



Carers (Scotland) Act 2016

Item number: 5.6

Executive summary

The Carers (Scotland) Act 2016 is a key piece of new legislation that promises to *'promote, defend and extend the rights'* of adult and young (unpaid) carers across Scotland. The Act aims to *"ensure better and more consistent support for carers and young carers so that they can continue to care, if they so wish, in better health and to have a life alongside caring"* (Scot Gov.).

This legislation introduces new duties and responsibilities, and has implications for Adult Health & Social Care Services and both Education and Children's Services. The Carers (Scotland) Act 2016 puts a duty on Councils and Integrated Authorities to provide support to young and adult carers, where identified needs meet agreed local eligibility criteria.

The public consultation process was undertaken during January 2018, and the Eligibility Criteria for Carers document, which applies to both young and adult carers, has been updated in response to consultation feedback.

Board members are asked to:

Note the proposed Eligibility Criteria which will be considered for formal approval by Midlothian Council

Carers (Scotland) Act 2016

1. Purpose

This report is submitted for information new Eligibility Criteria for Carers within Midlothian, as is required by the Carers (Scotland) Act 2016.

2. Recommendations

The IJB is asked to note and consider the requirements under the legislation to produce, consult and publish eligibility criteria for young and adult carers prior to implementation of the Act in April 2018

3. Background and main report

- 3.1 The Carers Bill was passed as law on 4th February 2016 and the Act will be implemented on 1st April 2018.
- 3.2 The new Act will require local authorities and health boards to prepare for implementation by addressing the new duties and responsibilities placed upon them, including a “duty” to provide support to carers of all ages where identified needs meet agreed local eligibility criteria thresholds. The local authority also has a “power” to provide support to meet other identified needs.
- 3.3 The Scottish Government have produced near-final draft guidance on Carers Eligibility Criteria, which proposes that all local authorities use the same suite of indicators as the basis of their eligibility criteria, though the threshold for support will be agreed and set locally. In Midlothian these indicators closely link to the outcomes which form the basis of Midlothian’s Adult Carer Support Plan (ACSP) and the wellbeing indicators for young carers. The indicators and model of assessing impact and risk to sustainability was developed by National Carer Organisations. Prevention and a reduction in the impact of caring are key to this approach.

4. Policy Implications

- 4.1 Requirement to produce, consult and publish eligibility criteria for carers
Using the suite of indicators that were provided by the Scottish Government, and adopting the scale of measuring impact of caring/risk, these have been broadly applied to the outcome areas that form the basis of the Adult Carer Support Plan, and the wellbeing indicators for young carers. In Midlothian it has been possible to align existing outcomes focused assessments with the eligibility criteria for support.

As a result it is possible to identify

Universal services - those accessed without referral, available to members of the public,

Targeted services - those universal services which might need additional referral or screening, and

Individualised budgets for support for carers whose levels of need warrant such intervention

4.2 Thresholds

The indicators and scale of impact/risk were provided by the Scottish Government: it was threshold levels that required to be established at a local level. Within adult services in Midlothian, eligibility for individualised budgets requires needs to be assessed at a substantial or critical level before an individualised budget would be considered. This eligibility threshold is also the level at which the local authority decides that it has a “duty” to provide support, as opposed to a “power”. As referenced in the Eligibility Criteria for Carers document, the carer will participate in the development of an Adult Carer Support Plan or a Young Carer Statement. Outcomes and needs will be identified and the worker and carer will look to see how these will be achieved. In the first instance universal and targeted supports will be considered. It is only after investigating these sources of support would any remaining needs (which also meets the threshold of eligibility) would be considered for individualised support.

The Partnership continues to demonstrate its “power” to provide support by committing funding to services which may be considered universal or targeted, and may be provided or delivered by voluntary sector partners through for example the contract with VOCAL for Carer Support Services.

4.3 Consultation

The Eligibility Criteria for Carers document was available for public consultation from late December 2017 until 5th February 2018. The document was available on the Midlothian Council website and social media channels, and was also shared with voluntary sector partners such as: VOCAL Midlothian; Children 1st; Grassy Riggs; and Alzheimer Scotland. During the consultation period there were two consultation events at VOCAL Carer Centre – it was hoped that similar events would be facilitated for young carers in contact with Children 1st, however due to the timing of the consultation period within the service cycle there were no young carer groups operating and the service could not identify young carers available to participate. There were 3 consultation sessions for Health and Social Care staff and there was feedback from members of the public and voluntary sector partners. The feedback has been incorporated into the final document.

5. Equalities Implications

Services delivering support to unpaid carers aim to improve outcomes relating to physical and mental health, and economic and financial wellbeing. The Eligibility Criteria are for young (aged under 18) and adult carers (aged 18 and over). Carers have status under the Equality Act 2010 and have protections against direct discrimination or harassment because of their caring responsibilities. Carers are considered as being 'associated' with someone who is protected by the law because of their age or disability. The Eligibility Criteria are designed to provide clear and equitable access to the appropriate level of care and as a result there should be no detrimental impact on carers (or on the person they are supporting) who have a protected characteristic(s).

6. Resource Implications

- 6.1 Funding is being provided by Scottish Government to support the implementation of the Act. At this point in time it is uncertain whether this funding will cover the additional costs associated with the implementation of the Act. This will be dependent upon:
- The level of increase in demand for carers support services resulting from the introduction of the Act
 - Detailed guidance on the waiving of charges for carers which is yet to be finalised

7 Risks

- 7.1 The most significant risk associated with the implementation of the Act is the financial risk to the Midlothian Council if the funding provided to support the implementation of the Act is insufficient to meet the increased demand.

8 Involving People

- 8.1 Consultation has been open to the public and to members of staff, closely involving voluntary sector partners some of who provide specialist carer support within their service. A meeting of the carers' lobbying group, Carers Action Midlothian (CAM), formed the basis of one of the consultation events held at VOCAL Carer Centre. Members of the public were invited to provide feedback directly to the Carers Planning Officer, or the option to do this at a publicised consultation event. Young carers who have had previous contact with the Young Carers Service at Children 1st were approached directly to participate, but unfortunately it was not possible to gain participation for this. Health and Social Care staff consultation events were organised and attended, providing further feedback.

9 Background Papers

Appendix 1 – Duties on Local Authorities and Health Boards (relevant to Eligibility Criteria for Carers)

Appendix 2 – Risk/Implementation Issues

Appendix 3 – Midlothian Carers Eligibility Criteria

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Appendix 1 – Duties on Local Authorities and Health Boards (relevant to Eligibility Criteria for Carers)

1. Duty to prepare and review Adult Carer Support Plans and Young Carer Statements. Act includes direction regarding the means of identification of outcomes and needs for support.

Actions in progress: Work is progressing in relation to both these assessment tools. It is the needs/outcomes identified within these assessments that supports will be considered and the application of eligibility criteria to assist in determining the level of service or individualised budget (if any) that is required.

2. Provision of Support to Carers. Establishment, publication and review of Local Eligibility Criteria for services for Young Carers and Adult Carers. The Scottish Government may later choose to produce national eligibility criteria.

Actions in progress: In Midlothian, prior to the establishment of this duty, there were eligibility criteria in place for adult carers that were developed in light of Self Directed Support legislation. These criteria have been revised in light of the requirement within guidance supporting the new act, that a suite of indicators be adopted and consideration of impact/risk form the basis of the application of the eligibility criteria. These requirements have been applied to existing criteria and assessment frameworks to ensure compliance with requirements. Consultation has taken place and feedback applied to the Eligibility Criteria for carers' document. Agreement is required by management structures to enable adoption within services and legislative requirements.

Appendix 2 – Risk/Implementation Issues

Risk	Actions being taken to mitigate risk
Emerging information re financial information to accompany the legislation : Further examination required to establish if anticipated funding allocation to authorities will meet duties and responsibilities under the Act	Requirement to monitor and make further investigation where necessary
Local eligibility criteria will be impacted by national guidance in relation to the provision and payment of care, e.g. waiving of charges for carers. Consideration if policy is manageable with respect to funding from the Scottish Government to support implementation of the act.	Requirement to be aware of national guidance, but also participate in debate and discussion as to interpretation and application of this guidance.