

CARERS Scotland

CARERS SCOTLAND'S RESPONSE TO THE CoSLA GUIDANCE ON CHARGING FOR NON RESIDENTIAL SERVICES THAT ENABLE OLDER PEOPLE TO REMAIN AT HOME

December 2002

About Carers Scotland

Carers Scotland (formerly Carers National Association) is an organisation of carers run by carers. We aim to represent the views and interests carers throughout Scotland. Carers look after family, partners or friends in need of help because they are ill, frail or have a disability. The care they provide is unpaid. Carers Scotland provides information and advice to carers and raises their needs and concerns with policy makers and service providers.

Facts about Carers

- 13% of the population in Scotland are carers. 36,480 carers in Scotland provide over 20 hours support per week and 112,235 provide continuous support.¹
- Carers in Scotland save the state approximately £5 billion per year.²
- One in 4 carers (and 40% of older carers) are thought to live in poverty.³

Background

Local authorities do not have a duty to charge for non-residential care services. Instead they have a discretionary power deriving from section 87 of the Social Work (Scotland) Act. This empowers a local authority to charge the person who 'avails themselves of a service'. If a local authority chooses to levy a charge, it must not require the service user to pay more than they can reasonably afford.

With the implementation of free personal care in July 2002, personal care services provided to elderly people within the home are now provided free of charge. However there are a whole range of non-residential care services which do not fall within the definition of 'personal care'. Such services remain chargeable.

Part 1, Section 1 of the Community Care and Health (Scotland) Act contains powers allowing the Minister to direct local authorities over their home care charging policies. The Scottish Executive has chosen to hold these powers in reserve pending an assessment of the guidance CoSLA have produced.

Carers Scotland's response to the CoSLA guidance

Carers Scotland believes that charging for essential non-residential care services is wrong. We believe it is inappropriate to charge elderly people for services that are essential to their

¹ Scottish Community Care Statistics 2001

² Without Us....? Calculating the value of carers support. Carers UK 2002

³ Evandrou E (1990) Challenging the Invisibility of Carers : mapping informal care nationally Discussion Paper WSP/49 London School of Economics

health and well being. We are also specifically concerned with the impact of such policies on carers. While carers may not be charged for services directly, they are often still adversely affected by charging and the negative impact this has on household incomes. This situation runs counter to the principle of treating carers as key partners in the provision of care.

Notwithstanding our opposition to charging in principle, there are specific concerns that we have with a number of the proposals put forward in the guidance. These are outlined below.

Thresholds at which charging would apply (paras 48 – 52 of the CoSLA guidance)

We welcome the proposal that there should be a minimum income below which an elderly person's income should not fall as a result of charging. However we do not believe that the recommendations contained in the guidance provide sufficient safeguards to ensure that service users' incomes will not actually fall below acceptable levels.

We are very concerned that the guidance makes no provision for the carer premium to be included when calculating the threshold figure. This is a serious omission. Despite their own care needs, some elderly service users will also be providing care to another individual. In many other cases, the service user's partner will be their main carer. The carer premium is paid to individuals to help offset some of the additional costs they incur as a result of their caring role. It is not paid to help meet the costs of care services and as such it is unacceptable that this premium is treated as income available to pay for charges. The omission of the carer premium from the threshold figure makes it possible that charging will actually reduce the income of a household which includes a carer, to a level below that of the Minimum Income Guarantee (MIG). [See Appendix]

Leaving aside the specific issue of the carer premium, we also do not agree that the threshold of basic MIG plus 12.5% is sufficient to ensure that incomes do not fall below acceptable levels. The basic MIG figures sets out the minimum level of income that is required by any elderly person over 60. As such it does not take into account the higher needs of those elderly people whose health problems necessitate expenditure on disability related costs. Where the cared for person's income is reduced below acceptable levels, this is also likely to impact adversely on their carer. Charges for services provided to disabled people are often borne by the whole family, particularly where the elderly person has a low income. Given this we would like to see a larger buffer than the 12.5% recommended. Carers Scotland also maintains that any individual in receipt of income support should be automatically exempt from home care charges.

Treatment of disability related benefits (para 56)

We would also note that the guidance specifically suggests that disability benefits such as Attendance Allowance and the severe disability premium may be taken into account as income. We do not believe that this policy is justifiable since disability benefits are paid to offset all extra disability related costs and not simply for the costs of care services. As a consequence it should not be assumed that such income is available to pay for homecare services. For example unlike younger people who can claim the mobility component of Disability Living Allowance, Attendance Allowance recipients do not get any help towards their mobility costs. Where such an individual has high travel costs (e.g. taxi fares) much of their Attendance Allowance may have to be used to meet these costs rather than any care charges.

Disability related expenditure (para 58)

The problems inherent in taking disability benefits into account are exacerbated by the fact that the guidance leaves it to a local authority's discretion whether they 'wish' to offset disability related expenditure. The guidance thus appears to sanction the scenario where a local authority takes disability benefits into account without any corresponding obligation to offset disability related expenditure. In Carers Scotland's view this is unacceptable. Disability benefits often fail to cover all of the additional costs of a disability. Failing to take this extra expenditure into account will effectively make it possible for charging to reduce an individual's actual income (after they have met the costs of their disability) to an amount below the supposedly protected levels.

Treatment of couples (para 51)

Carers Scotland is alarmed that the guidance proposes that couples should be charged on the basis of their joint income. In our view such a policy is potentially unlawful, since the Social Work (Scotland) Act (as amended by s18 of the Health and Social Services and Social Security Adjudication Regulations 1983) only empowers an authority to charge the person who 'avails himself' of a service.

In addition Carers Scotland believes it is ethically wrong to include a partner's income and assets as available to pay charges. In most cases an elderly person's partner will also be their main carer. As such, the support the partner provides already saves the local authority substantial sums⁴. In addition that partner is likely to have already made significant financial sacrifices in taking on the caring role.

Such a policy would also run contrary to the spirit of regarding carers as key partners in the provision of care, a principal given statutory recognition in the Community Care and Health Act 2002. The Scottish Executive's draft guidance on New Statutory Rights for Carers⁵ makes clear at paragraph 7.6.3 that "*where a carer and cared for person are related in a way that means their household income is considered to be joint, any charges levied on the cared for person would also directly effect the carer, which would be contrary to the Executive's policy that carers should not be adversely effected as a result of their caring role*".

Level of taper (paras 53 –55)

Carers Scotland is surprised that there is no standard percentage recommended in the guidance. While examples given in the guidance itself range from 5% to 55% there would appear to be no impediment to a local authority setting a much higher percentage figure. If charges are to be made at all, we would prefer to see a standard recommended level in order to ensure that charges are both reasonable and consistent from area to area. This would be in line with the Scottish Executive's stated desire to see an end to wide variations in charging between local authority areas⁶.

Treatment of earnings (para 56)

In our view the suggestion that earnings be taken into account as income is a retrograde step. While most elderly people using care services will not have earned income, the same

⁴ Without Us...? Calculating the value of carers support. Carers UK 2002

⁵ Circular CCD 10/2002

⁶ Community Care and Health (Scotland) Bill, Policy Memorandum paras 21-26

cannot necessarily be said about their partners. Failure to disregard earnings will therefore act as a disincentive for these particular carers to take up employment opportunities.

Treatment of capital (paras 61-63)

While we welcome the fact that there is to be no upper capital level, we cannot understand why only the first £6000 of capital is disregarded. In our opinion the demands on the capital of an elderly person living in their own home are likely to be much higher than on the capital of someone in residential care. Where individuals are home owners they will face repair and maintenance costs which can be sudden and substantial. Both home owners and tenants alike, face the costs of replacing household items and purchasing items of equipment not provided by the local authority. For all of the above reasons there is no justification for only allowing elderly people at home to retain a lower level of disregarded capital than their contemporaries in residential care.

We are also critical of the suggestion that local authorities assume income of £1 income for every £250 of capital below the lower limit. While this formula has been traditionally used in calculating means tested benefits, the Department of Work and Pensions have recently accepted that for pensioners this tariff is no longer acceptable. Indeed this formula was described as 'ludicrous' by Alistair Darling⁷ when he launched the new Pensioners Tax Credit, a benefit which will use a more generous ratio of £1 income for every £500 of capital.

Positives

There are aspects of the guidance that we welcome:

- the high priority given to the need for benefit uptake work;
- the focus on the need for clear and concise public information on charging policies;
- the recommendation that day care and aids / adaptations not be charged for;
- the income disregard for each child in the household;
- the recommendation that councils consider waiving or abating charges where an elderly person has difficulties in meeting a charge.

Conclusion

Despite some positive features, Carers Scotland is of the opinion that, overall, the guidance fails to meet its own stated aim of ensuring that service users net incomes do not fall below unacceptable levels. In addition, we also believe that the guidance will not result in any greater uniformity in charging. The fact that so much discretion regarding important aspects of the charging is left to local authorities, is likely to lead situation where service users in similar circumstances and receiving similar services, are charged at very different rates depending on the area in which they live.

While the guidance itself applies specifically to charging elderly people, we also are very concerned that it may be adopted by local authorities as a framework for charging younger people with disabilities. Indeed it would appear that the CoSLA guidance has already been put forward as providing the basis for the development of charging policies for services under Supporting People. In our view some of the more contentious aspects of the guidance (e.g. means testing of partners, treatment of earnings) are likely to be even more problematic if applied to the charging of younger people, and will result in increased financial exclusion of already seriously disadvantaged groups.

⁷ DWP press release 9/11/2000

Appendix

Example A

A single person over 65, who requires non-residential care services in their own right but who also provides care to another person who is not their partner.

The MIG for single pensioner but who also has an underlying entitlement to ICA is £122.95 per week. This is a basic amount of £98.15 plus the carer premium of £24.80.

Assuming an assessable income of £125 per week, then a LA charge would be worked out as follows:

basic IS level	£98.15
12.5%	£12.27
<i>Threshold</i>	<i>£110.42</i>

This would be rounded up to £111 per week. If the LA took 55% of excess income into account then they would charge this individual up to £7.70 towards their services. [£125 - £111 = £14. 55% of £14 is £7.70]

If the full £7.70 was charged, this individual would be left with £117.30 per week. **This is £5.65 less than their MIG** i.e. the minimum amount that they are held to require in order to meet normal weekly living costs

Example B

A couple both over 65, where each partner helps care for the other. They both have established an underlying entitlement to ICA (such a scenario is not unusual, particularly given the recent scrapping of the ICA upper age limit). No severe disability premium is paid in this case because other non-dependants share the household.

The Minimum Income Guarantee (MIG) for such a couple is £199.40 per week. This is a basic couple's rate of £149.80 plus two carer premiums of £24.80 each.

Assuming this couple have a net assessable income of £226 per week, then their charge would be worked out as follows:

Basic IS level	£149.80
12.5%	£ 18.73
<i>Threshold</i>	<i>£ 168.53</i>

This would be rounded up to £169. If the LA took 55% of excess income into account then they would charge this couple up to £28.05 per week towards services. [£226 - £169 = £57. 55% of £57 is £31.35].

If the full £31.35 was charged, then this couple would be left with £194.65 per week. **This means they would be left with £4.75 less than their actual MIG.**

If a local authority decided to take a higher percentage of excess income into account than the 55% used in the examples above, net incomes would be reduced even further.

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