

## Consultation Questions

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

Yes	No
	X

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

Yes	No
	X

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

The City of Edinburgh Council agrees in principle with the waiving of charges, subject to adequate Scottish Government funding for new demand that this will inevitably generate. This will need to include recompense for lost income from councils no longer being able to charge for respite care. Without that funding, we believe the proposals are impractical and are likely to reduce funding available for other social care services, and/or to constrain the ability of councils to exercise their powers to meet carers' needs for support.

The Regulations and Draft Guidance are complex and difficult to understand. They appear to provide quite complicated rules for when support to a carer is free from charging in whole or in part. They do not sit well with the public and carer perceptions that the Act and Regulations, when implemented, will make all local authority support services to carers free from charging.

In particular, the Draft Regulations and Guidance read as if they are concerned with support "provided directly" to carers as opposed (by implication) with indirect support. However, it is not always easy to determine whether a particular service is put in place to support the carer, the supported person, or both. To the extent that the Regulations and Guidance rely on this distinction, further detailed guidance is required on how to determine whether the support to a carer is direct or indirect.

The increased flexibility, which is central to the successful implementation of self-directed support will inevitably lead to a further blurring of the distinction between direct and indirect support.

In Edinburgh, we have found this to be the case in an innovative scheme we have developed, which provides an alternative to traditional residential respite care for people with learning disabilities. The individuals supported by this service have utilised the resources previously used to fund residential respite care, to undertake a whole range of activities, such as going on trips within the UK and abroad, being supported to remain in their own home, whilst their carer goes on holiday and developing independent living skills by spending weekends in a self catering apartment. This development has had positive outcomes for both carers and those

they care for, and in some instances has led to supported individuals being able to move into independent accommodation.

It is also clear that some carers view 'day services' accessed by the person they care for as providing them, the carer, with a break, whilst these services may have been put in place to meet the needs of the supported person in terms of social interaction and developing independence skills. The Guidance should deal directly with this issue.

Some of our responses to later questions are relevant to the detail in Paragraph 9. Here we note that the description of Line 5 in paragraph 9 is misleading. Line 5 does not require the carers to be "away", but simply to be temporarily unavailable to provide care because they are undertaking an activity as part of their support. In the case of carers who are co-resident with the person they care for, such support activities could well take place in the family home.

Our experience of requests for short breaks suggests that carers are usually looking for the provision of support from the local authority for the cared for person to enable the carer to take a break. The guidance relating to Line 5 would seem to suggest that there is an expectation that carers would find alternative support for the cared for person themselves and the local authority would fund the carer's break.

We have serious concerns about the sustainability of these proposals without the injection of additional funding to meet what we believe will be a significant shortfall in income if charges for short breaks, where support is provided to the supported person, are waived. An unintended consequence of this proposal may be that funding for carers services is shifted towards the provision of support to specific carers and away from preventative or universal carers' support.

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

Yes	No
	X

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

The majority of services in this list are services, which the City of Edinburgh Council would not charge for, the main exception being short breaks. However, we are concerned that the Guidance seems to be focusing on a fixed list of services, rather than encouraging the development of more innovative and flexible means of supporting carers.

Moreover, the inclusion of "short breaks" in a list that paragraph 10 states applies to Lines 1 and 2 means that these lines would then overlap with the specific forms of short breaks covered in Lines 3 and 4 (holidays taken together) and Lines 5 and

6 (replacement care). This is confusing: a section of the guidance considering short breaks and respite care as whole would be useful.

An annual holiday is not yet a universal human right, but is certainly desirable and often is needed to sustain carers, whether with or separate from the person they care for. It is reasonable for the local authority to make a financial contribution to a carer's holiday, where this is an assessed need and they are unable to meet the full costs themselves. However, Lines 1 and 2 in the draft Regulations, combined with paragraph 10, would mean that a council would have to pay for the full cost of a holiday that was assessed as being required by a carer, where the council chose to exercise its power to meet such needs. That does not seem a reasonable use of scarce public resources, where the carer could fund such needs themselves (in whole or in part).

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

Yes	No
	X

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

No comments

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

Yes	No
Partially	

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

The examples given do not pose a problem. However, we would advocate a more person-centred, outcome focused approach, where the emphasis is on the professional working with the carer to explore a range of options and develop truly personalised solutions on a case by case basis.

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

Yes	No
	X

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

Paragraph 14 of the guidance refers to a form of respite short break, which the carer takes away from the person they care for – the examples given are holidays, invitations to weddings and swimming lessons. But some carers will require a break from caring while remaining with the person they care for (who very often is co-resident in the family home), perhaps because they are ill, or stressed, or need time to do some activity that does not take them out of the home. The guidance therefore is too narrow.

More generally, we are concerned that the guidance focuses on a limited range of services, rather than simply on the premise that support that is directly provided to a carer should be free of charge. The type of support provided should be flexible and determined through collaboration between the carer and professional in order to meet the needs and outcomes of the carer.

Respite care provided in the person's own home, in another person's home, or in some other setting, all to give the carer a break, is currently chargeable. We agree with the waiving of charges, only if councils are funded to cover the loss of income from charging and the likely increase in demand for a free service.

A distinction should also be made between waiving charges and funding the full costs of any activity or service that has been assessed as supporting carers. Paragraph 15 presents the example of an assessed benefit that a carer would derive from a weekly meeting with friends, and proposes that the local authority meets any transportation costs involved. Many carers will have sufficient means to meet such costs themselves. If local authorities have to fund all aspects of carer support, without sufficient additional funding by the Scottish Government, the more likely it is that local authorities will be unable to exercise their powers under section 3 (4) of the 2013 Act to meet support needs identified in care assessments, as fully as they and the carers would wish.

In addition, where the local authority decides to provide funded support, it must offer the carers the four options and provide information about the amount of support available under each of the options, including a reasonable estimate of the cost of securing the support. Local authorities that are developing resource allocation systems for carers' support inevitably will have to tailor such reasonable amounts to what is actually affordable. The draft Guidance contains no reference to individual budgets.

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

Yes	No
	X

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

As stated in paragraph 16, Lines 1 and 2 mean that the local authority pays for the whole cost of the carer's holiday, and Lines 3 and 4 mean that the local authority also pays for that part of the cared for person's holiday costs that is attributable to their assessed needs (e.g. those arising from a disability). Line 3 of the Draft Regulations imply a counterfactual calculation, which subtracts the cared for person's costs from those which "would have been incurred if a person without those needs had taken an equivalent holiday". Such a calculation is not a practical proposition, and seems to imply that local authorities would hold and update information about a range of types of holiday.

Moreover, the cost of holidays varies enormously in terms of destinations, accommodation types, seasons, transports, etc. Local authorities cannot be expected to pay for any holidays chosen by carers: is the carer assessment intended to assess for the need for holiday X rather than Y? The Guidance should set out a more holistic view of assessment, where needs are associated with a reasonable estimate of the costs of support.

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

Yes	No
	X

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

Paragraphs 17 and 18 appear to relate to the wording of Lines 5 and 6 in the draft Regulations, which waive the whole of the charge in the case that the cared for person has been assessed as requiring replacement care because the carers will be undertaking a support activity, which the local authority is providing to meet their assessed care needs, there being no friend, relative, neighbours, volunteers, etc who would provide such replacement care free of charge – largely to issues of "social isolation". However, a lack of unpaid support to provide replacement care may equally be due to the type and intensity of caring required, rather than to social isolation as such.

We anticipate that this proposal will result in a significant loss of income to local authorities from charges for respite care provided to the supported person to enable the carer to take a break or in an emergency. We would therefore only be able to support this proposal if adequate additional funding were made available to local authorities to offset this loss of income. If this is not the case, the implementation of such a proposal could only be financed through reduction in support elsewhere within the overall social care system, or by councils being constrained to exercise their powers to support carers less frequently than they,

carers, and the Scottish Government would wish.

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

Paragraph 21 mentions the treatment of income from partners. Here and elsewhere, there should be reference to the COSLA guidance on non-residential social care charging.

The Guidance also makes no reference to any interface with the Welfare Benefits system, either for carers or for people with disabilities.

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

Thank you for completing this consultation. Please return your completed 'Respondent Information Form' and this 'Consultation Response Form' to [alun.ellis@scotland.gsi.gov.uk](mailto:alun.ellis@scotland.gsi.gov.uk) by **Wednesday 10<sup>th</sup> July 2013**.