

National Care Service Consultation

Section of Consultation: Carers

Introduction and Summary

Over a million unpaid carers – mostly family members, but also neighbours and friends – provide the vast majority of care in Scotland, and without them the health and social care systems would collapse. The NCS consultation paper states that “There were 700,000 – 800,000 unpaid carers before the pandemic, and potentially over 1 million during the pandemic” (page 29). During the pandemic, the numbers of carers and their hours of caring have both increased, due largely to reductions in social care and support¹. Many of these key services have not yet returned to pre-Covid levels, including respite care², care at home³, and day services⁴ which benefit carers⁵.

Social Work Scotland is concerned that the NCS consultation paper does not address the full range of recommendations in the Feeley report which are intended to improve support to carers. Only Feeley’s Recommendation 11 is discussed, and within that only the part which states: “carers should be given a right to respite with an amendment to the Carers Act as required”. Other recommendations about the need for investment in a wider range and volume of short breaks, and to review financial support to carers, are not considered.

Unpaid carers are the bedrock of the health and care systems as a whole. The Feeley report acknowledged that “unpaid carers in Scotland represent a larger workforce than the paid health and social care support workforces combined” (page 32) and quotes Oxfam’s estimate⁶ that “the economic value of the contribution made by carers is estimated to have been £36bn” in Scotland (page 88). **Social Work Scotland believes that major investment is needed to improve support to carers and fully recognise their contribution.**

¹ Scottish Human Rights Commission 2020: COVID-19, Social Care and Human Rights: Impact Monitoring Report, October 2020 – see especially pages 33-36. At:

<https://www.scottishhumanrights.com/media/2102/covid-19-social-care-monitoring-report-vfinal.pdf>;

² SWS is aware that carers have voiced concerns about the permanent closure or non-reopening of respite facilities, particularly those that provide nursing care, such as respite beds in older people’s care homes.

³ Reduced capacity in the current social care workforce, particularly in care at home support, third sector providers, and personal assistants, also reduces opportunities for replacement care if carer wants to take a break.

⁴ SWS is also aware of additional pressure on carers due to day support, day services, day centres not yet opened, or open with reduced capacity, and likely to close if staff or supported person tests positive for COVID.

⁵ See also Shared Care Scotland *Adult Day Care Surveys*. At May/June 2021 less than 60% of responding day care providers had building-based day centres open, and, of those open or soon to be open, nearly half (49%) were or would be providing at less than 40% of their capacity. 73% of respondents said that demand for these day services was high or very high. At: <https://www.sharedcarescotland.org.uk/wp-content/uploads/2021/06/Adult-Social-Care-Day-Services-SurveyPDF-2020-21-comparisons.pdf>

⁶ <https://oxfamapps.org/scotland/2020/01/20/unpaid-care-worth-36bn/>

Social Work Scotland acknowledges the funding provided to local authorities to implement the Carers (Scotland) Act from 2018, but has long-standing concerns about the adequacy of these resources. The consultation paper acknowledges⁷ that relatively few unpaid carers (around 3%) receive statutory support for breaks from caring. This support is often expensive and local authority and Health and Social Care Partnership (HSCP) local eligibility criteria are generally set at high levels of need, to help manage budget pressures. (Page 29).

This is partly because the funding provided to councils for an additional 16% of carers to be able to have an annual break by 2022-23 is based on a unit cost of £300 per year, which is too low to fund the replacement care necessary for the person cared for, without which the break is seldom possible.

In our main response to the NCS consultation below, our **conclusions** are as follows:

1. Support for carers, and who they care for, has been significantly reduced during the pandemic, with consequent increases in both the number of carers, the hours of care provided, and carer in stress. Some further funding is likely to be needed to restore carer support services, including those for breaks from caring and replacement care.
2. Of the options presented in the NCS consultation paper for carers' rights to breaks from caring, including replacement care, Social Work Scotland supports Option (e+f), which situates this right within an amended Carers Act, on the basis of assessed need without an eligibility condition. Our support for this option is conditional on the provision of sufficient funding to meet existing and additional demand. We believe such additional funding should be directed to: (a) "light-touch" assessment and support by carers centres, and (b) additional LA/NCS assessment, support and replacement care resources. Both are required to give effect to the new right.
3. We also support the intention behind the proposed hybrid option whereby the right to have needs for a break from caring met is combined with a more universal offer. We believe that is best delivered by ensuring that the new Scottish Carers Assistance⁸ is available to more carers – see 4.1 below – however, we recognise that this option might not be possible due in part to the effects on other benefits that provide income. In that case we would support options that provided financial recognition to all carers, or all carers providing care for 20 or more hours per week as these are likely to have less scope for part-time work. The position of older carers reliant upon State Pension because they were unable to work (and build up employer-based or private pensions) should also be addressed.
4. Social Work Scotland is also concerned that the NCS consultation paper did not address the other recommendations in the Feeley report to increase and improve support to carers. Having reviewed these, we support implementing these additional recommendations by:
 - 4.1. replacing the Carer's Allowance, if possible with wider eligibility and higher payments levels in the new Scottish Carers Assistance, so that more carers can afford short break costs (see point 3 above for the alternative); and

⁷ The 3% statistic for carers supported by short breaks and respite care comes from the Scottish Health Survey and has stayed much the same for several years. The wording of the interview question does not confine support to "statutory" sources, and the 3% may include support from other family members, or voluntary organisations.

⁸ <https://www.gov.scot/publications/scottish-carers-assistance-discussion-paper/pages/1/>.

- 4.2. Investment to widen the choice of types of short breaks and replacement care available, and to improve their quality, as was also recommended by Feeley.
5. Feeley also recommended fully waiving all charges for support to carers. Social Work Scotland supports the Scottish Government’s decision to abolish all non-residential charges for social, and we urge that the review of residential charges, discussed elsewhere in the NCS Consultation paper, completely removes both care and accommodation charges for residential respite care.

Main submission on carers

We consider first the consultation options for delivering a “right to respite” in the section on *Rights to breaks from caring* on pages 28-34 of the NCS Consultation paper, which the paper correctly interprets as a right to a short break, including any replacement care which is needed for the break.

Options presented in the consultation paper for a “right to breaks for caring”

We acknowledge that such a right could be specified in many different ways, and although a difficult read the consultation paper is helpful in setting out the many factors that require to be considered in “designing a right to breaks from caring” (page 29).

The “What we propose” section does not propose a particular definite specification of a right to respite, but sets out three categories of options, we have tabulated below:

Group	Needs Assessment?	Options
Group A – Standard entitlements	No	A standard short break package set as a flat rate payment or number of hours/weeks, Option:(a) for all carers; (b) for carers “who otherwise cannot get a regular break from caring” because they care for e.g. 20+, 35+, or 50+ hours per week; (c) for all or some carers but with package increasing with their hours of care
	Yes	(d) standard entitlement for carers with an assessed need for a short break, delivered as per (c).
Group B – Personalised entitlements	Yes	Options (e) and (f), discussed further below.
Group C – Hybrid approaches	Yes	A mixture of Options (e+f) and (a) or (b) above. Discussed further below.

The consultation discussion on pages 31 to 33 gives a strong steer to Group B, which we consider shortly.

Group A option appraisal⁹

The criticisms of Group A options in the consultation paper are mainly that they are not personalised. We tabulate these below with our responses:

⁹ We cannot offer a full option appraisal here of Groups A, B, and C, which would have to include the earlier points in pages 29-31 of the NCS consultation paper, and also the missing options to implement the other Feeley recommendations for investment in carer support, which we discuss later.

Group A Option	Consultation paper criticisms, pages 31-32	SWS response
Option (a) –universal flat rate	would either underprovide for those in greatest need or overprovide for those with less intense caring roles	A payment, or equivalent, would have to be high to “overprovide”. On page 30 the consultation acknowledges that carers still have rights to assessment under the Carers Act, so any flat rate “under-provision” can in principle be topped up by personalised support.
Option (b) – flat rate with an entitlement threshold	would be inconsistent with the aims of the Carers Act to recognise that the impact of caring is not solely linked to hours of caring and to deliver personalised support, based on what matters to each carer	Not “solely”, yes, but all the survey evidence is that need for support increases with the intensity of caring. The Carers Act is not adequately resourced to meet its objectives, and in any case was based on an assumption that a minority (16%) of carers require annual support to take a break. Eligibility also entails some needs are not met.
	would also exclude carers with less intense caring roles, whether or not those roles have a significant impact on wellbeing or prevent them taking breaks	Carers still have rights to assessment under the Carers Act, so any carers with less intensive caring roles that have significant impacts on wellbeing can in principle be topped up by personalised support
Option (c) graded series of entitlements, based on hours per week of care	would go some way to matching the level of support to need but would still lack personalisation	True, but could it reach more carers in need of support than assessment routes through the Carers Act?
Option (d) personalised needs assessment, then standard entitlement, eg as in (c)	would go through the person-centred processes in the Carers Act to identify personal outcomes and personal needs but would then ignore those to deliver a standard package rather than personalising support.	We agree that Option (d) is pointless: why go through a personalised needs assessment for a non-personalised standard entitlement?

Group A Options (a), (b), and (c) have the merits of universality, transparency, and ease of access; they also avoid the significant on-costs of assessment, except where the entitlement is too small to meet their needs and an assessment under the Carers Act is required, followed by personalised support.

The costs, of course, could still be significant: each £100 per year for one million carers costs £100M. Clearly, part-time carers by definition have breaks from caring, although some may still need support to take a week off caring. Restricting standard entitlements to full-time carers (caring for 35+ hours per week) or more than half-time (20+ hours per week) would have lower costs, which would allow more funding to support assessed needs, but probably not if the entitlements increased with the hours of care provided as in Option (c) ¹⁰.

¹⁰ Social Work Scotland has modelled a universal right to breaks of this kind, of the same durations annually as the current legal entitlement of most full-time paid employees, which are pro-rata for part time employees. That results in annual costs of well **over £1 billion**, even for some fairly modest assumptions about the level of support required.

We conclude that Group A options would assist carers in actualising a right to short breaks, but for many the level of support is very likely to be insufficient, because the payment or “package” was too low to meet short breaks costs, including replacement care. However, Group A options also have an overlap with the **Carers Allowance**, not discussed in the NCS consultation paper. We return to that issue later.

Group B option appraisal

Within Group B, Option (f) is presented as strengthening Option (e), so we shall discuss them together. Option (e) is described as:

A right to personalised support wherever the need for a break from caring is identified as part of the carer’s adult carer support plan or young carer statement. This would be a personalised entitlement to meet the carer’s specific needs as identified in their individual plan under the Carers Act. Subject to wider decisions on the approach discussed at the Access to Care and Support section of this consultation, this right could apply without additional criteria for who it applies to. (Page 32)

The final sentence is crucial, and refers to the proposal to “remove eligibility criteria in their current form” made in the Access to Care and Support section on page 19 of the consultation paper. However, as we commented on that section, this proposal is ambiguous between *reform* or *abolition* of eligibility criteria for social care as a whole.

To be sure, if eligibility criteria were abolished for social care, they would have to be for support to carers. However, if social care eligibility was retained in more modern dress, and remained in place for carers, then that would leave Option (e) as a right to have an assessed need for a break from caring met by support provided or arranged by a local authority (or NCS agency) *if and only if that need for support was deemed eligible*. But that is no different from the status quo under the Carers (Scotland) Act which places a duty on local authorities to meet carer’s assessed eligible needs. Feeley was not recommending a right to respite that carers already had, but *a new right*. Therefore, Option (e) only implements Feeley if the Act were to be amended to waive eligibility for carers’ assessed needs for a break from caring. That does not have to depend on the outcome of any review of the current (adult) social care eligibility criteria¹¹, but could be implemented in its own right. We interpret the Scottish Government’s intention for Option (e) as delivering support for assessed needs for short breaks without eligibility criteria, whatever happens to the wider issue of eligibility for adult social care¹².

Option (f) is intended to strengthen Option (e) by adding:

- A statement of principle that every carer is entitled to have sufficient rest and regular breaks from caring. Consideration could be given to whether this should refer to a certain number of days or weeks break from caring.
- A new duty to consider whether this entitlement is being achieved when identifying the personal outcomes for every carer as part of an adult carer support plan or young carer statement.
- If a carer is not achieving this entitlement, then their identified personal needs must include a need for support to achieve sufficient rest and regular breaks from caring. (Page 32)

The NCS consultation paper states that Option (e+f) would:

¹¹ If (Adult) Social Care eligibility criteria were to be reformed, that might have some implications for the local eligibility criteria that local authorities have developed under the Carers Act – but that doesn’t affect the point we are making.

¹² Apologies if this point seems laboured, but feedback from SWS members suggests that intention is not so clearly stated in the section of the NCS consultation paper and is open to misunderstanding.

provide a way to target investment to maximise benefits for carers by ensuring that support is personalised to meet what each carer needs to achieve their breaks outcomes. The support needed may vary, with some carers needing significant replacement care, while others may need lower levels of preventative support for their own break. (Page 33).

An entitlement to have sufficient rest and regular breaks from caring is a human right. But is it a “claim right” which places duties on “duty bearers”? If so, do those duty bearers include family members, friends or neighbours? – that seems incompatible with their liberties. If this human right is a claim right, the duty bearer must be the State.

A need for support may be met currently by a carer’s family, or by friends or neighbours, or by existing services. In such cases, assuming the support was able to continue, the need for support would be met and so would not appear for action on a support plan. (That would need to be clearly stated in the guidance).

We agree that Option (f) solves the problem with Option (e), provided it is clear in an amendment to the Act that **eligibility is waived** in the case of assessed needs for support to achieve “sufficient rest and regular breaks from caring”. There are still some difficult issues about how that is defined, and whether this varies by intensity of caring. Since this is a “personalised” right, it might be left to assessment to establish what sufficient rest and regular breaks mean for each individual in their circumstances. However, some guidance to assessors is likely to be necessary.

We consider funding requirements in more detail in the **Finance section of our response to the NCS** consultation, but note here that more funding will be needed both for assessing the needs of more carers, and also to provide more support for short breaks and replacement care to achieve the new right to a short break. That funding will be needed by local authorities/ NCS agencies, and by carers centres. Indeed, investment funding will be needed to establish more carers centres in areas of Scotland without them, and to build greater capacity in existing centres, and possibly in other parts of the Third Sector¹³.

Group C: hybrid options

The NCS consultation paper also offers a hybrid solution combining Option (e+f) with one or other of two of the four “Group A” options (discussed on pages 31-32), but in a way that seeks to separate more from less intensive caring roles:

We are considering whether it is possible to establish a hybrid approach, combining:

- a smaller, guaranteed minimum flat-rate entitlement (as options (a) or (b)) which is easier to access for those in less intensive caring roles; and
- a more personalised entitlement, based on identified needs (as options (e) and (f)) for those in more intensive caring roles.

This has potential to target investment to maximise the benefits in terms of improving outcomes and protecting wellbeing for carers by combining preventative support alongside support for those with higher levels of need. (Page 33)

¹³ The consultation paper also states: “The existing Time to Live grant model also offers a light touch means for accessing and personalising non-statutory support for breaks. However, this might end up looking very like a Carers Act process if it were converted into a statutory entitlement”. (Page 31). We think this issue should be unpacked a bit more.

It is not obvious that this is a viable option, in the form in which it is stated: how would new rights under an amended Carers Act be restricted to carers in more intensive roles? The consultation paper admits these difficulties, and then suggests an alternative:

Such an approach would still require criteria for which carers could access the two elements and consideration would need to be given to whether it was workable, affordable, or proportionate to legislate for two different approaches to entitlement.

The consultation states that:

An alternative would be to consider non-statutory ways of increasing access to preventative breaks support for carers who may not yet want or need to be in contact with the wider social care system or to prepare a full adult carer support plan or young carer statement. Options for doing this might include expanding the existing non-statutory Short Breaks Fund. (Page 33).

Hybrid options would combine a right under an amended Carers Act to support for people with assessed needs for a short break and/or replacement care for the person they care for, with some more generic right of carers to a break that did not need an assessment. The proposal to expand the Short Breaks Fund might have merit as a means of expanding access to short breaks, however as “non-statutory” perhaps signifies, it is not going to provide universal entitlement, so does not add to carers rights.

The problem with the hybrid solution is also how to specify this more generic right in such a way that it genuinely delivers a break. Depending on a carer’s own resources, any affordable payment, say, £200 per year, may not be sufficient to fund, for example, a week’s break from caring, and certainly would not fund the replacement care. That public expenditure (£200M in this example) might or might not be better spent on other ways to support carers. The quote above from the consultation paper described these alternatives as “non-statutory”; that seems premature, but what seems to be meant here is that they would not form part of legislation to create a carer’s right to a short break. In that case it is not part of a hybrid option to providing a right to respite.

We agree that such an alternative should explored, but this does overlap with the Carers Allowance and Feeley’s other recommendations to improve support and outcomes for carers. The proposed replacement of the Carers Allowance with a new Scottish Carers Assistance benefit provides an opportunity to widen the eligibility criteria to provide financial support to more carers, and to increase the payment level so that more carers can afford the costs of breaks.

Relationship between Feeley’s carer recommendations and the NCS consultation

Derek Feely made five main¹⁴ recommendations about carers:

Feeley Report Recommendations	NCS consultation content
11 Carers need better, more consistent support to carry out their caring role well and to take a break from caring with regular access to quality respite provision. Carers should be given a right to respite with an amendment to the Carers Act as required, and a range of options for respite and short breaks should be developed.	Right to breaks from caring on pages 28-34. Nothing on ensuring “access to quality respite provision”. Nothing on developing “range of options for respite and short breaks”

¹⁴ Carers are also mentioned in Recommendations 2, 20, and 32, for everyone using social care support, and their families: There is also a recommendation on removing all charges for carers on page 93 – discussed below.

Feeley Report Recommendations	NCS consultation content
12 A new National Care Service should prioritise improved information and advice for carers, and an improved complaints process. It should take a human rights-based approach to the support of carers.	Referenced on page 36, but in the context of “using data to support care” not information and advice services. Also referenced on page 42 in relation to “complaints and putting things right”.
13 Local assessment of carers’ needs must, in common with assessment of the needs of people using social care support services and supports, better involve the person themselves in planning support.	<u>Not mentioned</u> , but already Scottish Government policy. (Possibly evidence to Feeley Review on lack of carer involvement relates to eligibility issues?)
14 Carers must be represented as full partners on the Integration Joint Boards and on the Board of the National Care Service.	Recommendation also <u>not mentioned</u> , but carer representation implied by text on page 91
53 Additional investment in order to: [...] review financial support made available to unpaid carers and increase investment in respite	Also <u>not mentioned</u> . Increase investment in respite is implied by “right to respite” discussion, but nothing on financial support for carers, although there is a possible overlap with some “Group A” options for short breaks rights.

We wish to comment on financial support for carers and also on the need for investment to increase the range, volume and accessibility of short breaks.

Financial support for carers

The Feeley report stated that

In recognition of concerns we heard about the Carer’s Allowance, and the impact of caring on some people’s income, we recommend a review of financial support made available to unpaid carers should be taken forward. (Page 93)

We presume that this was left out of the NCS consultation because it is the subject of a separate Scottish Government workstream to replace the Carers Allowance with a new Scottish Carers Assistance benefit. The recent Programme for Government 2021-22 commits the Scottish Government to consult on proposed changes in Winter 2021/22. Nevertheless, all Feeley recommendations for carers remain very relevant to the proposed National Care Services.

Poverty is a significant issue for many carers, especially for carers of working age¹⁵, as the most recent Joseph Rountree Foundation UK annual poverty report observes: “Carers are more likely to be on low incomes as their capacity to work is squeezed by caring responsibilities and at the same time they face higher costs”¹⁶. The latest Scottish statistics show that 82,000 carers were receiving the Carer’s Allowance at February 2021 – this is only 10% of the total pre-Covid number of adult carers (780,000) and possibly only around 8% now, largely because eligibility criteria¹⁷ for the Carer’s Allowance are currently restricted to a small minority of total carers, although it is a much higher proportion of carers caring for 35 or more hours per week.

¹⁵ Aldridge and Hughes 2016 *Informal carers & poverty in the UK: An analysis of the Family Resources Survey*. New Policy Institute and JFR.

https://www.npi.org.uk/files/2114/6411/1359/Carers_and_poverty_in_the_UK_-_full_report.pdf

¹⁶ JRF 2021UK Poverty 2020-21, full report, page 49; at: <https://www.jrf.org.uk/report/uk-poverty-2020-21>

¹⁷ To get Carer’s Allowance, carers need to be 16 or over, spend 35 or more hours a week caring for someone in receipt of a specified disability benefit, and not be in full-time education or earning over £128 a week (after deductions).

The new Scottish Carers Assistance benefit may presents an opportunity to extend eligibility to benefit more carers, and also to raise payment levels above those of the current Carers Allowance plus the Scottish Government's very welcome twice-yearly Carers Allowance Supplement. On the other hand, the benefit it replaces is part of income maintenance which for many years has been provided on a very minimal basis. It is not a carer recognition payment. The new benefit is likely also to have to interface with the current social security system, which may limit how generously it can be extended.

Unfortunately, unless these constraints can be navigated, the new SCA might not turn out to be the best means to provide all, most, or many carers with a measure of financial support to take a break from caring -- with the new amended Carers Act rights also available under Option (e+f) for carers who need greater, personalised support. In that eventuality, Social Work Scotland would support options that provided **financial recognition** to all carers, or all carers providing care for 20 or more hours per week as these are likely to have less scope for part-time work. The position of older carers reliant upon State Pension because they were unable to work (and build up employer-based or private pensions) should also be addressed.

Feeley also made a recommendation about **charging** carers for support services:

Although charges to carers are waived under the Carer's Act, some Local Authorities allocate charges to the supported person for respite. Removing such charges should be considered alongside other investment priorities. (Feeley Report, page 93)

The Scottish Government has already decided to abolish non-residential care charges, and is consulting on **residential care charges** elsewhere in the NCS consultation, to which we are making a separate response. Our response recommends the complete removal of both care and accommodation charges for **residential respite care**.

Investment in short breaks provision

Feeley's recommendation stressed the need to ensure "access to quality respite provision" and develop a greater "range of options for respite and short breaks". Both recommendations have implications for investment and for commissioning, which need to be addressed, alongside the investment implications of Option (e+f) briefly discussed earlier.

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