

## **POLICY NOTE**

### **THE CARERS (SCOTLAND) ACT 2016 (TRANSITIONAL PROVISIONS) REGULATIONS 2018**

#### **SSI 2018/34**

1. The Carers (Scotland) Act 2016 (Transitional Provisions) Regulations 2018 are made in exercise of the powers conferred by section 43(1) of the Carers (Scotland) Act 2016 (“the Act”). The instrument is subject to negative procedure.

#### **Policy Objectives**

2. From 1 April 2018, support for carers will be provided under section 24 of the Act; and carer assessments will be superseded by the more comprehensive and outcomes-focused adult carer support plans and young carer statements.
3. These Regulations set out the responsibilities of different agencies towards carers who are already receiving support under the existing legislation on 1 April 2018. They ensure that support for such carers will continue without interruption. They also set out rules for these carers to transition into the new system of adult carer support plans and young carer statements, while avoiding creating a bottleneck in the system.
4. The Regulations require local authorities who are already supporting such carers to continue to do so, until these carers have an adult carer support plan or young carer statement (as appropriate) and decisions about future support under the new legislation are in place. This responsibility to continue to provide services or support also comes to an end if a person no longer requires these; or if they refuse an adult carer support plan or young carer statement.
5. The Regulations also ensure that the existing rules on waiving of charges for carer support and the prohibition on means testing of direct payments for carer support apply to such transitional services or support.
6. For adult carers receiving carer support under the existing legislation up to 1 April 2018, the responsible local authority is required to carry out an adult carer support plan if the carer requests it. The responsible local authority is also required to offer an adult carer support plan within three years; or sooner if there is a significant change in the carer or cared-for person’s circumstances which has had or could have a material impact on the care provided by the carer.
7. Where the supporting local authority for an adult carer is not the ‘responsible local authority’, it is required to notify the responsible local authority of that support; and of changes in the circumstances of the carer or cared for person which could impact on the care given by the carer.
8. For young carers receiving carer services under the existing legislation up to 1 April 2018, the responsible authority is required to carry out a young carer statement if the carer requests it. The responsible authority is also required to offer a young carer statement within one year; or sooner if there is a change in the young carer or cared-for person’s circumstances which has had or could have a material impact on the care provided by the carer.

9. If the young carer has become an adult carer, the responsible local authority is required to carry out an adult carer support plan if requested. And the responsible local authority is required to offer an adult carer support plan within one year; or sooner where there is a significant change in circumstances.
10. Where the supporting local authority for a young carer is not the 'responsible authority' and/or the 'responsible local authority', the supporting local authority is required to notify the responsible authority and, where appropriate, responsible local authority of that support; and of changes in the circumstances of the carer or cared for person which could impact on the care given by the carer.
11. This phased approach to adult carer support plans and young carer statements is designed to avoid creating bottlenecks while ensuring that 'existing' carers benefit from the person-centred approach of an adult carer support plan or young carer statement within a reasonable timescale. The shorter period for young carers reflects the need for more frequent reviews in this vulnerable group.

### **Consultation**

12. The Scottish Government has consulted informally on these Regulations with representatives of COSLA, Social Work Scotland the Association of Directors of Education Scotland and the national carer organisations.

### **Impact Assessments**

13. An Equality Impact Assessment, Privacy Impact Assessment, and Children's Rights and Wellbeing Impact Assessment for the Act have been partially reviewed and updated to take account of the above instrument. These are available on request. These are expected to be finalised and published before 1 April 2018.

### **Financial Effects**

14. The phased approach to offering adult carer support plans and young carer statements set out above is designed to avoid unnecessary bottlenecks and therefore associated costs. The Business and Regulatory Impact Assessment for the Act has also been partially reviewed to take account of the above instrument. This is also available on request and is expected to be published before 1 April 2018.

Scottish Government  
Health and Social Care Integration Directorate  
Carers Branch