



**REPORT**

Item No: 4

<b>SUBJECT:</b>	Carers (Scotland) Act 2016 Update
<b>TO:</b>	Finance and Audit Sub-Committee
<b>Lead Officer for Report:</b>	Chief Accountable Officer
<b>Author(s) of Report</b>	Head of Adult Social Work Services Chief Financial Officer
<b>DATE:</b>	14 November 2017

**1. PURPOSE OF REPORT**

1.1 This paper is coming to the Finance and Audit Sub-Committee (FAC) for:

For approval	<input type="checkbox"/>	For endorsement	<input type="checkbox"/>	For noting	<input checked="" type="checkbox"/>
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1.2 This report provides an outline of the provisions of the Carer (Scotland) Act 2016 and the progress being made to prepare for the commencement of Act.

**2. ROUTE TO THE FINANCE AND AUDIT SUB-COMMITTEE:**

2.1 This paper has been:

Prepared By; Chief Financial Officer	Reviewed By; Chief Officer
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**3. RECOMMENDATION**

3.1 The FAC is asked to note the contents of the report.

**4. BACKGROUND/SUMMARY OF KEY ISSUES**

4.1 The Carers (Scotland) Act 2016 is a key piece of new legislation that seeks to 'promote, defend and extend the rights' of adult and young carers across Scotland. The Act will commence on 1 April 2018. The outline package of provisions in the Act is designed to support carers' health and wellbeing within each Health and Social Care Partnership area. The general direction includes:

- A duty to provide support to carers, based on their assessed needs in line with a locally developed eligibility criteria;
- Development of a specific Adult Carer Support Plan and Young Carer Statement to identify carers' needs and personal outcomes;
- A requirement to have an information and advice service for carers on, amongst other things, emergency and future care planning, advocacy, income maximisation and carers' rights;
- Publication of a short breaks statement; and
- Each Health Board must ensure that, before a cared-for person is discharged from hospital, it involves any carer of that person in the discharge.

The provisions of the Act are summarised in the appendix.

4.2 The implementation of the Act has been delayed and the statutory regulations and guidance are still being drafted by the Scottish Government. This reflects the complexities associated with the legislative changes and the wide range of evidence from stakeholders which requires to be collated and carefully considered.

## **5. CONCLUSIONS**

- 5.1 In order to prepare for the commencement of the Carers (Scotland) Act 2016, North Lanarkshire officers attend the national carer leads meeting and fully contribute to on-going consultations. A similar link has been established with COSLA, with a particular focus around the areas of individual budgets and carers supports.
- 5.2 There is concern that the Act could have a significant financial and assessment capacity impact on Health and Social Care Partnerships. Potential risks include unfunded financial pressures and a lack of capacity to carry out appropriate assessment and planning in respect of the new work.

## **6. CURRENT POSITION**

- 6.1 North Lanarkshire has a long term relationship with the people who care for the most vulnerable individuals in North Lanarkshire and the organisations which have represented carers' views have contributed to having the carer voice heard and provided access to a wide range of information, advice and support to carers in North Lanarkshire. Carers are recognised as equal partners in the delivery of support and care within Health and Social Care North Lanarkshire including representation on the Integrated Joint Board of the NL Health and Social Care Partnership.
- 6.2 The current provision of support is predicated on North Lanarkshire's 'A Strategy for Carers 2013–18'. This sets out the aims for supporting unpaid carers, funding allocation arrangements and decision making process. This strategy is overseen by the Carer Strategy Implementation Group. During 2016/2017 the Carer Development Funding had a total budget of £0.650m allocated for the following purposes.
- 6.2.1 The Lanarkshire Carers Centre receives funding to improve outcomes by offering direct support to carers, undertaking and completing carer journeys, individual plans, providing information and advice for people caring for family members or friends and offering training to various carer, staff and other stakeholder groups.
- 6.2.2 North Lanarkshire Carers Together receives funding to promote and represent carers' issues and views, thus ensuring that carers have a collective voice to enable them to influence and contribute to policy development and service provision at a local and national level. They also provide advice and information and have worked alongside GP and health colleagues in supporting and raising awareness of carers.
- 6.2.3 A further six organisations that are not carer specific but provide support to carers as part of their service are funded by the current Care Development Fund: Alzheimer Scotland, Enable Scotland, Parkinson Self Help Motherwell, Parkinson Self Help North Lanarkshire, Watch Us Grow and Partners in Play. Each of these six organisations also receives funding from the North Lanarkshire Council through other funding streams.
- 6.2.4 A small fund is held to facilitate direct help for carers in the form of supporting holidays and breaks
- 6.3 Existing contracted carer support services for adults and children were due to expire in 2017 and 2018 respectively, in line with the end of the current Carers Strategy 2013–18. Permission for a direct award for adults' carer services for one year was sought and approved. This agreement establishes consistent end dates across Adult and Young Carer Services and allows a joint approach to be considered for both age groups.
- 6.4 Support to Adult carers in North Lanarkshire has been provided by the same organisations for almost 20 years. Only the Young Carers service has been exposed to competition. Whilst not

finalised, a reasonable estimate of total monies for carer support is forecast at £1.4 million per annum. This figure will be revised as further information becomes available.

- 6.5 The Scottish Government aim to increase the uptake of Adult Carer Support Plans (ACSPs). The target is for an increase from 3% of carers' plans being completed in year 1 to 34% by year 5. In North Lanarkshire terms, this would mean an estimated 5,500 ACSPs and 200 Young Carers' Statements being required by year 5 (using the 2011 census figures). This would increase by at least 50% using the Scottish Health Survey estimates. The 2015/2016 figure for Carers Journeys carried out by NLC and partners at present is 600 per year.
- 6.6 A multi-agency group has therefore been established which includes statutory partners, South Lanarkshire Health and Social Care Partnership, Lanarkshire Carers Centre, North Lanarkshire Carers Together, and VANL. This group are scoping current provision and future needs and will inform future procurement design. This is not a review of individual services, but rather scoping out existing provision and supports to make sure that carer support is as effective, efficient and targeted by using existing resources to their best effect.
- 6.7 The major work commissioned by this group is an independent review of carers' views; this work is being undertaken by an external facilitator from the Kinharvie Institute which has just concluded similar work within Young Carers.

## 7. FINANCIAL AND ASSESSMENT CAPACITY IMPLICATIONS

- 7.1 A short life working group was set up in June 2016 to develop data specification and guidance for a new data collection exercise on the support to carers. This is being introduced to monitor the impact of the Carers Act. The new data on Carers is needed:
  - to understand whether the Act has the desired effect
  - understand current and forecast demand and associated resources
  - build an evidence base to support policy development and practice
  - inform business and resource planning
  - For benchmarking purposes
- 7.2 The data specification has been issued and a Finance Group meeting is being arranged which is expected to consider financial risk e.g. the anticipated level of demand and the level of replacement care. An initial draft of guidance on replacement care policy/practice is anticipated
- 7.3 The total costs of the new legislation were initially set out in the financial memorandum to the Bill. The initial estimated range of anticipated cost over a five year period is summarised as follows:

RANGE	2017-18	2018-19	2019-20	2020-21	2021-22
FROM	11.303 (min)	19.415 (min)	29.329 (min)	42.143 (min)	71.791 (min)
TO	12.463 (max)	22.98 (max)	34.579 (max)	52.163 (max)	83.501 (max)

- 7.4 There is no indication at this stage of how much funding will be made available to support the implementation of the Act which was delayed to 1 April 2018. A non-recurring allocation of £312,000 for 2017/2018 was received from the government to support the implementation of the Act.
- 7.5 Health and Social Care North Lanarkshire along with other partnerships secured £10,000 of pilot monies to undertake work on carer support plans and information and advice. This opportunity has been taken up in North Lanarkshire by engaging Voluntary Action North Lanarkshire, (VANL), to further develop work in respect of their work with carers' support and capacity building, by asking them to look at these two key issues independently from existing carer organisations.

- 7.6 The costs associated with carer support and activity will be met through a combination of existing monies contained within the Health and Social Care North Lanarkshire budget, NHS Lanarkshire Carer Information monies and additional monies from the Scottish Government. Further Health and Social Care, supporting work around carers, is through the Community Capacity Building and Carer Support Programme, funded through the Integrated Care Fund. 50% of this investment has been committed to supporting Carers across all the localities and care groups. VANL has facilitated this work and early discussions have taken place regarding the role VANL in facilitating future carer support; to date this concerns the monies allocated to non direct support organisations e.g. Parkinson's Group and Watch us Grow.
- 7.7 For 2017/2018 monies that had previously been managed by NHS Lanarkshire were transferred to the North and South Health and Social Care. This was £600,000 with a pro rata split across both areas. This funding is non-recurring. The future commissioning of services will therefore need to be carefully considered.

**8. IMPLICATIONS**

**8.1 NATIONAL OUTCOMES**

This work directly relates to Outcome 6 - People who provide unpaid care are supported to look after their own health and well being, including reducing any negative impact of their caring role on their own health and wellbeing.

**8.2 ASSOCIATED MEASURE(S)**

None.

**8.3 FINANCIAL**

This paper has been reviewed by Finance:

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
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**8.4 PEOPLE**

The implementation of the Act will be beneficial for both carers and the individuals being cared for.

**8.5 INEQUALITIES**

EQIA Completed:

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
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**8.6 CARBON MANAGEMENT IMPLICATIONS**

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
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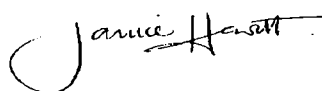
**9. BACKGROUND PAPERS**

Social Work Sub Committee 31<sup>st</sup> October 2017 Item 6 Carers Act Update

**10. APPENDICES**

Carer's (Scotland) Act 2016 – Summary of Provisions

Appendix



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CHIEF ACCOUNTABLE OFFICER (or Depute)

Members seeking further information about any aspect of this report, please contact Marie Moy on telephone number 01698 453709.

**CARERS (SCOTLAND) ACT 2016 - SUMMARY OF PROVISIONS**

**APPENDIX**

(Note: Excludes Parts 7 and 8 of the Act dealing with General Provision and Final Provisions respectively. Also excludes Schedule, Consequential modifications.)

**Part 1 Key Definitions**

Sections	Summary	Key Points
1,2,3	Sets out meaning of: - carer - young carer - adult carer	The meaning of "carer" includes an individual "who intends to provide care" as well as an individual who provides care. The meaning of "carer" excludes paid care workers (individuals providing care as part of a contract of employment) and volunteers.  Individuals are not carers if the cared-for person under the age of 18 only needs care because of their age. This now brings within scope of the meaning of carer those individuals caring for children with conditions such as autism and Attention Deficit Hyperactivity Disorder (ADHD). Therefore, with regard to cared-for people who are children, the terminology, "disabled child" is not used.  Young carers are aged under 18 or age 18 or over if they are still at school.
4 & 5	Sets out meaning of: - personal outcomes - identified personal outcomes -identified needs	Personal outcomes will, if achieved, enable carers to provide or continue to provide care for the cared-for person.  Amongst other things, this aims to stop carers who already provide care from reaching breaking point. It is about sustaining and supporting the carer in the caring role. In order to achieve this, the carer will have a life alongside caring.

Part 2 Adult Carer Support Plan & Young Carer Statement

Sections	Summary	Key Points
6	Duty to prepare adult carer support plan	<p>The section provides for the offering of an ACSP by the responsible local authority and the requesting of an ACSP by an individual carer. This means there are now two ways in which an individual can access an ACSP. An ACSP must be prepared, even if the carer is not deemed eligible for support (according to local eligibility criteria). In these circumstances, the ACSP should include signposting and access to any relevant supports, for example, universal or community-based services.</p> <p>The responsible local authority must exercise its functions under this section in a manner which encourages equal opportunities.</p>
7	Adult carers of terminally ill cared-for persons	<p>Scottish Ministers must prescribe timescales in regulations for the preparation of the ACSP in relation to adult carers of terminally ill cared-for persons.</p> <p>This regulation-making power is unlikely to be introduced now but there will be guidance.</p>
8	Adult carers: identification of outcomes and needs for Support	<p>This section contains a regulation-making power to define personal outcomes which is not being used.</p> <p>In identifying an adult carer's personal outcomes and needs for support, the responsible local authority must take into account any impact that having one or more protected characteristics has on the adult carer.</p>
9	Content of adult carer support plan	<p>This sets out, amongst other things, the range of information that the ACSP must contain. It includes information on the impact of caring on wellbeing and day-to-day life, and matters including, for example:</p> <ul style="list-style-type: none"> <li>▪ whether the adult carer has arrangements in place for the provision of care in an emergency;</li> <li>▪ whether the adult carer has arrangements in place for the future care of the cared-for person; and</li> <li>▪ whether the carer is, or wishes to be, in employment or education.</li> </ul> <p>This section contains a regulation-making power to further prescribe the content of an ACSP. This power is not being used.</p>

Part 2 Adult Carer Support Plan & Young Carer Statement (Cont.)

Sections	Summary	Key Points
10	Review of adult carer support plans	This section contains a regulation-making power about the review of adult carer support plans. There may be regulations under section 10 (a) setting out the circumstances in which the ACSP is to be reviewed but there are unlikely to be regulations under section 10 (b), (c) and (d).
11	Adult carer support plan: provision of information to carer etc	This section places a duty on the responsible local authority to provide the adult carer with the information contained in the ACSP. The information may also be provided to any other person the adult carer requests.  The section does not apply if the responsible local authority does not consider the sharing of the information appropriate.
12	Duty to prepare young carer statement	The section provides for the offering of a YCS by the responsible authority and the requesting by an individual young carer of a YCS. There are now therefore two ways in which a child or young person can access a YCS. A YCS must be prepared, even if the young carer is not deemed eligible for support (according to local eligibility criteria). In these circumstances, the YCS should include signposting and access to any relevant supports, for example, universal or community-based services.  The responsible authority must exercise its functions under this section in a manner which encourages equal opportunities.
13	Young carers of terminally ill cared-for persons	Scottish Ministers must prescribe timescales in regulations for the preparation of the YCS in relation to young carers of terminally ill cared-for persons.  The regulation-making power is unlikely to be introduced now but there will be guidance.
14	Young carers: identification of outcomes and needs for support	This section contains a regulation-making power to define personal outcomes which is not being used.  In identifying a young carer's personal outcomes and needs for support, the responsible local authority must take into account any impact that having one or more protected characteristics has on the young carer.

Part 2 Adult Carer Support Plan & Young Carer Statement (Cont.)

Sections	Summary	Key Points
15	Content of young carer statement	<p>Similar to that for ACSP (section 9). In addition, the YCS must contain information about the extent to which the responsible authority considers that the nature and extent of the care provided by the young carer is appropriate. Therefore, for example, the responsible authority might consider that personal, intimate care provided by a young carer is not appropriate. Or they might consider that the young carer is caring for too many hours each week. Or they might consider that the young carer, as a very young child, should not be carrying out any caring.</p> <p>This section also contains a regulation-making power to further prescribe the content of an YCS. This power is not being used.</p>
16	Review of young carer statements	<p>This section contains a regulation-making power about the review of young carer statements. There may be regulations under section 16(a) setting out the circumstances in which the YCS is to be reviewed but there are unlikely to be regulations under section 16 (b), (c) and (d).</p>
17	Young carer statement: provision of information to carer etc	<p>Similar to that for ACSP (section 11). Information contained in the YCS can be provided to the child's named person. However there is no duty in the Carers (Scotland ) Act 2016 to do so. Instead, provision for the sharing of information by the responsible authority for a YCS with the named person service provider exists in section 26 of the Children and Young People (Scotland) Act 2014. Section 26 of the Children and Young People (Scotland) Act 2014 summary: The information that ought to be shared under section 26 is intended only to be that which is considered likely to be relevant to the exercise of the named person's functions (set out in section 19(5) of the CYP Act). It is to be shared only for that purpose. Section 26 of the CYP Act also sets out that in considering whether information ought to be provided, the information holder is so far as reasonably practicable to ascertain and have regard to the views of the child or young person and in having regard to the views of the child/young person, an information holder is to take account of the child's age and maturity.</p> <p>This section sets out the framework under which information requires to be shared between service providers and the named person service provider. The views of the young carer would be ascertained and had regard to if reasonably practicable and in having regard to the views of the young carer, an important consideration would be the young carer's age and maturity.</p>



**Part 2 Adult Carer Support Plan & Young Carer Statement (Cont.)**

Sections	Summary	Key Points
18	Continuation of young carer statement	If a young carer reaches the age of 18, the YCS for that carer continues to have effect until an ACSP is provided.
19 & 20	Responsible authority: general  Responsible authority: special cases	Section 19 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.  Section 20 sets out responsible authority special cases. These include the directing authority of schools being the responsible authority where the young carer is a pupil at a grant-aided school or an independent school. "Directing authority" has the same meaning as in section 45 of the CYP Act, that is the managers of a grant-aided school or the proprietor of an independent school.

**Part 3 Provision of Support to Carers**

Sections	Summary	Key Points
21,22 & 23	Duty to set local eligibility criteria;  Publication and review of criteria;  National eligibility criteria	Each local authority is to set local eligibility criteria. Before setting eligibility criteria, each local authority must consult persons and bodies representative of carers and it must take steps it considers appropriate to involve carers. A local authority must have regard to such matters as the Scottish Ministers may by regulations specify when setting its local eligibility criteria. However, this regulation-making power is not being used at present and the matters will be set out in guidance.  Each local authority is required to publish and review its eligibility criteria. There is a regulation making power which will be used regarding review of the local eligibility criteria.  This section contains a further power for Scottish Ministers to make regulations setting out national eligibility criteria. This is a reserve power to be used at a later date if necessary.

Part 3 Provision of Support to Carers (Cont.)

Sections	Summary	Key Points
24	Duty to provide support	<p>This section provides for a duty on the responsible local authority to support carers who have eligible needs. There is also a power to support carers to meet needs which do not meet the eligibility criteria.</p> <p>A carer’s needs for support must be assessed within the framework of the ACSP/YCS scheme. The Act defines eligible needs for support as those which cannot be met through the provision of services available generally and/or by information and advice services, and/or by services provided to the cared-for person (with the exception of replacement care). The local authority must also deem eligible needs according to local eligibility criteria.</p> <p>Where a carer is deemed eligible for support, this may take the form of a personal budget and offer of self-directed support options.</p>
25	Provision of support to carers: breaks from caring	<p>A local authority is required to consider whether any support provided should include or take the form of a break from caring.</p> <p>Each local authority must have regard to the desirability of breaks from caring being provided on a planned basis.</p> <p>The ‘market sufficiency’ duty in the Social Care (Self-directed Support) Scotland Act 2013 applies in relation to support provided as a break from caring. This means that a local authority must, in so far as is reasonably practicable, promote short break providers and a variety of short breaks.</p>
26	Charging for support provided to carers	<p>Regulations are already in place to waive charges for support to carers. These will be amended to reflect the Carers Act provisions but will not change policy. Guidance will be issued.</p>

**Part 4 Carer Involvement**

Sections	Summary	Key Points
27, 28, 29 & 30	<p>Duty to involve carers in carer services;</p> <p>Carer involvement in hospital discharge of cared for persons;</p> <p>Involvement of, assistance to and collaboration with carers;</p> <p>Care assessments: duty to take account of care and views of carers</p>	<p>A number of different provisions about carer involvement and taking into account the views of carers. The duty to involve carers in carer services complements what exists in the CYP Act and the Public Bodies (Joint Working) (Scotland) Act 2014. Health boards must involve carers in the planning of discharge from hospital of cared-for persons.</p> <p>Guidance will be issued.</p>

**Part 5 Local Carer Strategies**

Sections	Summary	Key Points
31,32 & 33	<p>Duty to prepare local carer strategy;</p> <p>Preparation of local carer strategy;</p> <p>Publication and review of local carer strategy</p>	<p>Each local authority and relevant health board must jointly prepare a local carer strategy. It must contain, amongst other things, plans for identifying relevant carers; and plans for helping relevant carers put arrangements in place for the provision of care in emergencies. There are consultation requirements. There are factors which must be taken into account in preparing the local carer strategy. These include the national health and wellbeing outcomes.</p> <p>The local carer strategy must be published.</p>

## Part 6 Information and Advice for Carers

Sections	Summary	Key Points
34	Information and advice service for carers	<p>Each local authority must establish and maintain, or ensure the establishment and maintenance of an information and advice service in its area. The service must provide information and advice for carers in particular about:</p> <ul style="list-style-type: none"> <li>▪ carers' rights, including those set out in the carers' charter (when it is published),</li> <li>▪ income maximisation,</li> <li>▪ education and training,</li> <li>▪ advocacy,</li> <li>▪ health and wellbeing (including counselling),</li> <li>▪ bereavement support services following the death of a cared-for person,</li> <li>▪ emergency and future care planning.</li> </ul> <p>Each local authority must identify information and advice that is likely to be of particular relevance to persons who have one or more protected characteristics of age, disability, gender reassignment, pregnancy and maternity, race religion or belief, sex and sexual orientation.</p>
35	Short breaks services statements	<p>Each local authority is required to prepare and publish a short breaks services statement. This document will describe the short break services available in Scotland for carers and cared-for persons. Local authorities will be encouraged to identify gaps and plan and commission new short break provision to meet the needs of carers in their areas. This is to include any short breaks services located in one place but available to carers or cared-for people or both on a Scotland-wide basis.</p> <p>Scottish Ministers are expected to use the regulation-making power to make further provision about the preparation, publication and review of short breaks services statements.</p>
36	Carers' charter	<p>Section 36 requires, amongst other things, that Scottish Ministers must prepare a carers' charter and may from time to time revise the charter.</p>