

53. This section is equivalent to section 7 in relation to adult carer support plans. Under this section, the Scottish Ministers may make regulations about the identification of young carers' personal outcomes and their needs for support. Such regulations could include provision about—

- how personal outcomes and needs for support are to be identified;
- the process for doing so (including arrangements for the involvement of young carers and cared-for persons);
- who may carry out identification;
- the sharing of information about young carers and cared-for persons for the purpose of identifying personal outcomes and needs for support;
- the factors to be taken into account in identifying young carers' personal outcomes and needs for support;
- the circumstances in which young carers' personal outcomes and needs for support should be reviewed.

54. Regulations under this section will be subject to the affirmative procedure (see section 37(2)).

Content and review of young carer statement

Section 13 – Content of young carer statement

55. This section is equivalent to section 8 in relation to adult carer support plans. Subsection (1) sets out what information the young carer statement must contain, namely information about—

- the young carer’s personal circumstances at the time of the preparation of the statement, including the impact on the young carer’s wellbeing of caring for the cared-for person;
- the extent to which the young carer is able and willing to provide support for the cared-for person;
- the extent to which the responsible authority considers that the nature and extent of the care provided by the young carer is appropriate;
- the young carer’s personal outcomes, including personal outcomes identified in the assessment process;
- the young carer’s needs for support, included needs identified in the assessment process, to meet those outcomes. If no needs are identified, this should be stated;
- the support generally available to the young carer and the cared-for person in the responsible local authority’s area;
- the support which the responsible local authority provides or intends to provide to the young carer to meet such of the young carer’s identified needs as meet the local eligibility criteria (set under Part 3 of the Bill);
- the support which the responsible local authority provides or intends to provide to the young carer to meet the young carer’s other identified needs (that is, the identified needs that do not meet the local eligibility criteria but which the responsible local authority nevertheless plans to meet by virtue of section 22(4)(b));
- whether support should be provided in the form of a break from caring for the cared-for person;
- the circumstances in which the young carer statement is to be reviewed.

56. Subsection (2) provides that the second and subsequent young carer statement prepared for the young carer must contain information on the extent to which any support provided under a previous statement has assisted in achieving the young carer’s identified personal outcomes.

57. Subsection (3) provides that the responsible authority, in assessing the impact of a young carer’s caring role on the wellbeing of the young carer for the purposes of subsection (1)(a)(ii), must do so by reference to the matters listed in section 96(2) of the Children and Young People (Scotland) Act 2014 and have regard to any guidance issued under section 96(3) of that Act. The matters listed in section 96(2) are the extent to which a child or young person is—

- Safe,
- Healthy,
- Achieving
- Nurtured,
- Active,
- Respected,
- Responsible, and
- Included

58. Subsection (4) gives the Scottish Ministers a regulation-making power to make provision about other information which the young carer statement must (or must not) contain and the form the young carer statement should take. Regulations under this subsection will be subject to the negative procedure (see section 37).

Section 14 - Review of young carer statements

59. This section is equivalent to section 9 in relation to adult carer support plans. It enables the Scottish Ministers to make regulations about the review of young carer statements, including circumstances for review; frequency of review; procedure for review; and arrangements for obtaining the views of young carers and cared-for persons. Regulations under this subsection will be subject to the negative procedure (see section 37).

Provision of information about statement

Section 15 - Young carer statement: provision of information to carer etc.

60. This section is equivalent to section 10 in relation to adult carer support plans. Subsections (1) and (2) provide that the responsible authority must provide the information contained in the young carer statement to certain persons. They are—

- the young carer to whom the young carer statement relates,
- the young carer's named person, and
- any other person the young carer requests.

61. Subsection (3) provides that subsection (1) will not apply where the responsible authority considers that provision of the information would not be appropriate. As with section 10, this could, for example, be a situation where the young carer requests certain information, possibly sensitive information, be removed from the young carer statement before it is provided to someone other than the young carer or their named person.

62. Subsection (4) requires the information to be provided as soon as practicable after the statement has been prepared, or in the case of a revised statement, after the revised statement is prepared.

Continuation of young carer statement

Section 16 - Continuation of young carer statement

63. This section provides that if a young carer has reached 18 years, any young carer statement prepared will continue to have effect until the carer is provided with an adult carer support plan. The purpose of this is to ensure that there will be no gap in statement/plan coverage or a break in the continuation of support where the young carer's needs for support continue.

Meaning of responsible authority: young carers

Section 17 - Responsible authority: general

64. Subsection (1) sets out who the "responsible authority" is in relation to a young carer. Where the young carer is a pre-school child, the responsible authority will be the health board for the area in which the child resides. In any other case, the responsible authority will be the local authority for the area in which the young carer resides.

65. Subsection (2) provides that subsection (1) is subject to section 18 – Responsible authority: special cases.

66. Subsection (3) provides what this section and section 18 mean by "pre-school child". This is defined by reference to section 36(3) of the Children and Young People (Scotland) Act 2014 and means—

- a child who has not commenced attendance at a primary school, or
- if the child is of school age, a child who has not commenced attendance at a primary school because the relevant local authority has consented to the child's commencement at primary school being delayed.

67. A child is of school age if the child has attained the age of five years but is under the age of 16 years (see section 31 of the Education (Scotland) Act 1980).

Section 18 - Responsible authority: special cases

68. Subsection (1) provides that where a young carer who is a pre-school child resides in the area of a health board, by virtue of a placement by another health board or local authority, the health board for the area in which the young carer resided immediately before that placement is the responsible authority in relation to the young carer. "Pre-school child" has the meaning given by section 17(3).

69. Subsection (2) provides that where the young carer is a pupil at a public school which is managed by a local authority other than the one for the area in which the young carer lives, the other authority is the responsible authority in relation to the young carer.

70. Subsection (3) provides that where the young carer is a pupil at a grant-aided school or an independent school, the directing authority of that school is the responsible authority in relation

to the young carer. “Directing authority” is defined in section 36(1) as having the same meaning as in section 45 of the Children and Young People (Scotland) Act 2014, that is, the managers of a grant-aided school or the proprietor of an independent school.

71. Subsection (4) provides that subsection (3) will not apply where the young carer is a pupil by virtue of a placement by the local authority for the area in which the young carer lives.

72. Subsection (5) sets out that “grant aided school”, “independent school” and “public school” have the meanings given by section 135 of the Education Scotland Act 1980, as follows—

- “grant-aided school” means, with the exceptions specified there, a school in respect of which grants are made by the Scottish Ministers to the managers of the school;
- “independent school” means a school at which full-time education is provided for five or more pupils of school age (whether or not such education is also provided for pupils under or over that age), not being a public school, a grant-aided school, or a self-governing school under the Self-Governing Schools etc (Scotland) Act 1989;
- “public school” means any school under the management of an education authority, that is a local authority.

PART 3 – PROVISION OF SUPPORT TO CARERS

Chapter 1 – Eligibility criteria

Local eligibility criteria

Section 19 - Duty to set local eligibility criteria

73. Subsection (1) requires the local authority to set the local eligibility criteria which it is to apply for its area. The local eligibility criteria are defined by subsection (2) as the conditions which a local authority must use to establish whether it is required to provide support to a carer to meet the carer’s identified needs.

74. Subsection (3) makes provision about who a local authority must involve and consult before setting its eligibility criteria. It must consult such persons and bodies representative of carers as considered appropriate by the local authority and it must take the steps it considers appropriate to involve carers.

75. Subsection (4) states that a local authority must have regard to such matters as the Scottish Ministers may by regulations specify, when setting its local eligibility criteria. Regulations under this section will be subject to the affirmative procedure (see section 37(2)).

Section 20 - Publication and review of criteria

76. Subsection (1) requires each local authority to publish its eligibility criteria. Publication must be in accordance with the timescales prescribed in regulations made under subsection (2). It is intended that they will be used to require local authorities to have eligibility criteria in place

before section 22 (which imposes the duty to support) is commenced. Those regulations will be subject to the negative procedure.

77. The local authority is required to review its eligibility criteria in accordance with subsections (3) to (5). Regulations subject to the negative procedure will set the time frame within which the first review must be undertaken. It is intended that this will be used to bring timing of reviews of eligibility criteria into line with reviews of local carer strategies under Part 5 of the Bill. Following a review, the local authority may set revised local eligibility criteria or publish a statement explaining that it does not intend to revise the criteria on this occasion. If the local authority revises the local eligibility criteria, it must have regard to the matters specified in regulations under section 19 and must publish the revised criteria.

National eligibility criteria

Section 21 - National eligibility criteria

78. Subsection (1) confers a power on the Scottish Ministers to make regulations setting out national eligibility criteria. Regulations under this subsection will be subject to affirmative procedure (see section 37(2)).

79. Subsection (2) provides that the national eligibility criteria are the criteria by which each local authority must assess whether it is required to provide support to carers to meet their identified needs.

80. Subsection (3) sets out that, where regulations are made under this section and have not been revoked, the national eligibility criteria set out in them apply in place of any local eligibility criteria published under section 20. In such a situation, references elsewhere in the Bill to local eligibility criteria are to be read as references to the national eligibility criteria.

Chapter 2 – Duty to provide support to carers

Section 22 - Duty to provide support

81. Where a carer has needs which have been identified in the course of preparing an adult carer support plan or a young carer statement and which cannot be met through the provision of general services in the responsible local authority's area, for example information and advice, this section requires the authority to apply its local eligibility criteria. The needs which meet the local eligibility criteria are referred to as "eligible needs". Subsection (6) sets out that the responsible local authority is the local authority for the area where the carer resides.

82. Subsection (4)(a) places a duty on the responsible local authority to provide support to the carer to meet those eligible needs. The responsible local authority also has a power under subsection (4)(b) to provide support to meet needs which do not meet the eligibility criteria.

83. Subsection (5) applies where a carer's eligible needs might also be met through community care services assessed under section 12A of the Social Work (Scotland) Act 1968 or services for children and their families under section 22 of the Children (Scotland) Act 1995. If

the needs meet the eligibility criteria, then the duty in subsection (4)(a) applies regardless of whether the needs may also be met under the 1968 or 1995 Acts.

84. Subsection (6) sets out that the “responsible local authority” in relation to a carer, means the local authority for the area in which the carer resides.

Section 23 - Provision of support to carers: breaks from caring

85. Subsection (1) requires a local authority to consider whether any support provided under section 22 should include support which provides a break from caring.

86. Subsection (2) confers a power on the Scottish Ministers to make regulations (subject to the negative procedure) about the forms of support that would constitute a break from caring. Such regulations may make specific provision to deal with cases where the support is delivered through the provision of replacement care or other services or assistance to the cared-for person. This includes provision about the role of the cared-for person in relation to how that care or those services or assistance are provided and whether that care or those services or assistance are to be regarded as support to the carer or to the cared-for person.

Section 24 - Charging for support provided to carers

87. This provision amends section 87 of the 1968 Act. It allows local authorities to make charges when providing services which support carers under section 22(4) of the Bill. Such charges cannot exceed what is practicable for a person to pay if the person satisfies the local authority that the person’s means are insufficient to meet the charge that would otherwise be made. Charges are also subject to any regulations made by the Scottish Ministers under section 87(5) of the 1968 Act. Such regulations are subject to the negative procedure. They may modify or adjust charges or require them to be waived altogether.

PART 4 – CARER INVOLVEMENT

Section 25 - Duty to involve carers in carer services

88. Subsections (1) and (2) require each local authority and health board to take steps to involve the persons mentioned in subsection (3) in carer services.

89. Subsection (3) defines those persons as carers in the area of the local authority or health board, and such persons and bodies representatives of carers as the local authority or health board considers appropriate.

90. Subsection (4) defines what is meant by “carer services” provided by the local authority or health board. It covers all services provided by the local authority or health board to carers (in their role as such) and cared-for persons (in relation to care which they receive). Subsection (5) makes two exceptions. Subsection (4) does not cover services set out in a children’s services plan under the Children and Young People (Scotland) Act 2014, provided that consultation with the same persons has been carried out in connection with that plan. Nor does it cover services which are provided in pursuance of functions included in an integration scheme under

the Public Bodies (Joint Working) (Scotland) Act 2014. That Act places other obligations on integration authorities about carrying out such functions which include obligations to involve carers and organisations representing carers.

91. Subsection (6) sets out what amounts to “involvement” in relation to carer services.

Section 26 - Involvement of, assistance to and collaboration with carers

92. This section requires a local authority to have regard to the general principles in section 1 of the Social Care (Self-directed Support) (Scotland) Act 2013 when exercising functions under Part 2 (adult carer support plans and young carer statements) and Part 3 (provision of support to carers) of this Bill.

93. These general principles are that the carer must have as much involvement as he or she wishes in relation to the preparation of the adult carer support plan or young carer statement and the provision of support under section 22 of the Bill, and that the local authority must collaborate with the carer in respect of those matters. The carer must also be provided with any assistance reasonably required in order to be able to express views or make an informed choice about options for self-directed support.

Section 27 - Care assessments: duty to take account of care and views of carers

94. This section makes consequential amendments to section 12A of the 1968 Act and section 23 of the 1995 Act, which concern assessments of people in need of community care services and of children affected by disability respectively. The amendments require the authority preparing such assessments to take into account the care which is provided, or to be provided by any carer. Where the carer has an adult carer support plan or young carer statement, that care is to be identified by reference to the information contained in the plan or statement.

95. This section also inserts a new subsection (1B) into section 12A of the 1968 Act and a new subsection (6) into section 23 of the 1995 Act. Those new subsections require the local authority to take into account the views of the carer, so far as it is reasonable and practicable to do so, when determining the needs of the person being assessed and deciding what services to provide and how to provide them. These new subsections replace narrower obligations about taking a carer’s views into account in the current assessment provisions.

PART 5 – LOCAL CARER STRATEGIES

Section 28 - Duty to prepare local carer strategy

96. Subsection (1) provides that each local authority must prepare a local carer strategy.

97. Subsection (2) sets out what the strategy is and what information it must contain. This must include—

- the local authority’s plans for identifying carers in its area and how it will obtain information about the care they provide or intend to provide;

- the authority’s assessment of the demand for support to carers in its area;
- the support which is available to carers in the authority’s area, whether from the authority itself, the relevant health board or any other persons or bodies that the local authority deems appropriate;
- the authority’s assessment of the extent of unmet need for support in the area;
- the authority’s plans for supporting carers in its area;
- the authority’s intended timescales for preparing adult carer support plans and young carers statements; and
- any other information that the authority considers to be appropriate.

98. Subsection (3) requires that a local authority’s local carer strategy must contain information relating to the particular needs and circumstances of young carers in its area.

99. Subsection (4) requires that, before preparing its local carer strategy, a local authority must consult with the relevant health board and such persons and bodies representatives of carers as the local authority considers appropriate. It must also take steps as it considers appropriate to involve carers. Subsection (5) defines what is meant by “relevant health board”.

Section 29 - Preparation of local carer strategy

100. This section sets out a non-exhaustive list of factors to which the local authority must have regard in preparing its local carer strategy. For instance, this includes the aims set out in section 9(2) of the 2014 Act. They are—

- (a) that children’s services are provided in a way which—
- best safeguards, supports and promotes the wellbeing of children in the area concerned,
 - ensures that any action to meet needs is taken at the earliest appropriate time and that, where appropriate, action is taken to prevent needs arising,
 - is most integrated from the point of view of recipients, and
 - constitutes the best use of available resources, and
- (b) that services are provided in the way which, so far as consistent with the objects and proper delivery of the service concerned, safeguards, supports and promotes the wellbeing of children in the area concerned.

101. The list of factors also includes, amongst other things, the national health and wellbeing outcomes that are prescribed under section 5 of the Public Bodies (Joint Working) (Scotland) Act 2014.

Section 30 - Publication and review of local carer strategy

102. Subsection (1) requires each local authority to publish its local carer strategy.

103. Subsection (2) sets the date by which the first local carer strategy must be published. This is the date by which the integration authority relevant to the local authority in question must publish its next strategic plan under the Public Bodies (Joint Working) (Scotland) Act 2014. The timing for the publication of the strategic plans under that Act is determined by reference to the date (the “integration start day”) on which the health and social care integration arrangements take effect: this date has been prescribed by the Public Bodies (Joint Working) (Prescribed Days) (Scotland) Regulations 2014¹ as 1 April 2016.

104. Subsection (3) requires the local authority to review its local carer strategy at least every three years. By virtue of subsection (5), the same obligations to consult and involve carers set out in section 28(4) also apply when the local authority reviews its strategy. Following a review, subsection (6) provides that the local authority may decide to prepare a revised strategy or to publish a statement to the effect that it is not revising the strategy. Where the local authority prepares a revised strategy, subsection (7) requires it to take into account the factors specified in section 29 and to publish the revised strategy.

PART 6 – INFORMATION AND ADVICE FOR CARERS

Information and advice service

Section 31 - Information and advice service for carers

105. Subsection (1) provides that each local authority must establish and maintain an information and advice service for carers in its area.

106. Subsection (2) (a) to (e) sets out in general terms the sort of information and advice that the service must provide.

107. Subsection (3) provides that the information and advice must be provided in a manner that it is accessible to, and proportionate to the needs of, the persons to whom it is provided.

Short breaks services statements

Section 32 - Short breaks services statements

108. Subsection (1) requires each local authority to prepare and publish a short breaks services statement. Subsection (2) defines what a “short breaks services statement” means: that is a statement setting out the short break services available in Scotland for carers and cared-for persons.

109. Subsection (3) requires the short breaks services statement to be published in an accessible format and that the information contained within it should be relevant to the persons within the local authority area. This means that the statement does not need to contain information relating to every short break service in Scotland, only those relevant to the persons who live in that area.

¹ SSI 2014/284

110. Subsection (4) gives the Scottish Ministers a regulation-making power to make further provision about the preparation, publication and review of short breaks services statements. Regulations under this subsection will be subject to the negative procedure (see section 37).

PART 7 – GENERAL PROVISION

Guidance and directions

Section 33 - Guidance and directions

111. This section amends section 5 of the 1968 Act so that the Scottish Ministers may issue guidance or directions to local authorities about the exercise of functions under this Bill. Guidance and directions about the exercise of functions under the Bill will be issued in accordance with the procedures as laid out in section 5 of the 1968 Act.

112. Subsection (3) adds the Bill to the list of enactments in section 5(1B). This has a number of consequences. First, the Scottish Ministers may issue directions to local authorities under section 5(1A) of the 1968 Act about the manner in which they are to exercise their functions under the Bill. Second, a local authority's social work complaints procedure under section 5B of the 1968 Act must allow any person to make representations (including complaints) in relation to the discharge of, or failure to discharge, functions under the Bill. The power of the Scottish Ministers to cause inquiries to be held under section 6A of the 1968 Act and the power of a local authority to cause inquiries to be held under section 6B of the 1968 Act are also extended so that they cover inquiries into the functions under the Bill.

Assistance to and by voluntary organisations etc.

Section 34 - Financial and other assistance to voluntary organisations etc.

113. This section amends section 10 of the 1968 Act, to allow grants and loans to be made to voluntary organisations in connection with things they do which assist local authorities in exercising their functions under this Bill. The effect of the amendment is also that local authorities will be able to provide non-financial assistance to voluntary organisations, such as allowing them the use of premises.

Section 35 - Assistance by voluntary organisations etc.

114. This section amends section 4 of the 1968 Act to ensure Parts 2 to 6 of this Bill are considered as part of provisions relating to the performance of functions by local authorities for the purposes of that section. This will then allow local authorities to make arrangements with voluntary organisations so that such organisations can provide assistance to local authorities exercising functions under the Bill.

PART 8 – FINAL PROVISIONS

Section 36 - Interpretation

115. This section defines terms that are used frequently in the Bill. For example “1968 Act” means the Social Work (Scotland) Act 1968; “1995 Act” means the Children (Scotland) Act 1995; “2014 Act” means the Children and Young People (Scotland) Act 2014.

116. Subsection (2) defines support provided by a responsible local authority as including support that the authority secures from another service provider.

Section 37 - Regulations

117. Subsection (1) provides that any power of the Scottish Ministers to make regulations under this Bill includes power to make different provision for different purposes and to make incidental, supplementary, consequential, transitional, transitory or saving provision.

118. Subsection (2) provides that regulations under sections 7, 12, 19(4) and 21(1) are subject to the affirmative procedure. Regulations under section 38(1) which add to, replace or omit the text of an Act are also subject to that procedure.

119. Subsection (3) provides that all other regulations under this Bill are subject to the negative procedure. But subsection (3) does not apply to commencement regulations under section 40 (see subsection (4)). Such commencement regulations will be subject to no parliamentary procedure.

Section 38 - Ancillary provision

120. This section gives the Scottish Ministers a freestanding regulation-making power to make incidental, supplementary, consequential, transitional, transitory or saving provision that they consider necessary or expedient for the purposes of or in connection with the Bill. Such regulations may modify any enactment (including in the Bill itself). Regulations under this section which amend the text of primary legislation will be subject to the affirmative procedure (see section 37(2)). Otherwise they will be subject to the negative procedure (see section 37(3)).

Section 39 - Consequential modifications

121. This section introduces the schedule, which contains amendments and repeals of other legislation that are consequential on the provisions of this Bill.

Section 40 - Commencement

122. Subsection (1) provides that this section and sections 36 to 38 and 41 come into force on the day after Royal Assent. The remainder of the Bill comes into force on the day or days appointed by the Scottish Ministers in regulations made under subsection (2). Subsection (4) provides that commencement regulations may also include transitional, transitory or saving

provision. Such regulations will be subject to no parliamentary procedure, as is normal for subordinate legislation commencing Acts of the Scottish Parliament (see section 37(4)).

Section 41 - Short title

123. This section provides that the Bill, if passed, will be referred to as the Carers (Scotland) Act 2015.

SCHEDULE – CONSEQUENTIAL MODIFICATIONS

124. The schedule to the Bill makes consequential amendments and repeals of other enactments to take account of the provisions of the Bill. The enactments affected include—

- the Social Work (Scotland) Act 1968;
- the Children (Scotland) Act 1995;
- the Community Care and Health (Scotland) Act 2002;
- the Social Care (Self-directed Support) (Scotland) Act 2013; and
- the Public Bodies (Joint Working) (Scotland) Act 2014.

125. Sections 12AA and 12AB of the Social Work (Scotland) Act 1968, and sections 24 and 24A of the Children (Scotland) Act 1995, and subsequent revisions under sections 9(2), 11 and 12 of the Community Care and Health (Scotland) Act 2002 are repealed. The functions covered by those sections, relating to the assessment of adult carers and young carers needs, are replaced by the provisions contained within Part 2 of the Bill (adult carer support plans and young carer statements).

126. The amendments to section 7 of the Social Care (Self-directed Support) (Scotland) Act 2013 made by paragraph 4 of the schedule have the effect that any support provided under section 22 of the Bill may be provided through whichever of the options for self-directed support is chosen by a carer.

127. The amendments to the Public Bodies (Joint Working) (Scotland) Act 2014 have the effect that the functions of preparing an adult carer support plan or a young carer statement, providing support to carers, preparing local carer strategies, providing an information and advice service and publishing short breaks statements are capable of being delegated under an integration scheme under that Act.

FINANCIAL MEMORANDUM

INTRODUCTION

1. This Financial Memorandum has been prepared by the Scottish Government to satisfy Rule 9.3.2 of the Parliament's Standing Orders. It does not form part of the Bill and has not been endorsed by the Parliament.

2. The purpose of this Financial Memorandum is to set out:

- the best estimates of the costs associated with implementation of the range of duties and powers in the Carers (Scotland) Bill ("the Bill"), as well as likely efficiency savings;
- the best estimates of the timescales over which the costs and savings are expected to arise; and
- an indication of the margins of uncertainty in these estimates.

3. The specific areas covered in this Memorandum are:

- duties to prepare and review the adult carer support plan (ACSP) for adult carers;¹
- duties to prepare and review the young carer statement (YCS) for young carers;²
- duties to establish and maintain an information and advice service for all carers and young carers in the local authority area;
- duties to provide support to both adult and young carers where needs fall within local eligibility criteria; powers to provide support where needs do not fall within local eligibility criteria;
- duties to prepare a local carer strategy;
- waiving of charges for support to carers;
- training and development of the statutory health and social care, third sector, and education workforce (capacity building); and awareness-raising with carers and young carers; and
- the implications flowing from the regulations and guidance underpinning the Bill.

4. Most duties fall on local authorities. Two duties are for health boards and one for a directing authority.³ The expectation is that all functions created under this Bill which relate to

¹ Adult carers are aged 18 and over for the purposes of the Bill.

² Young carers are mostly aged under 18 for the purposes of the Bill. However, if a young person has attained the age of 18 years while a pupil at a school, and since attaining that age has remained a pupil at that or another school, he or she will be a young carer.

³ Where the child is a pupil at a grant-aided or an independent school, the directing authority of that school is the responsible authority in relation to the child. Directing authority under the Children and Young People (Scotland) Act 2014: "directing authority" means: (a) when used generally, each of the following: (i) the managers of each grant-aided school, (ii) the proprietor of each independent school, and (iii) the local authority or other person who manages each residential establishment which comprises secure accommodation, (b) when used in relation to a

the delivery of services to adult carers will require to be delegated under integration schemes under the Public Bodies (Joint Working) (Scotland) Act 2014, (“the Public Bodies Act”)⁴ and all local authority or health board functions relating to carers under the age of 18 will be capable of being delegated if the local authority and health board so choose. Accordingly, the Scottish Government anticipates that functions may be exercised in practice by local authority or health board officials (or both), depending on the decisions of the individual integration authority. Where a local authority delegates functions under an integration scheme, it must set out the method it will use to determine the sums required to enable the functions to be exercised. It will then pay the sums over to the integration authority which will in turn determine how they are to be applied.

5. Furthermore, in relation to some of the duties, the Scottish Government’s view is that the functions can be delivered, in whole or in part, by relevant third sector organisations. This will apply in particular to preparing the ACSP and the YCS, to contributing to the information and advice service and to supporting carers and young carers.

6. The analysis and estimates contained in this Financial Memorandum draw on a variety of sources including consideration of the outcome of questionnaires issued to local authorities,⁵ health boards⁶ and the third sector;⁷ an analysis requested of NHS Education for Scotland (NES) and the Scottish Social Services Council (SSSC) on the costs of workforce development; and a number of survey and research publications. The Memorandum should be read in conjunction with the Policy Memorandum, which sets out more fully the reasoning behind the Bill and a range of non-financial benefits associated with it. The Policy Memorandum also sets out how the Bill, including financial costs, will be monitored and evaluated.

7. The Scottish Government’s best estimates of costs are provided in this Financial Memorandum. It is recognised, however, that it is challenging to predict the demand profile with complete accuracy. The Scottish Government is, therefore, very willing to work in partnership with COSLA if any new information comes to light about the cost estimates. The Scottish Government would be prepared to consider any such information.

8. The Financial Memorandum is structured as follows:

Part 1: Purpose, statistics and research;

Part 2: Costs on the Scottish Administration (including cost implications to the Scottish Government);

Part 3: Recurrent and non-recurrent cost implications to local authorities from the provisions in the Bill; and

particular establishment - (i) in relation to a grant-aided school, the managers of the school, (ii) in relation to an independent school, the proprietor of the school, (iii) in relation to secure accommodation, the local authority or other person who manages the residential establishment.

⁴ Public Bodies (Joint Working) (Scotland) Act 2014 - <http://www.legislation.gov.uk/asp/2014/9/contents/enacted>

⁵ 20 questionnaires returned to COSLA (and sent on to the Scottish Government) and 1 returned directly to the Scottish Government

⁶ Nine questionnaires returned to the Scottish Government

⁷ The Carers Trust and the Coalition of Carers in Scotland (COCIS) circulated and analysed a questionnaire sent to carers centres in Scotland

Part 4: Recurrent and non-recurrent cost implications to other bodies from the provisions in the Bill.

9. This Memorandum distinguishes between the costs associated specifically with the Bill and with wider financial support which the Scottish Government is providing to translate the Bill's principles and aims into tangible changes to the experiences of carers and young carers. The main cultural transformation will be in three main areas:

- (i) with the carrying out of the new YCS and its links with the child's plan under the Children and Young People (Scotland) Act 2014;
- (ii) with planning and delivering innovative and creative approaches to the provision of short breaks; and
- (iii) with delivering sustainable personal outcomes for carers and young carers within the wider context of public service reform including the integration of health and social care and children's services planning.

10. These three areas are either new policy developments (the YCS) or are an essential component of the wider transformative programme of reform so that public services enhance quality of life for carers, young carers and the people they care for. The Scottish Government expects that the key to achieving cultural transformation in this area will be through workforce development and leadership. This Financial Memorandum covers training and development.

PART 1: PURPOSE, STATISTICS AND RESEARCH

11. The purpose of this Bill is to ensure better and more consistent support for both adult and young carers so that they can continue to care, if they so wish, in better health and to have a life alongside caring. This is to be achieved by building on existing legislative rights for carers and young carers. There will also be better linkages with the assessment processes for cared-for persons and with the services for cared-for persons (both adults and disabled children). Implementation of the Bill's provisions will complement and enhance the actions in the Scottish Government's and COSLA's national Carers and Young Carers Strategy, *Caring Together* and *Getting it Right for Young Carers*, 2010-2015.⁸

Bill Content

12. The Bill contains provisions placing duties primarily on local authorities concerning:
- (i) strategic planning (preparation of local carer strategies; and carer, young carer and third sector organisation involvement in the planning, shaping, delivery and review of services); and
 - (ii) operational delivery (the ACSP and YCS; information and advice; support to eligible carers and young carers; and carer and young carer involvement in decisions regarding support for themselves and, as appropriate, with regard to the cared-for person).

⁸ *Caring Together*: The Carers Strategy for Scotland 2010 – 2015; *Getting it Right for Young Carers*: The Young Carers Strategy for Scotland 2010-2015 - <http://www.scotland.gov.uk/Publications/2010/07/23153304/0>

Statistics

13. There are currently around 745,000 identified adult carers⁹ and 44,000 identified young carers¹⁰ in Scotland. This equates to around 17 per cent¹¹ of Scotland's population who are in an adult caring role and around 5 per cent¹² of children and young people aged four to seventeen who are in a caring role as a young carer. The number of young carers is likely to be an underestimate as young carers in particular may not identify themselves as such in a survey.

14. In terms of carers not currently being supported – an important consideration for the analysis of costs for this Financial Memorandum – 70 per cent of carers say that they do not receive any form of support.¹³ However, those providing more hours of caring are more likely to receive support. Nonetheless, 42 per cent of carers who provide 35 hours or more of care say that they do not receive any support.¹⁴

Impact of caring on wellbeing

15. Around one-third (32 per cent) of carers who responded to the recent Scottish Health and Care Experience Survey¹⁵ reported that caring had a negative impact on their own health and wellbeing. Since over a third of carers who responded were older at aged 65 or over (with 42 per cent being aged 50 to 64) generally speaking, it is more likely that caring would impact detrimentally on their own health and wellbeing (in comparison with younger carers). It is less likely that caring would impact on having the right balance with other things in carers' lives including the ability to work.

16. The Scottish Health and Care Experience Survey also found that, in general, those who provided more hours of care were more negative about the balance of caring in their lives, being able to spend time with others and the impact of caring on their wellbeing compared to those providing fewer hours. For example, the balance in life gets worse as hours of caring increases – 4 per cent of carers who care for up to four hours per week responded negatively, whilst this increased to 20 per cent for those who care for more than 50 hours per week.

17. The intensity, duration and complexity of the caring situation influences carers' health and wellbeing. The Scottish Health and Care Experience Survey also found that those in the middle groups by hours of caring – providing between five and 49 hours – were slightly more

⁹ Source - Scottish Health Survey (SHeS). The number of carers identified through the Scottish Health Survey is much higher than the number identified through the Census 2011. That figure stands at 492,231 carers and young carers combined. It is believed that the difference is due primarily to the SHeS being an interview survey where each adult answers the question separately, rather than one person answering for the whole household. This question is: "Do you look after, or give any regular help or support to family members, friends, neighbours, or others because of either a long-term physical, mental ill-health or disability; or problems related to old age?"

¹⁰ Scottish Health Surveys 2012 and 2013

¹¹ Scottish Health Surveys 2012 and 2013

¹² Scottish Health Surveys 2012 and 2013

¹³ Scottish Health Surveys 2012 and 2013

¹⁴ Scottish Health Surveys 2012 and 2013

¹⁵ Scottish Health and Care Experience Survey 2013-14, Volume 1, National Results, A National Statistics Publication for Scotland published by the Scottish Government. Over 100,000 individuals registered with a GP practice in Scotland responded to the Survey, of whom 15% (15,000) responded as carers.

<http://www.scotland.gov.uk/Resource/0045/00451272.pdf>

negative around the co-ordination of services and support to continue caring compared to those in the bottom (up to four hours) and top groups (over 50 hours). This may be due to the middle group of carers juggling both employment and caring responsibilities who may receive less support from services or others to continue caring.

18. This analysis of survey work shows that the Scottish Government is not starting from the premise of supporting all existing carers (and indeed young carers) in order to achieve the outcome of all carers feeling supported to continue caring and being able to achieve a good balance between caring and other things in their lives. This is because, according to the Scottish Health and Care Experience Survey, some of the cohort (44 per cent) either strongly agree or agree that they feel supported to continue caring, 38 per cent were neutral and 18 per cent indicated that they were not supported to continue caring. Some (42 per cent) did not experience a negative impact on their health and wellbeing as a result of caring, 25 per cent were neutral and 32 per cent indicated that caring had a negative impact. Nonetheless, locally, local authorities with their partners need to be alert to potential changes in carers' circumstances requiring support in the future.

Wider demographic context

19. There is a number of factors regarding the wider demographic context that have a bearing on the cost of support in the future. These factors are naturally occurring and not attributable to the provisions in the Bill. However, it is appropriate to set out the wider context to illustrate the challenges of population change for statutory and non-statutory services. The factors are set out below:

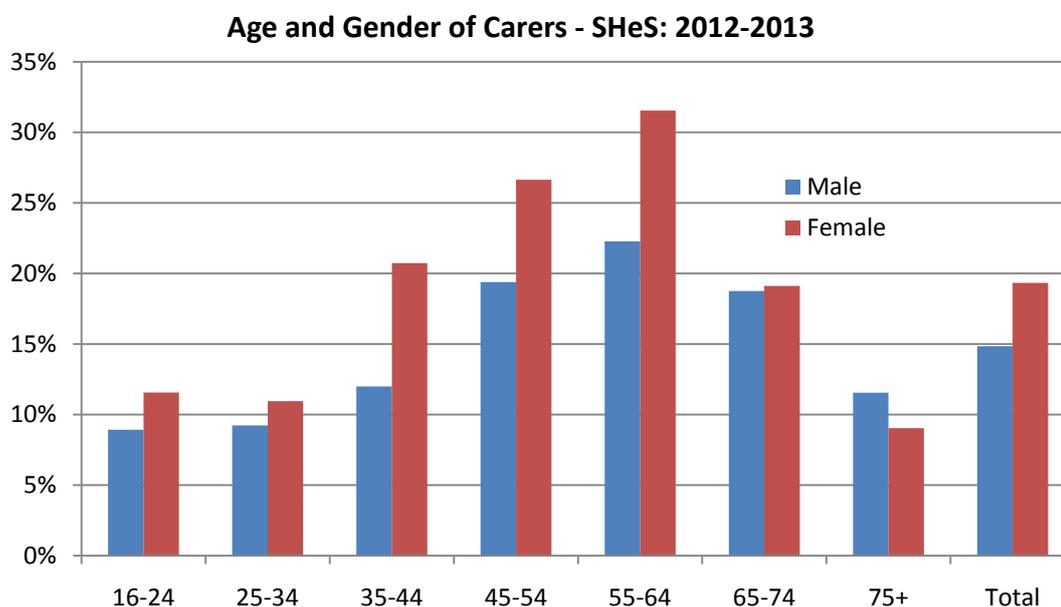
- (i) support provided to carers, some of it through self-directed support,¹⁶ aims to improve outcomes for those requiring support and to ensure better value for money. However, demand for support is increasing as the demography of Scotland changes. Projections suggest that the number of people (including carers) aged 75 and over is projected to increase by around 28 per cent from 0.42 million in 2012 to 0.53 million in 2022. The numbers in the same age category will continue rising, reaching 0.78 million in 2037, an increase of 86 per cent over the 25 year period. The number of people aged 80 and above is projected to more than double by 2037 (an increase of about 105 per cent) and the number of centenarians is projected to rise from 800 to 7,800 by 2037, more than an eightfold increase.¹⁷ Therefore, the ageing of large cohorts of baby-boomers will greatly expand the number and proportion of people requiring both formal care and care by unpaid carers. The table below (Scottish

¹⁶ Where some or all of the needs of a carer or young carer (as identified and agreed through the CSP or YCS) meet the eligibility criteria, the local authority must provide support to meet the needs. However, the eligibility criteria will not apply to universal services or support which the local authority is obliged to provide to the public at large (eg library services), to all carers (eg information and advice) or to the cared-for person in consequence of a community care assessment/assessment for disabled child, all of which might also meet needs identified in a CSP or YCS. Where the eligibility criteria apply, the local authority must offer the carer or young carer the choice of the four self-directed support options in relation to the provision of the support. The self-directed support options are: Option 1: direct payment; Option 2: the carer/young carer directs the available support; Option 3: the local authority arranges the support; and Option 4: a mix of Options 1, 2 or 3 for each type of support.

¹⁷ National Records of Scotland, Projected Population of Scotland (2012-based), National population projections by sex and age, with UK comparisons – published on 6 November 2013 (with subsequent corrections), a National Statistics Publication for Scotland.

<http://www.gro-scotland.gov.uk/files2/stats/population-projections/2012-based/2012-pop-proj-publication.pdf>

Health Survey) shows that, whilst presently the highest proportion of carers is in the age bracket 55 to 64, 30 per cent are aged 65 and over;



- (ii) due to population increases, to medical advances and to increased rates of diagnosis and reporting, there are more children with complex and exceptional needs being cared for at home by parent carers.¹⁸ According to the most recent Census in 2011, there were 43,943 children in Scotland aged 15 years and under who reported a health problem or disability which limits their day-to-day activities either a lot or a little. This represents 5 per cent of 0 to 15 year-olds inclusive in Scotland or 1 in 20 children. For around 15,000 children, (1.7 per cent of children) the health problem or disability limits them a lot;
- (iii) there are nearly 10,000 identified children with autism in Scotland.¹⁹ Some of this group will be included in the Census 2011 figure quoted in sub-paragraph (ii) above. These children will have parents or guardians, more of whom will see themselves as carers year by year;
- (iv) there are also increasing numbers of young adults with life-limiting conditions who are living for longer and who require care and support both from the paid health and social care workforce and from carers;²⁰
- (v) whilst the number of carers has remained relatively steady over the last 10 years, the trend in the same period is for more intensive caring by hours of caring. The proportion of carers caring for 20 or more hours each week has increased from 37 per

¹⁸ The term 'parent carers' is generally used in respect of parents of children and young people who are carers. It is sometimes used in respect of parents of adults who are carers. The term is not included in the Carers Bill.

¹⁹ The figure of nearly 10,000 children with autism is from the Pupil Census published by the Scottish Government, where data on additional support needs, including the number of pupils on the autism spectrum given as a reason for additional support, is published. The actual figure is 9,946 in 2013.

²⁰ For example, as at December 2014 there were 41 young adults over the age of 21 supported by the Children's Hospice Association Scotland (CHAS). There will be more young adults with life-limiting conditions who are not using CHAS services.

cent (in 2001) to 45 per cent (in 2011).²¹ The number of carers (including young carers) might grow to an estimated 900,000 by 2037²² with three out of five people becoming carers at some point in their lives. This will be due primarily to the rapidly growing older population suggesting that the demand for carers will increase in the coming years. However, the number of carers required might fall short of the number of carers available. The Policy Memorandum sets out the implications of this projected gap in carers.

Long-term recurring costs and savings

20. There is a number of areas for recurring costs associated with the Bill's provisions. These relate mainly to the new ACSP and YCS in order to embed a new-style, outcomes-focused and co-produced assessment and support plan; the information and advice service geared up to providing personalised, timely and co-ordinated information and advice; and the duty to support adult and young carers.

21. In terms of recurring savings, or, more accurately, the potential for avoided costs, there is evidence of savings in health and social care when both cared-for persons and carers are not admitted to hospital. Three separate research studies²³ suggest that poor carer health can result in greater use of health and care services by the cared-for person, particularly older people, for example, through admission and readmission to hospital; delayed discharge; referral to a day hospital or geriatric unit; and admission to institutional care.

22. Over half (56 per cent) of carers are in employment, compared to 58 per cent of non-carers.²⁴ At this high level, the employment status of carers and non-carers is not that different. However, with regard to the different levels of caring, 69 per cent of those caring for between one and 19 hours a week are in employment, 56 per cent of those caring for between 20 and 34 hours a week are in employment and 35 per cent of those caring for 35 or more hours a week are in employment. There are potential cost savings by carers being in employment. Research²⁵ has estimated that the public expenditure cost of working age carers leaving employment as a result of their caring role (in England) is £1.3 billion per year. This comprises additional payments of the carer's allowance of £0.3 billion per year and forgone tax revenue of £1 billion per year. It is not straightforward to link this research to the impact of the Bill but tentatively it can be assumed that a proportion of carers who might otherwise give up paid work will in the future be supported to maintain employment. If the Bill's provisions as implemented prevented, for illustrative purposes, 10 per cent of carers currently in employment from giving up work, based on the

²¹ Census 2001 and 2011 data

²² Carers UK estimate

²³ (1) Hirst, M (2004) *Health Inequalities and Informal Care*, Social Policy Research Unit, University of York. Available at: <http://www.york.ac.uk/inst/spru/pubs/pdf/healthinequalities.pdf>

(2) The Princess Royal Trust for Carers and Crossroads Care (2011) *Supporting Carers: The Case for Change*. Available at: http://www.carers.org/sites/default/files/supporting_carers_the_case_for_change.pdf

(3) Yeandle and Wigfiell (2011) *New Approaches to Supporting Carers' Health and Well-being: Evidence from the National Carers Strategy Demonstrator Sites*, Leeds: University of Leeds. Available at: <http://www.sociology.leeds.ac.uk/assets/files/research/circle/151111-6121-circle-newapproaches-complete-report-web.pdf>

²⁴ Census 2011 data

²⁵ Dr Linda Pickard et al (2012) *Public Expenditure Costs of Carers Leaving Employment*. NIHR School for Social Care Research. Available at: <http://blogs.lse.ac.uk/healthandsocialcare/2012/04/25/dr-linda-pickard-public-expenditure-costs-of-carers-leaving-employment/>

research's financial findings (pro-rata for Scotland), cost savings to the public purse would be in the region of £13 million per year. This is a speculative saving, some of which would accrue to HM Treasury and some to the Scottish Parliament when powers over the carer's allowance are devolved.²⁶

23. The literature discusses the hidden costs of unpaid caring.²⁷ These hidden costs relate to both public expenditure and private or individual expenditure. Hidden public expenditure costs of caring include, for example, costs to the NHS incurred by carers; costs to the Department for Work and Pensions (DWP) arising from increased benefits and pensions paid to carers; and lost income to HM Treasury arising from the lower employment rates of carers. Hidden individual costs of caring include the opportunity costs of caring i.e. the alternatives forgone by the carer as a result of taking on a caring role, such as employment opportunities and leisure.

PART 2: COSTS ON THE SCOTTISH ADMINISTRATION

24. The Scottish Government would cover all the costs set out in the tables below. The total estimated costs across all bodies are a minimum of **£17.53 million** in 2017-18 rising to a minimum of **£76.81 million** in 2021-22. The maximum costs in the same years are **£19.40 million** rising to **£88.52 million**. The difference in the minimum and maximum estimated costs is due to minimum and maximum unit costs used for the adult carer support plan and young carer statement. These are discussed and set out in paragraphs 48 to 54 and 63.

25. All of the expenditure set out in Tables 2 to 6 below is new expenditure either directly or indirectly associated with the Bill's provisions. Table 1 contains no expenditure figures as the Scottish Government will absorb the costs it will incur in relation to the preparation of regulations and guidance and publicity associated with the Bill.

26. In 2011-12 the Scottish Government added £2.82 million per annum to the local authority block General Revenue Grant up to 2015 for delivering the Manifesto commitment to maintain an extra 10,000 respite weeks. The estimates provided in paragraph 79 for the duty to support carers do not take this into account as the addition of £2.82 million to the block General Revenue Grant stops in 2015.

27. There is a Manifesto commitment that at least 20 per cent of the Scottish Government's Reshaping Care for Older People Change Fund will support carers. This is at least £60 million between 2011 and 2015. The total Change Fund of £300 million was made available to health and social care partnerships (local authorities and health boards). The estimates provided in the Financial Memorandum regarding ACSPs/YCSs, information and advice and support to carers do not take this into account as the funding stops in 2015.

²⁶ Report of the Smith Commission for further devolution of powers to the Scottish Parliament, page 18 (November 2014). Available at:

http://www.smith-commission.scot/wp-content/uploads/2014/11/The_Smith_Commission_Report-1.pdf

²⁷ Pickard, L. (2004) *The Effectiveness and Cost Effectiveness of Support and Services to Informal Carers of Older People*. London: Audit Commission and PSSRU, University of Kent, London School of Economics and University of Manchester. Available at: <http://www.lse.ac.uk/LSEHealthAndSocialCare/pdf/LitReview-Older-Effectiveness-final.pdf>

28. The new integrated care fund of Scottish Government funding of £100 million in 2015-16 for health and social care partnerships will support partnerships to focus on prevention, early intervention and care and support for people with complex and multiple conditions, particularly in those areas where multi-morbidity is common in adults under 65, as well as in older people. The partnerships have prepared their plans. Some of the funding will support carers. This figure cannot be quantified. The estimates in the Financial Memorandum regarding ACSPs/YCSs, information and advice and support to carers do not take this into account as the funding of the integrated care fund is for one year only.

29. Local authorities support carers using funding provided through the local government finance settlement. It is not known on a Scotland-wide basis what funding is supporting carers. This is for a number of reasons including: some local systems not developed to capture the data; carers benefitting indirectly from services for cared-for people but lack of data in some areas on the funding of these services; and challenges with disaggregating the expenditure locally (for example, some carers are also service users and they might receive a service which supports them both as a carer and service user).

30. The Scottish Government has, however, considered the questionnaire returns received from local authorities to help inform this Financial Memorandum. It is estimated that approximately £1.1 million is supporting carers in 15 local authority areas with the carer's assessment. It is also estimated that about £5 million is supporting carers in 12 local authorities with direct support including advocacy, short breaks, counselling, training and information and advice. Local authorities are also supporting carers indirectly by services put in place for the cared-for person. The estimates set out in this Financial Memorandum take into account estimates of numbers of carer's assessments currently undertaken (paragraph 55) and estimates of carers who are currently supported (paragraphs 74 to 77) but do not relate these directly to current local authority expenditure on supporting carers. It would be challenging to do this. Moreover, since the Change Fund comes to an end in 2015 and since the sums for direct support are, on the whole, relatively modest, these are reasons not to take the existing expenditure into account in the Financial Memorandum.

31. The Scottish Government presently funds health boards at £5 million per annum for supporting carers. This funding comes to an end in 2016. This Financial Memorandum makes clear that the £5 million will be required from the date of Bill commencement to support the information and advice service and duty to support provisions of the Bill. This is the case even though the duties fall on local authorities. Funding will be made available to local authorities too.

32. The Scottish Government presently funds the third sector organisations Shared Care Scotland and the Family Fund at £3 million per annum in total for the provision of the voluntary sector short breaks fund. This funding comes to an end in 2016. Subject to Spending Review decisions, this funding would continue for short breaks. The estimates provided in paragraph 82 for the duty to support carers, including the short breaks component, do not take into account this potential funding for the third sector.

33. The Scottish Government presently funds NES (and the College Development Network) for workforce development so that the paid workforce is trained to support carers. The NES

funding is £172,000. The funding set out in Table 5 below would be new funding associated both with the direct and indirect costs of Bill implementation.

34. The Scottish Government presently funds the national carer organisations (NCOs) at over £4 million in total (between 2007 and 2015). The funding set out in Table 6 is for the indirect costs of Bill implementation and could be disbursed to local and national third sector organisations.

35. The tables below summarise the recurrent and non-recurrent costs of the Bill's provisions.

Table 1

	Scottish Administration	2017-18	2018-19	2019-20
Para 25		0	0	0

*If the Bill is passed, it might commence in April 2017.

Table 2

Costs directly associated with Bill implementation - summary of local authority expenditure (£m)													
a) Costs directly associated with Bill implementation													
		2017-18 (£m)		2018-19 (£m)		2019-20 (£m)		2020-21 (£m)		2021-22 (£m)		2022-23 (£m)	
		<u>Min</u>	<u>Max</u>	<u>Min</u>	<u>Max</u>	<u>Min</u>	<u>Max</u>	<u>Min</u>	<u>Max</u>	<u>Min</u>	<u>Max</u>	<u>Min</u>	<u>Max</u>
Local authorities	adult carer support plan (ACSP) recurring from 2021-22	0.74	1.82	2.35	5.75	3.42	8.37	6.64	16.24	7.71	18.86	7.71	18.86
Para 56 Table 1													
Para 64 Table 1	young carer statement (YCS) recurring from 2021-22	0.13	0.21	0.27	0.43	0.50	0.80	0.74	1.16	0.97	1.53	0.97	1.53
Para 70	Information and advice service	3.30 (includes element of non-recurring)		3.04 (recurring)		3.04		3.04		3.04		3.04	

Costs directly associated with Bill implementation - summary of local authority expenditure (£m)							
a) Costs directly associated with Bill implementation							
		2017-18 (£m)	2018-19 (£m)	2019-20 (£m)	2020-21 (£m)	2021-22 (£m)	2022-23 (£m)
Para 79 Table	Duty to support adult carers recurring from 2021-22	3.721	9.935	17.079	24.808	51.218	51.218
Para 79 Table	Duty to support young carers recurring from 2021-22	0.732	1.465	2.930	4.395	6.493	6.493
Para 82	Additional short breaks component	2.36 (recurring)	2.36	2.36	2.36	2.36	2.36
Para 86 Table	Local carer strategies	0.32	0	0	0.16	0	0
TOTAL		11.303 (min) 12.463 (max)	19.415 (min) 22.98 (max)	29.329 (min) 34.579 (max)	42.143 (min) 52.163 (max)	71.791 (min) 83.501 (max)	71.791 (min) 83.501 (max)

Table 3

a) Costs directly associated with Bill implementation - summary of health board expenditure							
		2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
Health boards	YCS recurring from 2021-22	0.0018	0.0022	0.0030	0.0037	0.0045	0.0045 recurring
Para 102							
Para 104	Information and advice service	2.0 recurring	2.0	2.0	2.0	2.0	2.0
Para 105	Duty to support carers	3.0 recurring	3.0	3.0	3.0	3.0	3.0
TOTAL		5.0018	5.0022	5.0030	5.0037	5.0045	5.0045 recurring

Table 4

a) Costs directly associated with Bill implementation – summary of directing authority expenditure							
		2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
Directing Authority	YCS recurring from 2017-18	0.0155	0.0155	0.0155	0.0155	0.0155	0.0155
Para 111							

Table 5

a) Costs directly associated with Bill implementation (training on Bill's provisions) and b) indirectly (awareness raising amongst the wider workforce) - summary of NES/SSSC expenditure				
Workforce Development	2017-18 Option A	2017-18 Option B	2018-19 Option A	2018-19 Option B
NES and SSSC	0.71	1.42	0.69	1.39
Para 110				

Table 6

Costs indirectly associated with Bill implementation – summary of third sector expenditure				
	Third sector	2017-18	2018-19	2018-19
Para 112	Transformation funding	0.50	0.50	0.50

PART 3: RECURRENT COST IMPLICATIONS TO LOCAL AUTHORITIES FROM THE PROVISIONS IN THE BILL

Duties to prepare and review the Adult Carer Support Plan (ACSP) for adult carers

36. The Bill requires local authorities – in practice care managers or social workers – to prepare the ACSP with individual adult carers. The ACSP will replace the current carer's assessment available to carers of any age (i.e. including young carers) who undertake a substantial amount of care on a regular basis.

37. The total estimated costs to local authorities are a minimum of £11.303 million in 2017-18 rising to a minimum of £71.791 million in 2021-22. The maximum costs in the same years are £12.463 million rising to £83.501 million. The difference in the minimum and maximum estimated costs is due to minimum and maximum unit costs used for the adult carer support plan and young carer statement.

38. One methodology used is to aim to establish the level of recurring costs based on the following:

- the potential increase in demand for the ACSP following the commencement of the Bill's provisions by considering the range of factors which would result in increased demand whilst taking into account estimates of those carers who would not want an ACSP if they are content with their current support arrangements;
- the estimated additional cost of an ACSP compared with a carer's assessment;

- assumptions about transitional arrangements regarding introduction of the ACSP when the Bill is commenced.

39. The Scottish Government, using a questionnaire issued by COSLA, consulted with local authorities, many of whom thought that there would be an increase in demand for the ACSP with 10 stating that the increase would happen immediately after commencement of the Bill. Six councils thought that the increased demand would happen at a later date due to the need for awareness-arising and staff training. One council thought that there would be no increased demand because the ACSP is similar to the assessment and support arrangements that it already uses in its area.

40. There are carers who decline the offer of a carer's assessment for a number of different reasons including: stigma associated with assessment and social work involvement; getting assessed through the community care assessment/disabled child's assessment; lack of workforce skills in offering an empathetic and outcomes-focused assessment (as acknowledged by some local authorities themselves); not receiving adequate follow-up support quickly; and carers saying they are coping and confident in their caring role. It is not certain whether all or some of these carers would want the new ACSP. The numbers of carers who have previously declined the offer of a carer's assessment who may now want an ACSP are few and will not materially affect the calculations.

41. The Scottish Government is removing the present legal requirement²⁸ that all carers must provide, or intend to provide, a substantial amount of care on a regular basis in order to access the carer's assessment. Of the 21 returns received to the questionnaire to councils, eight councils said that they used the regular and substantial test, 10 stated that they did not use the test and two councils sometimes used it. One council did not know whether it used it or not. Two health boards with lead responsibility for carers (one, parent carers of disabled children and one for carers of adults and children) do not use the regular and substantial test.

42. The Scottish Government's view is that removal of this test will not, in itself, result in a large increase in the numbers of carers requesting the ACSP. Most of the councils who do use the test did not know how many carers fell short of the regular and substantial threshold for access to the carer's assessment.

43. The Law Commission Report on Adult Social Care in England, published in 2011,²⁹ stated that the substantial and regular test "arguably creates inefficiency by requiring local authorities to undertake pre-assessments to decide whether a carer satisfies the substantial and regular requirement". The Scottish Government agrees with this as clearly questions need to be asked of the carer to establish whether or not the carer does provide a substantial amount of care on a regular basis. In order to ensure greater consistency across Scotland in the application of the substantial and regular test, Scottish Ministers issued the Carer's Assessment (Scotland) Directions 2014 which came into force on 1 April 2014. The Directions direct local authorities to have regard to the relevant sections of Circular CCD2/2003 which set out a number of key principles that ought to be taken into account when assessing whether a carer is caring for a

²⁸ Section 12AA of the Social Work (Scotland) Act 1968 and section 24 of the Children (Scotland) Act 1995

²⁹ The Law Commission (Law Com 326), Adult Social Care, 10 May 2011

http://lawcommission.justice.gov.uk/docs/lc326_adult_social_care.pdf

person on a substantial and regular basis. Despite this Guidance and Directions, inconsistency in the conduct of the assessment process remains. Therefore, removal of the substantial and regular test should in itself lead to more efficient processes for assessment.

44. Moreover, there is no reason to believe that removal of the substantial and regular test will result in neighbourly people who carry out odd jobs for neighbours requesting an ACSP. Such people will tend to opt out of requesting the ACSP - research by MORI (2010)³⁰ found that *“the public want public services to be based on notions of the public good, rather than just what’s good for me”*. Furthermore, 225,000 (30 per cent) of carers aged 16 and over care for up to four hours each week.³¹ Again, it is highly unlikely that all of these carers would seek an ACSP. One council said in its questionnaire return that, *“it should also be acknowledged that many families (and carers) will manage their caring role without the need for additional support from NHS or SWS. They capably manage their caring role without the need for additional support.”*

45. The returns from local authorities show that, overall, a small number of carers relative to the known caring population in the local authority areas (Census 2011 data) receive the carer’s assessment. The figures range from between less than 1 per cent and 6 per cent. However, when carer self-assessments, adult community care assessments and disabled child assessments with carer components are taken into account, the per cent assessment for carers rises to 12 per cent relative to the known caring population. Nonetheless, even when there has been a policy impetus through the national Carers Strategy and in some local areas to increase the numbers of carer’s assessments, growth on the whole has been modest. The Scottish Government does not, therefore, anticipate that an increase in the ACSP will rise sharply within a short space of time from commencement of the Bill. Rather, it is more likely to grow gradually over three or four years or over a longer period.

46. The number of people caring for 20 or more hours a week increased by 25 per cent from 175,500 (Census 2001) to 218,900 (Census 2011). The Scottish Health Survey 2013 shows that 13 per cent of carers had been caring for less than one year and a further 41 per cent had been caring for between one and five years. A significant proportion (46 per cent) of carers had been caring for five years or more and 7 per cent of these had been caring for more than 20 years.

47. The transitional arrangements for the ACSP will have an impact on demand. These will be set out in regulations which will be subject to consultation. The Scottish Government’s initial view, however, is that all newly identified carers would be eligible for an ACSP on commencement of the Bill. Moreover, where a local authority has begun or recently completed a carer’s assessment (perhaps within six months) then the local authority might take this to be the ACSP under the Bill, provided that the carer’s needs or other circumstances have not changed and provided also that the carer agrees. Where a carer’s needs or circumstances have changed, an ACSP would be put in place.

³⁰https://www.ipsos-mori.com/DownloadPublication/1345_sri_what_do_people_want_need_and_expect_from_public_services_110310.pdf

³¹ Scottish Health Surveys 2012 and 2013

48. The estimated average unit cost of carrying out a carer's assessment is £176.³² There is a cluster of five local authorities where the unit cost is between £150 and £200. The unit cost in one of the largest predominantly urban local authorities is around £260. The unit cost will vary according to a number of different factors including rurality, level/grade of staff involvement, whether the assessment is carried out by the third sector and the degree to which assessments are carried out with the most vulnerable and isolated carers.

49. Some local authorities and third sector organisations undertake the carer's assessment in three to five hours whilst two take at least a day. Where it takes longer to undertake an assessment, the reasons are due to complexity of need, rurality and liaison with other agencies.

50. The average unit cost in 2011 in Surrey County Council (the one council used by the Department of Health when considering the cost of assessments under the Care Act 2014) was £100. There is also at least one council in Scotland that undertakes a proportion of its assessments by telephone at a unit cost of £9. A telephone conversation would be acceptable as an ACSP in limited circumstances (including for some carers in island communities) as the relevant information can be gathered and an outcomes-focused conversation can take place by phone. Taking all these factors into account, a unit cost of £110 as one of the unit cost options has also been set.

51. Individual councils use different types of staff (for example, social worker, social care assistant, council-employed occupational therapist, delegation to third sector staff) in different mixes for the undertaking of the carer's assessment. Complex assessments will need the specialist knowledge and skills that qualified and experienced social workers can provide. Contributions from other staff, in supporting more routine assessments, providing information, and working on reviews, can release professional resources for complex assessments and reviews. The largest cost element in assessments and reviews is the pay of the professionally-qualified, and other, staff who carry them out. The biggest contribution to reducing the costs of the ACSP might come from considering changes to the mix of staff grades and skills.

52. The average unit cost of preparing the ACSP should be approximately the same as the unit cost of the carer's assessment. The ACSP is to be light-touch as and when required. The carer's assessment should be reviewed with the carer as and when appropriate but this is not always done. The ACSP will need to be reviewed as agreed with the carer and at set points, for example, when the cared-for person is discharged from hospital. The ACSP, however, is very much the same as a good quality carer's assessment i.e. considering personal outcomes – what is important to the carer and what the carer wants to change/maintain; considering assets – what is already in place that supports the carer in the caring role; and considering what other support/resources the carer might need to help either work towards or maintain the carer's personal outcomes, such as confidence in managing the caring role or maintaining the carer's own health and wellbeing. As now, the local authority will need to have regard to the results of the ACSP in undertaking any assessment of a cared-for person.

³² The average unit cost was calculated by looking at the unit cost of completing a carer's assessment in 14 local authorities. The Scottish Government removed from the calculation the lowest and highest unit costs in two local authorities in order to provide a level of confidence with the figures as both the lowest and highest unit costs were extreme by comparison with the unit costs for the 14 local authorities. Even then, the average unit cost is between £72 and £342. One local authority also carried out assessment by telephone (as well as the usual carer's assessment) and this was costed at £9 per assessment.

53. There could be costs for some local authorities in ensuring robust contracts with the third sector for the undertaking of the ACSP and monitoring arrangements so that they can assure themselves that delegated functions are carried out appropriately and that there is no conflict of interest. These costs should be absorbed by local authorities and will be offset by savings, given third sector involvement in the ACSP process. Local authorities may also commission the third sector to provide support to carers and the costs of the contract arrangements should also be absorbed by local authorities.

54. The Scottish Government’s approach to estimating the unit cost for the ACSP is to take a range of costs as set out below:

Unit cost for the current carer’s assessment	£72 (at the lower end)	£110 (see paragraph 50 above for explanation)	£176 (average based on LA returns)
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55. If the Bill provisions are commenced in April 2017, then the cost implications for the transitional years of 2017-18 and 2018-19 have to be considered. The assumption is that a proportion of newly identified carers will access the ACSP, as will a proportion of carers who know they are a carer but who have not previously requested a carer’s assessment. However, the fact that an estimated 12,000 carer’s assessments³³ are carried out in a year Scotland-wide now will also have a bearing on the assumptions as it will not be possible for local authorities to increase this number dramatically in the first year of implementation. The Scottish Government envisages that those carers who have been assessed through a carer’s assessment, community care assessment or other assessment will not be immediately eligible for the ACSP unless there has been a change in their circumstances.

56. For estimating the numbers of carers who will request or be offered an ACSP in 2017-18 through to 2021-22 at peak volume, Table 1 below shows three options based on differing unit costs. The costs would be recurring from 2021-22 and would fall mostly on local authorities. The estimate is that over time 34 per cent of adult carers will be the highest percentage of carers who will have an ACSP. This is based on a number of factors relating to the evidence including the fact that 44 per cent of carers currently feel supported to continue caring (Scottish Health and Care Experience Survey) but that some who do not feel supported will opt out of the ACSP because they want more support from family and friends: 32 per cent of carers reported that caring had a negative impact on their health and wellbeing (same survey); and 42 per cent of carers who provide 35 hours or more of care do not receive any support (Scottish Health Surveys 2012 and 2013). Moreover, some carers will continue to be assessed through the community care assessment/disabled child’s assessment and other assessments and will not want the ACSP. Table 2 illustrates the build-up over five years to 34 per cent of adult carers with an ACSP. It has to be acknowledged that the percentage of adult carers with an ACSP might be more than 34 per cent over time but it is very difficult to be accurate about this.

³³ The Scottish Government does not formally collect data from local authorities on the numbers of carer’s assessments. However, from the local authority (and NHS Boards) completed questionnaires submitted to help inform this Financial Memorandum, nearly 9,000 adult carers have received a carer’s assessment in 2013-14. This is increased to an estimated 12,000 adult carers to take into account potential carer’s assessments completed in the local authorities that did not submit returns.

Table 1 – Estimated cost of duty provide ACSP - three options

1	2	3	4	5	6	7
745,000 carers in total	% adult carers receiving ACSP	ACSPs per annum	Additional ACSPs per annum³⁴	Option 1 Unit Cost of £72 (£m)	Option 2 Unit Cost of £110 (£m)	Option 3 Unit Cost of £176 (£m)
Current recurring cost for 12,000 carer's assessments				0.86	1.32	2.1
Additional cost (non recurring)						
2017-18	3%	22,350	10,350	0.745	1.138	1.821
2018-19	6%	44,700	32,700	2.354	3.597	5.755
2019-20	8%	59,600	47,600	3.427	5.236	8.377
2020-21	14%	104,300	92,300	6.645	10.153	16.244
2021-22 (recurring)	16%	119,200	107,200	7.718	11.792	18.867
2022-23	16%	119,200	107,200	7.718	11.792	18.867

Table 2 – Cumulative number of adult carers with an ACSP

1	2	3	4	5	6
Year	Annual number of adult carers assessed	Turnover of 13%³⁵	Renewals of 20%³⁶	Cumulative number of adult carers with ACSP³⁷	% Total carers
2017-18	22,350	-	-	22,350	3%
2018-19	44,700	-2,906	-4,470	59,674	8%
2019-20	59,600	-7,758	-8,940	102,577	14%
2020-21	104,300	-13,335	-11,920	181,622	24%
2021-22	119,200	-23,611	-20,860	256,351	34%

³⁴ Additional ACSPs per year = figure in column 3 less the 12,000 plans already in the system

³⁵ Per cent turnover is based on numbers of new carers (Scottish Health Survey) and assumed number of leavers because the caring situation has come to an end or for other reasons. The calculation = 13% of the previous year's cumulative number of carers with an ACSP as in column 5.

³⁶ Renewals are the estimated per cent of carers who will have a revised ACSP in a year. The calculation = 20% of the previous year's figure in column 2.

³⁷ Cumulative number of carers = figure in column 2 added by year less figures in columns 3 and 4

Duties to prepare and review the young carer statement (YCS) for young carers

57. A number of different types of assessment are undertaken with young carers. They include the child's plan, children's plan, integrated comprehensive assessment and third sector assessment. Only a few councils undertake the carer's assessment with young carers. Overall, an estimated 4,000 young carers³⁸ receive an assessment or plan per year.

58. Many young carers do not present themselves as such for fear of stigmatisation and family break-up. Some councils are moving towards family-based approaches for young carers to provide a holistic assessment of family need. Part of the rationale is to reduce or stop the young carer's caring role. Equally, however, many young carers want to care, providing this is not detrimental to their health and wellbeing.

59. Some local authorities choose themselves to provide assessments and support for the most vulnerable young carers with complex needs whilst commissioning the third sector to undertake assessments and to provide support on a more preventative basis. Where there is a local carers centre or young carers project, more young carers are identified each year. This is evidenced in the local authority questionnaire returns.

60. The YCS is to be available to all identified young carers of adults and disabled siblings. There will, however, be a cohort of young carers who will not want the YCS because they are managing their caring role well and their health, education, friendships and so on are not affected – they are having a childhood. In relation to the numbers of young carers who already receive support, the number of young carers supported in dedicated young carers' services (e.g. the Edinburgh Young Carers Project) is about 3,500.³⁹ The number of young carers receiving a good service from mainstream services (such as schools and youth clubs) is not known but an estimate is 3,000 young carers. This leaves an estimated 37,500 young carers, about 60 per cent of whom over time might want the YCS.

61. The YCS together with the introduction of the named person service,⁴⁰ and further awareness around self-directed support should combine to build up momentum and increase the numbers of young carers coming forward for the YCS.

62. There are challenges in estimating the average unit cost of a carer's assessment (or other assessment) for young carers. The higher costs submitted by local authorities are not taken into account in the estimates below as they encompass comprehensive integrated assessments which

³⁸ Approximately 1,500 young carers in eight local authorities, including three of the largest by population, receive a carer's assessment or other assessment/plan. The figure of an estimated 4,000 young carer's assessments or other assessment/plan across all of Scotland is grossed up from 1,500.

³⁹ Mapping of Services to Young Carers in Scotland, Summary Report May 2009, the Princess Royal Trust for Carers – the estimate is made by adding up the figures in the local authority areas to give 3,352. Used rounding up to 3,500. <http://static.carers.org/files/yc-mapping-summary-report-final-prtc-4241.pdf>

⁴⁰ The named person service is introduced by section 19 of the Children and Young People (Scotland) Act 2014. It makes available an individual from within named person service providers who carry out the functions in order to promote, support or safeguard the wellbeing of the child or young person. They will do this through a number of activities, including: advising, informing or supporting the child or young person or their parent; helping them to access a service or support; or discussing or raising a matter about that child or young person with a service provider or relevant authority.

will be more costly than a YCS. This is because the comprehensive integrated assessment tends to address all the needs of a child and the capacity of his or her parents to respond appropriately to these needs within the wider family and community context. There are interviews with the child and its family. The YCS addresses the caring situation only on a personal outcomes basis.

63. Three options for the estimated average unit cost of the YCS are set out below.

Unit cost for the current carer's assessment for young carers	£106 (at the lower end)	£125 (average across five local authorities with a unit cost of less than £200)	£167 (average across seven local authorities with a unit cost of less than £300)
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64. The YCS should not cost more than the carer's assessment for young carers. For estimating the numbers of young carers who will request or be offered a YCS in 2017-18 through to 2021-22 at peak volume, Table 1 below shows three options based on differing unit costs and making assumptions about volume and demand. The costs would be recurring from 2021-22. Table 2 illustrates the build-up over five years to over 60 per cent of young carers with a YCS.

Table 1 - Estimated cost of duty to provide YCS - three options

1	2	3	4	5	6	7
44,000 young carers in total	% young carers receiving a YCS	YCS per annum	Additional YCS per annum ⁴¹	<u>Option 1</u> Unit cost of £106 per annum (£m)	<u>Option 2</u> Unit cost of £125 per annum (£m)	<u>Option 3</u> Unit cost of £167 per annum (£m)
Current recurring cost for 4,000 assessments for young carers				0.424	0.500	0.668
Additional cost (non recurring)						
2017-18	12%	5,280	1,280	0.135	0.160	0.213
2018-19	15%	6,600	2,600	0.275	0.325	0.434
2019-20	20%	8,800	4,800	0.508	0.600	0.801
2020-21	25%	11,000	7,000	0.742	0.875	1.169
2021-22 (recurring)	30%	13,200	9,200	0.975	1.115	1.536
2022-23	30%	13,200	9,200	0.975	1.115	1.536

⁴¹ Additional YCS per year = figure in column 3 less the estimated 4,000 assessments/plans already in the system

Table 2 – Cumulative number of young carers with a YCS

1	2	3	4	5	6
Year	Annual Number of Young Carers	Turnover of 20% ⁴²	Renewals of 20% ⁴³	Cumulative Number of Young Carers ⁴⁴	% Total Young Carers
2017-18	5,280	-	-	5,280	12%
2018-19	6,600	-1,056	-1,056	9,768	22%
2019-20	8,800	-1,954	-1,320	15,294	35%
2020-21	11,000	-3,059	-1,760	21,476	49%
2021-22	13,200	- 4,295	-2,200	28,180	64%

Duties to provide an information and advice service

65. Local authorities are to establish and maintain an information and advice service for carers in their area. The service can contain any information and advice relevant to carers and young carers but must provide information and advice on carers rights, income maximisation, advocacy, training, short breaks and health and wellbeing. The information and advice is to be provided in an accessible format. As part of the information and advice service, local authorities must prepare and publish a short breaks services statement.

66. The new information and advice service should be co-ordinated and accessible. It should be proportionate. This means that an information leaflet may be sufficient for some people but for others face-to-face discussion will be required.

67. With the exception of the short breaks services statement, the provisions of the Bill with regard to the information and advice service are intended to update existing duties⁴⁵ rather than to hugely expand their scope or place specific additional requirements on local authorities. There must, however, be sufficient capacity amongst advice services to avoid over-reliance on on-line channels and to ensure greater accessibility.

68. The publication of short breaks services statement will require local authorities to provide accessible, up-to-date information regarding types of short break, access to short breaks and availability of short breaks. There are short breaks bureaux in about six local authority areas

⁴² Per cent turnover is based on numbers of new young carers and assumed number of leavers because the caring situation has come to an end or for other reasons. The calculation = 20% of the previous year's cumulative number of young carers with a YCS as in column 5. The turnover of 20% is higher than the 13% turnover for adult carers. This is a best estimate and takes into account the fact that a higher percentage of young carers are likely to have been caring for less than a year and are more likely to stop being a young carer in that they become an adult carer.

⁴³ Renewals are the estimated per cent of young carers who will have a revised YCS in a year. The calculation = 20% of the previous year's figure in column 2.

⁴⁴ Cumulative number of young carers = figure in column 2 added by year less figures in columns 3 and 4

⁴⁵ Duty of local authorities to provide information to carer (section 12AB of the Social Work (Scotland) Act 1968 and section 24A of the Children (Scotland) Act 1995) and Provision of information about self-directed support and provision of information: children under 16 (sections 9 and 10 of Social Care (Self-directed Support) (Scotland) Act 2013)

with one under development.⁴⁶ They provide information on short breaks and other short breaks services too. They are all funded and modelled in different ways. Where they exist, they can be used to help ensure the availability of the right information on local authority websites so that the information presented in the statement is immediately accessible to carers and young carers.

69. One local authority has confirmed that about 40 per cent of its annual spend on its short breaks bureau (£27,500) is attributed to the provision of information. Using a proportion of this, the estimated cost of populating a short breaks services statement is £13,000 per local authority (part-time post). There will be annual maintenance costs on a recurring basis.

70. The estimated recurring costs of the information and advice services are set out below:

	2017-18 (£m)	2018-19 (£m)	2019-20 (£m)
Local authorities			
Advice worker and support in each local authority area @ £45,000 (estimate provided by some local authorities). Cost based on 64 information and advice workers.	2.88 (recurring)	2.88	2.88
Short breaks services statement	0.42 (set-up costs)	0.16 (recurring)	0.16
TOTAL	3.30	3.04	3.04

Duties and powers to provide support to both adult and young carers

71. There will be duties on local authorities to support carers who have eligible needs. Local authorities will be required to consider, in particular, whether the support should take the form of, or include, a break from caring. The eligibility criteria will be locally determined but overlaid by matters set out in regulations which the local authority must have regard to. They will include the desirability of providing support to meet carers' needs at a stage where doing so is likely to prevent those needs from escalating.

72. Not all 745,000 adult carers and 44,000 young carers will need targeted or bespoke support – i.e. support that is not information and advice, services or assistance provided generally and services put in place for the cared-for person. The table below⁴⁷ illustrates in relation to adult carers that about 44 per cent on average are positive about feeling supported to continue caring.

⁴⁶ Information on numbers of short breaks bureaux and funding obtained from Shared Care Scotland

⁴⁷ Scottish Health and Care Experience Survey 2013-14

I feel supported to continue caring	Positive (strongly agree/ agree)	Neutral (neither agree/ disagree)	Negative (disagree/strongly disagree)
up to 4 hours	45	44	11
5-19 hours	36	43	21
20-34 hours	42	36	22
35-49 hours	44	32	23
50 + hours	50	30	21

73. Carers were, however, most negative about the impact of caring on their health – 32 per cent indicated that caring had a negative impact.

74. A number of carers will benefit from access to good quality information and advice. The literature⁴⁸ shows that information can be effective in developing carers’ knowledge and skills in caring. Informed carers are more confident in their caring and it also alleviates their concerns about providing good care. Recent research on short breaks in Scotland⁴⁹ also shows that lack of information is one of the biggest barriers to accessing short breaks - not knowing how to access short breaks was the most common barrier across the different caring situations (e.g. caring for a partner, child, parent etc.) and across the categories of cared-for person (e.g. physical disability, learning disability, long-term condition, old age etc).

75. Therefore, access to accessible and good quality information and advice, including through the short breaks services statements, will support a proportion of carers without them requiring to access targeted or bespoke interventions.

76. Moreover, discussions with the managers of three carers centres in Scotland have shown that carers centres are skilled at enabling carers to have access to local community based services.⁵⁰ This assets-based approach to supporting carers is crucial in the years ahead.

77. Taking all of the above factors into account, there would be an estimated 21 per cent of adult carers and 40 per cent of young carers eligible for targeted or bespoke support which does not include the support or services which are provided to members of the public or adult and young carers generally, or are being met through services provided to the cared-for person. The local authority must determine which of a carer’s identified needs are eligible needs. A carer’s eligible needs are the carer’s identified needs that meet the eligibility criteria. Proportionately more young carers than adult carers would be eligible for this type of support as it is very unlikely that the percentage of young carers who feel supported now would match the percentage of adult carers who feel supported.

⁴⁸ For example, Yeandle et al. (2007)

⁴⁹ IRISS, Shared Care Scotland and Coalition of Carers in Scotland (2012) *Rest Assured? A Study of Unpaid Carers’ Experiences of Short Breaks*, Glasgow: IRISS. Available at: <http://www.iriss.org.uk/sites/default/files/iriss-rest-assured-full-report-2012.pdf>

⁵⁰ Example of assets-based approach – carer (mother) has a keen interest in gardening/horticulture but has no time to pursue this interest. The carers centre matched the carer with a local charity who was improving garden areas in the local community. The carers centre managed to agree a flexible approach around the daughter’s (cared-for person) schedule so that the carer could pursue her interest with the local charity. This did not cost anything and the carer was much better supported and had improved health and wellbeing.

78. The average amount spent on carer-specific support is assumed to be in the region of £1,000 per carer over the duration of a caring spell which is assumed to be between two to three years – i.e. every two-three years, the carer would receive support worth about £1,000 or £333 per year.⁵¹ This will, however, vary according to the individual circumstances of carers.

79. It is challenging to estimate how quickly an increase in ACSPs and YCSs and provision of bespoke support might occur. It will largely depend on the time it takes local authorities and the third sector to recruit additional staff to prepare the ACSP and YCS. However, estimated costs to local authorities are set out in the table below.

Year	<u>Adult carers</u> Estimated numbers receiving support and % of carer population	% of Adult carer support plan holders	Cost of support to adult carers @ £333 unit cost (£m)	<u>Young Carers</u> Estimated numbers receiving support and % of young carer population	% of Young carer statement holders	Cost of support to young carers @ £333 unit cost (£m)
2017-18	11,175 (2%)	50%	3.721	2,200 (5%)	42%	0.732
2018-19	29,837 (4%)	50%	9.935	4,400 (10%)	45%	1.465
2019-20	51,288 (7%)	50%	17.079	8,800 (20%)	57%	2.930
2020-21	108,973 (15%)	60%	24.808	13,200 (30%)	61%	4.395
2021-22 (recurring)	153,811 (21%)	60%	51.218	19,500 (40%)	69%	6.493
2022-23	153,811 (21%)	60%	51.218	19,500 (40%)	69%	6.493

80. The Bill provides for a local authority, in determining which support to provide to adult and young carers to consider in particular whether the support should take the form of, or include, a break from caring. The above calculations cover all forms of targeted or bespoke support to carers, including short breaks. However, there is a need to build in a further financial estimate regarding short breaks. This is due to the Bill’s provisions and also because short breaks are required by some carers.

⁵¹ Survey by PRTC quoted without reference in Department of Health impact assessment for Care Act. A more recent Carers Trust review of personal budgets and direct payments to carers in England shows wide variation in the financial amounts carers receive. However 19 out of 30 authorities reported a maximum of between £250 and £500. This information is extracted from page 8 of “Progressing Personalisation, A Review of Personal Budgets and Direct Payments for Carers” (2012). An assumed unit cost of £333 would therefore appear reasonable and is known to be more than some of the Time to Live grants which carers in Scotland receive directly from organisations which have been funded by the Scottish Government via Shared Care Scotland.

http://www.carers.org/sites/default/files/progressing_personalisation.pdf

The evaluation of Time to Live (2012-13) quotes the average grant awarded as £304 but with considerable variation across the country.

http://www.sharedcarescotland.org.uk/_nonhtdocs/short%20breaks%20fund/02292%20Short%20Breaks%20Fund%20evaluation%20report%20on%20Time%20to%20live.pdf

81. Whilst the Scottish Health Surveys 2012 and 2013 show that only 4 per cent of carers aged 16 and over said they receive short breaks or respite care, this cannot be interpreted as 96 per cent needing short breaks. Certainly, not all carers need or want a costly short break intervention. Furthermore, the Scottish Health Survey indicates that a large number of carers (225,000 or 30 per cent of carers aged 16 and over) care for between one and four hours per week. It is unlikely that these carers would want a short break.

82. The Scottish Health and Care and Experience Survey shows that 70 per cent of carers were positive that they had a good balance between caring and other things in their lives, 17 per cent were neutral and 13 per cent were negative. Using this as a proxy for short breaks enabling the balance between caring and other things in their lives, then one assumption is that 20 per cent (13 per cent negative and 7 per cent of the neutral) would require short breaks. A further assumption is that 15 per cent of the 20 per cent is covered in the estimates in the table above. Therefore, at a unit cost of £300 for short breaks' provision in a year and using 5 per cent of 745,000 adult carers and 5 per cent of 44,000 young carers (39,450 in total) this would result in an additional £11.8 million required by 2021-22. This would work out at an extra £2.36 million per year, or support for an additional 7,866 carers each year (adult and young carers combined), over and above the number of carers receiving support as set out in the table above.

83. The Bill also has a power for local authorities to support carers who do not meet the eligibility for support. The resources for implementation of the power can be found from within the resources that the Scottish Government is making available to local authorities for the Bill's provisions.

Duty to prepare local carer strategies

84. Local authorities will be under a duty to prepare and publish a local carer strategy. In the main, this duty will formalise what most local authorities are presently doing with regard to preparing local strategies. There will be an explicit obligation for the local carer strategy to include specific consideration of the needs and circumstances of young carers in the area.

85. In the local authority questionnaire returns, a few local authorities were content to absorb the costs of preparing the local carer strategy whilst others saw significant additional costs. In at least two cases, the costs of preparing the local carer strategy now is met by the health board using carer information strategy (CIS) funding. Some authorities do not prepare young carer strategies, some do whilst others include young carer issues within wider children's plans. Exact figures for all three approaches are unknown.

86. There will be some additional costs of preparing the local carer strategies to ensure robust methodology on data gathering and analysis. The estimated costs for local carer strategies are set out below:

2017-18 to 2019-20 (duration of strategy)	(£m)
NB: Not all first statutory local carer strategies will be prepared and published in 2017-18 as the timing is dependent on the date by which the next review of the strategic plan under the Public Bodies (Joint Working) (Scotland) Act 2014 takes place.	0.32 (£10,000 to each local authority)
2021 -22 to 2023-24	0.16 (£5,000 to each local authority recurring every three years. Data collection and methodology will be embedded in local authority practice)

Implications flowing from regulations and guidance

87. There are a number of regulation-making powers in the Bill. These include making provision about the form of adult carer support plans and young carer statements and matters relevant to setting of local eligibility criteria. The costs to local authorities would be minimal because the regulations are mainly concerned with refinement of provisions in the Bill. The regulations about review of adult carer support plans and young carer statements might, however, incur minimal cost which should be absorbed by local authorities.

Waiving of charges for support to carers

88. Under section 3 of the Social Care (Self-directed Support) (Scotland) Act 2013 (“the SDS Act”), local authorities have a power to provide support to adult carers following an assessment completed under section 12AA of the Social Work (Scotland) Act 1968 and under section 24 of the Children (Scotland) Act 1995.

89. Section 18 of the SDS Act brings support to carers within the scope of 87 in the 1968 Act, which covers the circumstances where local authorities can charge for the services they provide. Since carers and young carers are not to be charged for the support they receive, regulations⁵² made under section 87(5) of the 1968 Act require local authorities to waive charges for the support provided to carers under section 3 of the 2013 Act and for support provided to young carers under section 22 of the 1995 Act.

90. Implementation of the regulations was to ensure a consistent approach across the country, than might otherwise be the case, to the circumstances where charges are waived. Charges are not to be made for support provided to carers either directly by local authorities or commissioned by the local authority through other statutory, independent and third sector bodies.

⁵² http://www.legislation.gov.uk/ssi/2014/65/pdfs/ssi_20140065_en.pdf

91. The Scottish Government issued statutory guidance⁵³ to accompany the regulations. Paragraph 8.8 of this guidance states that “local authorities might decide to arrange replacement care for a cared-for person as part of the support which they provide to a carer under section 3 of the SDS Act in order to give a break from caring. Where replacement care is provided as support under section 3 in order to meet the carer’s needs, the local authority must waive charges for the cost of the replacement care.”.

92. The Scottish Government is aware that local authorities are experiencing challenges in implementing the regulations. The main challenge is the categorisation of replacement care provided to a cared-for person at the point when a carer takes a break. It is not always clear if replacement care is provided to the carer following a carer’s assessment in order to meet the needs of the carer (where charges would be waived) or provided to the cared-for person in order to meet their assessed needs (and, therefore, chargeable). It is understood that this may have an impact on the extent to which some areas are able to exercise the power to support carers.

93. Where local authorities are supporting carers using the power in section 3 of the SDS Act or young carers under section 22 of the 1995 Act, the charges are waived. This means that carers and young carers are not paying directly for the support they receive. Although the Scottish Government does not have figures, it is understood that more local authorities are not using the powers than using the powers. A report on self-directed support by the Learning Disability Alliance Scotland⁵⁴ suggests that six councils are using the powers to support carers in the first few months after commencement of the SDS Act.

94. This does not mean that carers are not being supported in areas where local authorities are not using the powers. In these areas, carers can be supported by the third sector. It might be the case that some third sector organisations request tokenistic contributions from carers towards the cost of support such short breaks or ‘pampering sessions’ but the Scottish Government does not know the extent of this.

95. Given the challenges for local authorities in implementing the regulations, the Scottish Government is working with COSLA to resolve the difficulties. Resolution would be expected to result in a favourable position regarding breaks from caring. It is not possible to set out in this Financial Memorandum the position that the Scottish Government and COSLA are working towards as the position has not been finalised and would be subject to further discussion with key interests.

96. In moving forward on what is a challenging issue for local authorities, with repercussions for carers, any cost implications of changes to the waiving of charges regulations would be considered by the Scottish Government. It is not possible to provide further information in this Financial Memorandum as discussions between the Scottish Government and COSLA are on-going.

⁵³ <http://www.gov.scot/Resource/0044/00447402.pdf>

⁵⁴ <http://www.ccpScotland.org/pp/wp-content/uploads/sites/3/2015/01/The-Start-SDS-report-January-2015.pdf>

97. The Bill amends section 87 of the Social Work (Scotland) Act 1968. It allows local authorities to make charges when providing services which support carers under the Bill. Charges are also subject to any regulations made by the Scottish Ministers under section 87(5) of the 1968 Act. They may modify or adjust charges or require them to be waived altogether.

98. It is fully expected that regulations will be made to waive charges for support to carers. It is further expected that the regulations would be different from the present regulations given the current challenges experienced by local authorities. If there are cost implications to the Scottish Government arising from the regulations, the Scottish Government would present these in a revised Financial Memorandum.

PART 4: RECURRENT AND NON-RECURRENT COST IMPLICATIONS TO OTHER BODIES FROM PROVISIONS IN THE BILL

Health Boards

99. It is difficult to estimate the costs to health boards of carrying out the ACSP. From the eight returns received to the questionnaire issued by the Scottish Government, two health boards carry out a limited number of the carer's assessments. It is not possible to predict the future involvement of health boards. Local authorities will be able to involve health boards in the undertaking of the ACSP or health boards can prepare the ACSP as an integration function.

100. The funding for any future health board involvement can be met from the CIS funding proposed in this Financial Memorandum to fund Bill provisions where there is a key role for health boards.

101. The health board as responsible authority has a duty to prepare the YCS where the young carer is a pre-school child, although responsibility for approving the YCS rests with the local authority for the area in which the young carer resides. It is not known exactly how many young carers are pre-school children. The estimate is less than 200. Most young carers at pre-school will be aged four and five. There will also be young carers of this age in primary school. The social work response in relation to very young carers will primarily be to ensure that adequate services are in place for the cared-for person in order to stop or to minimise the caring. It is also likely that young carers of this age will have a child's plan because of other issues in their lives.

102. However, where the health board does prepare a YCS, costs will be incurred. This is estimated to be around £1,800 in 2017-18, £2,250 in 2018-19, £3,000 in 2019-20, £3,750 in 2021-22 and £4,500 in 2021-22 on a recurring basis. (This is a maximum 120 YCS in 2021-22 and on a recurring basis from 2021-22 @ £125 unit cost assuming that a proportion of young carers in pre-school will not have a YCS.)

103. Health boards have a key role in the provision of information and advice and many fund the third sector to provide information and advice in carers centres, young carers projects and in hospitals. The existing CIS funding allocated by the Scottish Government to health boards is £5 million per annum. Health boards on the whole cannot distinguish their expenditure on information and advice from other support they fund. However, where they can distinguish the

amounts, the expenditure on information and advice ranges from about 10 per cent of the CIS allocation up to 70 per cent.

104. Assuming on average that about 40 per cent of this is attributed to information and advice, then this equates to the round figure of £2 million per annum. Although the duty to provide the information and advice service falls on local authorities, the £2 million is required to ensure a fully effective service. Continuation of this funding will support the development of information and advice locally and will be particularly beneficial in complementing the funding to be provided to the larger local authorities for the information and advice service.

105. The duty to provide support to adult and young carers is for local authorities. However, since health boards have been allocated £5 million per year for carer information strategies up to 2016, and since the policy is to continue this funding given the outcomes achieved, the estimates below also include £3 million for support from health boards. This £3 million will provide further impetus to the implementation of the duty to support carers. The remainder (£2 million) is included in the information and advice provisions.

106. All of the estimated costs to health boards associated with preparation of the young carer statement, the information and advice service and the duty to support carers are set out in the table below.

	2017-18 (£m)	2018-19 (£m)	2019-20 (£m)	2020-21 (£m)	2021-22 (£m)
Young carer statement	0.0018	0.0022	0.0030	0.0037	0.0045 (recurring)
Information and advice services in local adult carer and young carer services and in primary and acute services	2.0 (recurring)	2.0	2.0	2.0	2.0
Support to carers	3.0 (recurring)	3.0	3.0	3.0	3.0
TOTAL	5.0018	5.0022	5.0030	5.0037	5.0045

NES and SSSC - Workforce development

107. Costs arising from training and awareness raising would cover specific Bill-related training and awareness raising in the wider workforce.

108. NHS Education for Scotland (NES) and the Scottish Social Services Council (SSSC) could deliver on both fronts, including an intensive training and continuous professional development programme in 2017-18 and 2018-19. It would build on the Equal Partners in Care (EPiC)⁵⁵ workforce initiative currently underway. Each Health and Social Care Partnership would be funded for a ‘Carer Champion/Ambassador’ for two years. These costs would be spread over two years (2017-18 and 2018-19) as these would be the key years for preparation for, and then enactment of, the Bill. These costs arise directly from the Bill as they are essential to ensuring that the relevant professionals know about the duties being placed on them and are aware of how they should be fulfilled. It is anticipated that the post-holders would cascade information relating to the Bill.

109. They would also deliver and co-ordinate locally the training for professionals on the ACSP and YCS. They would develop resource materials to support education and training on the ACSP and YCS and other Bill provisions. NES and SSSC would ensure national leadership and co-ordination. There are two models with regard to the workforce development set out here - one based on full-time staff in the Health and Social Care Partnerships and within NES and SSSC and the second on part-time staff. It will be essential for the workforce development to encompass staff within schools as well as staff in the statutory health and social care services and in the third sector. This is because some teachers will have responsibility for the YCS. Given the potential breadth of the workforce development, both models would need to be revisited to see if they could be adapted and configured in different ways.

110. The costs set out in the table below are based on figures provided by NES and include staffing costs within NES, SSSC and the Health and Social Care Partnerships and a wide range of education and training activity.

COSTS ON OTHER BODIES – NES AND SSSC

Workforce development	2017-18 (£m)	2018-19 (£m)
Option A (part-time staff)	0.71	0.69
Option B (full-time staff)	1.42	1.39

Directing authority

111. The directing authority⁵⁶ as responsible authority will prepare the YCS with young carers in independent and grant-aided schools. It is not known how many young carers are in these

⁵⁵ EPiC <http://www.knowledge.scot.nhs.uk/home/portals-and-topics/equal-partners-in-care/about-equal-partners-in-care.aspx>

⁵⁶ Under section 37 of the Children and Young People (Scotland) Act 2014, where the child is a pupil at a grant-aided school or an independent school, the directing authority of that school is the responsible authority in relation

sectors nor the proportion of young carers who would want a YCS. The Scottish Council of Independent Schools (SCIS) represents over 70 member schools which educate more than 31,000 children. The assumption is that about 2 per cent of these children could be young carers – lower than the Scottish average of 5 per cent. This is because it is unlikely that pupils in the 18 boarding schools and in the special needs schools will be young carers – at least the numbers would be minimal. Therefore, on the basis of 620 (2 per cent) pupils being young carers, the cost of preparing the YCS to be approved by the local authority would be £77,500 using the unit cost of £125. For simplicity, the costs can be allocated evenly in each year at £15,500 per year. The Scottish Government would meet the costs incurred by this sector.

Third sector

112. There are no direct duties on third sector providers such as local carer organisations in the Bill and, therefore, no direct costs on them arising from it. The Scottish Government does, however, encourage local authorities and health boards to make the best use of the third sector, to work in partnership with the sector on all aspects of the Bill's provisions and to fund the sector accordingly. It is clear that local carer organisations are facing financial pressure and experiencing capacity challenges due to increasing referrals of carers and stand-still or reduced budgets in some cases.⁵⁷ If the third sector is commissioned as intended by local authorities and health boards to help prepare the ACSP and the YCS, to provide information and advice and to support carers, then, in addition to the financial support from local authorities and health boards that must flow to the third sector to allow this to happen, there will be a requirement for additional resources. It is expected that transformation costs for this sector will centre around systems (such as IT, accounting, data collection, data protection and recording). The workforce development strand can be covered by NES and SSSC. It would help support the third sector in the time of change for the Scottish Government to allocate resources to help the third sector deliver increased capacity and transformation amongst providers that support carers. The intention is to equip providers to be personalised, flexible and transformative in approach. The allocation is estimated at £500,000 per annum in each of 2017-18, 2018-19 and 2019-2020. This would help support about 50 providers in each of the three years at £10,000 each. Some of the 50 providers might work across local authority boundaries as some third sector organisations do this in any event. As stated, the funding would not be to support carers but to ensure that providers have the technical, data collection and IT capacity.

to the child. "Directing authority" means— (a) when used generally— (i) the managers of each grant-aided school, (ii) the proprietor of each independent school, (b) when used in relation to a particular establishment— (i) in relation to a grant-aided school, the managers of the school, (ii) in relation to an independent school, the proprietor of the school.

⁵⁷ Survey of carers centres in 2014 by the Carers Trust with the Coalition of Carers in Scotland (COCIS) http://www.legislation.gov.uk/ssi/2014/65/pdfs/ssipn_20140065_en.pdf

These documents relate to the Carers (Scotland) Bill (SP Bill 61) as introduced in the Scottish Parliament on 9 March 2015

SCOTTISH GOVERNMENT STATEMENT ON LEGISLATIVE COMPETENCE

On 9 March 2015, the Cabinet Secretary for Health, Wellbeing and Sport (Shona Robison MSP) made the following statement:

“In my view, the provisions of the Carers (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

On 9 March 2015, the Presiding Officer (Rt Hon Tricia Marwick MSP) made the following statement:

“In my view, the provisions of the Carers (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

These documents relate to the Carers (Scotland) Bill (SP Bill 61) as introduced in the Scottish Parliament on 9 March 2015

CARERS (SCOTLAND) BILL

EXPLANATORY NOTES (AND OTHER ACCOMPANYING DOCUMENTS)

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