

WELFARE REFORM COMMITTEE

THE FUTURE DELIVERY OF SOCIAL SECURITY IN SCOTLAND

WRITTEN SUBMISSION FROM CARERS SCOTLAND

Introduction

Carers Scotland is the Scottish nation office of Carers UK. Carers UK is here to make life better for the 6.5 million carers in the UK, and 759,000 carers in Scotland who are providing unpaid care to a loved one who is older, disabled or seriously ill.

We are the only national membership charity for carers, giving expert advice, information and support, connecting carers so no-one has to care along, campaigning for lasting change and innovating to find new ways to reach carers.

This response is the work of both parts of the organisations. We aim to bring a carers perspective throughout the legislative process in both Scottish and UK Parliaments and actively engage with carers and partner organisations to seek their views and encourage their participation.

This response is primarily focused on Carers Allowance and the ability to create a new social security payment for carers in Scotland. It outlines key concerns together with the principles we believe should underpin social security support. We have made some comment in other areas, in particular disability benefits, but recognise that other organisations will have a more detailed view.

The Scotland Bill and the Smith Commission

The Scotland Bill proposes measures to provide the Scottish Government with a degree of autonomy to determine the structure and value of a range of benefits following the Smith Commission.

As stated in our response to the Smith Commission and in line with much of the third sector, we continue to express some disappointment that benefits were not fully devolved. This would have provided the opportunity to deliver a more cohesive system, planning support holistically across a range of policy areas, not solely social security.

However, we welcome the devolution of some benefits to the Scottish Parliament. It represents an opportunity to improve the system of financial support to carers and those they care, the principles underpinning it and to align this more closely with objectives across other policy areas, not least health and social care.

The Scotland Bill sets out a framework for the devolution of Carers Allowance. The impact of the Bill will mean that the Scottish Government will have the power to create a new "carers benefit". This means that the Scottish Government **should** be given the ability to vary eligibility conditions and the amount paid to carers.

We believe that this level of devolution proposed in the Bill could provide the opportunity for the Scottish Government to address issues with the structure and the level of Carers Allowance for carers in Scotland. However, there are a number of

issues which require clarification and on which we will be seeking amendments including:

- The strength and flexibility of the proposed responsibility of the Scottish Government to create a carers benefit
- Interactions between the new “Carers Benefit” and other benefits such as Income Support, Pension Credit and Universal Credit which will remain reserved.
- What changes to social security for carers the Bill might prevent? For example, the current drafting appears to prevent the Scottish Government from introducing certain eligibility criteria such as paying a “Carers Benefit” to two carers caring for one person.

Carers Allowance

Carer's Allowance is currently the main benefit for carers in the UK. It is not means tested and worth £62.10 per week. It is the lowest benefit of its kind and provided to those providing at least 35 hours of care per week. There are around 62,000 carers in Scotland who receive Carer's Allowance and 44,000 have an underlying entitlement. A number of conditions restrict who is eligible for Carer's Allowance:

- You look after someone who gets a qualifying disability benefit.
- You look after that person for at least 35 hours a week.
- You are aged 16 or over.
- You are not in full-time education.
- You earn £110 a week (after deductions) or less.
- You satisfy UK presence and residence conditions.

How could the Scotland Bill improve social security for carers?

Cl.19 (4)
“Carer's benefit” means a benefit which is normally payable in respect of the regular and substantial provision of care by a relevant carer to a disabled person; and for this purpose—
(a) “relevant carer” means a person who—
(i) is 16 or over,
(ii) is not in full-time education, and
(iii) is not gainfully employed;
(b) “disabled person” means a person to whom a disability benefit is normally payable.

Cl.19 (4) of the Scotland Bill defines the social security payments that the Scotland Bill will devolve.

The Bill provides for the Scottish Government to have the power to administer a “Carer's Benefit”. While the UK Government description of Carer's Allowance has been used to define the new “Carer's Benefit”, from discussion and the Scotland Bill

debate we understand that the Scottish Government will be able to define the terms of the benefit. For example: *“regular and substantial care”*

The UK Government currently define “regular and substantial care” as providing 35 hours of care or more, however this definition could be changed by the Scottish Government, which may choose to define “regular and substantial care” as providing 20 hours of care, 40 hours, or in a completely different way.

We have been assured that the definitions of “full time education”, “not gainfully employed” and “disabled person” could all be altered by the Scottish Government in a similar way. This means that the legislation provides the Scottish Government with the flexibility to:

- Set a new Scottish “Carer’s Benefit” at any rate
- Redefine the eligibility of the Benefit, for example:
 - Whether, and how much, of a person’s earnings are counted
 - How many hours or how much care a person has to provide
 - How much a person could study alongside caring
 - Ensuring that any residency test is not a barrier to people providing care

However, as with the issues of concern below, clarity is required to ensure that this flexibility will be provided in the Bill.

Concerns related to social security for carers

1. Power to provide a carer’s benefit:

Cl.19 (4) of the Scotland Bill amends the Scotland Act 1998 to give the Scottish Parliament legislative competence in relation to disability, industrial injuries and carer’s benefits, which are currently reserved to Westminster.

The explanatory notes accompanying the Scotland Bill (pg.18, para 147) state:

“Scottish Parliament will have the power to create new benefits or other payments and to determine the structure and value of such provision”

It is unclear whether the Scotland Bill would result in the effective removal of a duty to have a carer’s benefit of some description in Scotland. Whilst we sense no appetite within the Scottish Parliament to remove financial support for carers, carers in Scotland will want reassurances that some form of independent financial support will continue.

2. Whether the Scottish Government is able to pay the new “Carer’s Benefit” to a carers in different circumstances

While the Scotland Bill provides flexibility as described above, it does appear to restrict such a “carer’s benefit” to a “relevant carer” of a “disabled person” with the disabled person being defined as someone “for whom a disability benefit is normally payable”.

- Whether the Scottish Government is able to pay “Carer’s Benefit” to two carers who are caring for one disabled person. Carers have told us that some people’s disabilities are so significant that two full time carers are needed to provide high quality care?
- Whether the Scottish Government is able to pay the new “Carer’s Benefit” to a carer who cares part time for two different people?
- Whether the Scottish Government is able to pay the new “Carers Benefit” to carers who are caring for a disabled person not in receipt of a qualifying benefit?

3. Interactions with Reserved Benefits

We are seeking clarification in relation to the interaction between reserved and devolved benefits:

- Overlapping benefit rule: As Carer’s Allowance is considered a “income replacement benefit” i.e. a benefit paid to someone considered unable to work or are not expected to work, by the UK Government, would the Scottish Government be able to change this status and if so, how would this affect interactions between devolved and reserved benefits, and the amount of benefit carers receive?
- Interactions between the new “Carers Benefit” and other benefits such as Income Support, Pension Credit and Universal Credit which will remain reserved. Will any increases be clawed back through means tested benefits?
- National Insurance: Are NI credits retained? What happens in Scotland with NI credits to state pensions and relevant contributory benefits?

Concerns related to other devolved powers

Social security for disabled and older people

With the devolution of a range of current disability benefits for disabled and older people, similar issues of translating the intentions of the Smith Commission into the drafting of the Scotland Bill have been highlighted by carers, disabled people and by a range of organisations. These include whether sufficient flexibility and autonomy is given to the Scottish Parliament in developing social security for disabled people.

Whilst we welcome the devolution of powers of disability benefits but, along with much of the third sector believe there is a need to immediately halt the roll out of Personal Independence Payment in Scotland.

By continuing this roll out, there is an immediate and we believe damaging impact not only on disabled people and carers (who must care for someone with a qualifying benefit to receive Carers Allowance) but also to the flexibility of the Scottish Parliament to consider and develop a social security system for disabled people and carers (and of course associated budgets on devolution of the powers).

Employment Support

A range of third sector organisations have highlighted the need to press for devolution of Access to Work Funds. Given that employability programmes will be devolved to the Scottish Parliament (clause 26) and the Scottish Government

already has a programme of work to increase participation of disabled people in the workforce, it appears a sensible to devolve Access to Work funding too. We therefore support this position as a means to deliver, as part of the development of integrated and holistic employment support.

Equally, the devolution of Employment Support gives the Scottish Government an opportunity to consider, as part of its wider employment policies, greater support for carers to access work. Carers face significant difficulties in retaining employment with 1 in 5 giving up work to care. In addition, carers also experience difficulties in re-entering the work place following often long periods of caring responsibilities.

We believe that the Scottish Government should consider a long term and integrated plan to support this cohort. This could include:

- Piloting paid carers leave for unpaid carers as part of the Carer Positive award for employers, in a similar way to “Living Wage” employers. This also includes raising awareness and working with employers to promote flexible working for carers to prevent loss of employment in the first place.
- Planning and delivering holistic support for carers to take up education and training. The current rules on Carers Allowance prevent carers studying for more than 21 hours but with sufficient flexibilities, carers could be supported into further education.
- We note the need for a coordinated response, as this is likely to require practical support including social care services for the person they care for to enable carers to retain or return to work or attend university or college. This could be addressed within the Carers (Scotland) Bill and should be explored as part of the Fairer Scotland and Creating a Healthier Scotland discussions.

Discretionary Payments and Assistance

The current drafting of the Scotland Bill in Clause 23 appears to increase restriction on such payments, which were already devolved to the Scottish Welfare Fund. In particular, they appear to prevent the Scottish Welfare Fund from making payments to those who have been sanctioned or failed to meet the conditions attached to a reserved benefit. It currently does not have such a restriction.

Given evidence suggests that people with disabilities, in particular mental health problems or learning disabilities have greater difficulty complying with rules (and therefore more likely to receive a sanction)¹, we support the call from Inclusion Scotland and Enable Scotland to press for removal the restriction that would prevent the Scottish Welfare Fund from providing assistance.

We also support the call from Inclusion Scotland to ensure that families under exceptional pressure are supported through the Scottish Welfare Fund.

Principles underpinning new social security payments and practical suggestions for policy and delivery

¹ See Enable Scotland response

1. First and foremost there must be a **commitment to ensure that a social security payment for carers is continued** and that this must represent an independent income for individuals. Whilst we have sensed no appetite for moves to remove financial support to carers, we recommend that there is a clear commitment to this to future-proof social security support for carers.
2. Any new payments and systems for delivery should be **developed in partnership** with carers and carers organisations.
3. Any new social security payment for carers **must recognise the background of significant financial hardship faced by carers and households affected by disability and ill health.**

When people take on a caring role they often face a steep drop in income if they have to leave work or reduce their hours to care – sometimes a double loss of salary if they are caring for a partner who also has to give up work as a result of their illness or disability.

This is often coupled with a steep rise in expenditure as a result of the additional costs of caring and disability. Carers UK's year-long Caring & Family Finances Inquiry found that carers can face higher utility bills, higher transport costs, higher shopping bills, spending on care services and even the cost of home adaptations. This is combined with the impact of welfare reform which has hit many families hard.

Evidence collected from over 4,500 current carers through Carers UK's State of Caring Survey 2015 suggests that nearly half of carers (48%) are struggling to make ends meet. Of carers responding to our survey, 45% say that financial worries are affecting their health. Worryingly of those struggling to make ends meet, 41% are cutting back on essentials like food and heating, 26% are borrowing from family and friends and 38% are using up their savings to get by - suggesting that the squeeze on carers' finances is not sustainable in the long term.

- (a) It **must remain a payment in cash** and not be brought into local authority social work budgets.

We are also clear that **social security for individual disabled and older people must not be brought into social work budgets and should be retained as an income** to meet the additional costs of disability outlined above.

Many of these additional costs are not related to the receipt of social work services and are, instead, increased daily living costs as a consequence of disability, illness or old age.

- (b) Carers Allowance should be **increased immediately on devolution** to give parity with other income replacement benefits such as Jobseekers Allowance,

with further consideration on a fair level for any newly developed carer's payment.

- (c) It **must create additional income for all carers**, in particular those with the lowest incomes. As outlined earlier, we have significant concerns over the lack of clarity on interaction with other benefits such as universal credit, income support and pension credit. At present it appears that any additional payment to these poorest carers may simply be clawed back through a corresponding deduction in means tested UK wide benefits. This benefits no one.
3. Any system must be made as **simple and straightforward** as possible and treat people with **dignity and respect** and **view their needs holistically**
- (a) It is often difficult for carers and those for whom they provide care to identify what benefits are available and how to claim them. It can be difficult to find advice and information and the support required to fill in often complex forms. This is likely to be exacerbated by the move to "digital by default" and for those living in rural and remote areas.

Carers may not have access to such technology due to cost, time pressures and poor connectivity. This will be further complicated by the need to work between two social security systems – the continuing UK system and the new Scottish system.

Any new payments should be made as simple as possible to claim and underpinned by investment in advice services to ensure smooth delivery.

- (b) The current process of repeated assessment for benefits is one which we believe should not be replicated in any new social security payment for disabled people. At present individuals may experience three successive, separate and often repeated assessments for financial support or passported benefits i.e. Employment Support Allowance, Personal Independence Payment and the Blue Badge.

Assessments cause untold stress and anxiety to individuals and carers and we do not believe that such face to face assessments give the most accurate picture of an individual. Nor do they bring in the views and experiences of people most familiar with the person, their condition and abilities – carers, general practitioners and other professionals involved in their health or care.

We continue to believe that such assessments are both expensive and unnecessary and in any new system should instead be based upon the reports of relevant people with prior and appropriate knowledge.

- (c) Carers repeatedly report having to repeat their "story" time and again to different professionals and of struggling to find out what support is available. This is often against a backdrop of significant caring responsibilities alongside other responsibilities such as employment or childcare.

We believe it would be appropriate to consider a one-stop-shop approach to assist people to not only claim new social security payments but also to claim devolved benefits and access health, social care, housing, employment and third sector services.

A single point of access and a multi-disciplinary and multi sector approach could enable individuals and carers to access information and support at the earliest opportunity and deliver person centred, holistic support. However, it would be important to ensure that similar services exist across Scotland to deliver consistent and equal access for all carers, including ensuring they are responsive to all communities.

Conclusion

We welcome the devolution of some social security benefits for carers and disabled people but there remain many unanswered questions which we hope that politicians in both Parliaments can address effectively.

However, even with these questions and issues solved, we must recognise the scale of the challenge. We believe that the focus on developing a positive social security system, based on rights and dignity and planned as part of holistic support from existing devolved powers is the right approach. However, the challenge will be to support people to manage both the complexity and different approach of two systems – one reserved and one devolved – and ensuring that they do not miss out on the financial and practical support available.

Carers Scotland
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