

The logo for SPICe (The Information Centre) is a purple rounded rectangle with the text 'SPICe' in white. To the right of this rectangle, the text 'The Information Centre' and 'An t-Ionad Fiosrachaidh' is written in white.

The Information Centre
An t-Ionad Fiosrachaidh

Social Justice and Social Security Committee

**23rd Meeting, 2023 (Session 6), Thursday,
28 September**

Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023

Introduction

The [draft Carer's Assistance \(Carer Support Payment\) \(Scotland\) Regulations 2023](#) will create the 'Scottish version' of [The Carer's Allowance](#). They were laid on 4 September alongside:

- [Draft policy note](#)
- Six impact assessments ([child rights](#), [data protection](#), [Fairer Scotland](#) and [Island Communities](#), [equalities](#), [business and regulatory](#) impact assessments)
- [Response to Scottish Commission on Social Security scrutiny report](#)

The Scottish Fiscal Commission have published an updated [policy costing](#).

The Committee will hear from:

- Shirley-Ann Somerville, MSP Cabinet Secretary, Cabinet Secretary for
- Euan Geddes, Policy Official, Carer's Allowance Case Transfer
- Jane Sterry, Policy Lead for Carer Support Payment; and
- Ross Grimley, Lawyer, Scottish Government Legal Directorate, Scottish Government

For ease of reference, this paper provides the same background section as last week before suggesting **four themes for discussion from page 14 onwards**. Once published, the Official Report for last week's session will be available [here](#).

Background

This section repeats last week's paper. New material starts on page 14.

There are currently three devolved social security benefits specifically for unpaid carers. These are:

- Carer's Allowance – administered by the Department for Work and Pensions (DWP)
- Carer's Allowance Supplement – administered by Social Security Scotland
- Young Carer Grant – administered by Social Security Scotland.

Carer's Allowance

[Carer's Allowance](#) pays £76.75 per week. It is a complex benefit with complex links to other benefits. In outline, the basic rules are that you can get Carer's Allowance if you:

- are an unpaid carer **over 16** who,
- provides **35 hours** a week of care to
- someone who gets certain **disability benefits**, such as the daily living component of Personal Independence Payment (PIP)

Some important exclusions include that you cannot get Carer's Allowance if you:

- earn more than **£139 per week** net (after deducting certain expenses)
- are in **full time education**.

Some important links to other benefits include:

- **'Overlapping benefits'**. Some benefits, e.g. the State Pension, 'overlap' with Carer's Allowance, so someone who gets the full State Pension will not get paid Carer's Allowance. They will have 'underlying entitlement' which can be important for National Insurance Contributions and eligibility for additional amounts in other benefits.
- **Premiums**. If you are entitled to Carer's Allowance (even if you don't receive it due to the 'overlapping benefit' rule) then you get additional amounts or 'premiums' added to other benefits.
- **It counts as income**. Carer's Allowance counts as income for means tested benefits, so an increase in Carer's Allowance can lead to a decrease in other benefits.
- **Carer's Allowance Supplement**. People who get Carer's Allowance from DWP also get Carer's Allowance Supplement (CAS) from Social Security Scotland.

This year, around 94,000 people in Scotland are expected to get Carer's Allowance, at a cost of around £373m. (Scottish Fiscal Commission forecast May 2023)

Carer's Allowance Supplement (CAS)

[CAS](#) is an automatic payment to people in Scotland who get paid Carer's Allowance on the qualifying dates. It is paid twice a year. This year each payment is £270.50.

It was introduced in 2018 as a temporary measure in order to increase the amount paid to carers, pending the introduction of Carer Support Payment (CSP). Although CSP is now being introduced, CAS will remain a separate payment.

This year, around 91,000 people are expected to get CAS, at a cost of around £49m.

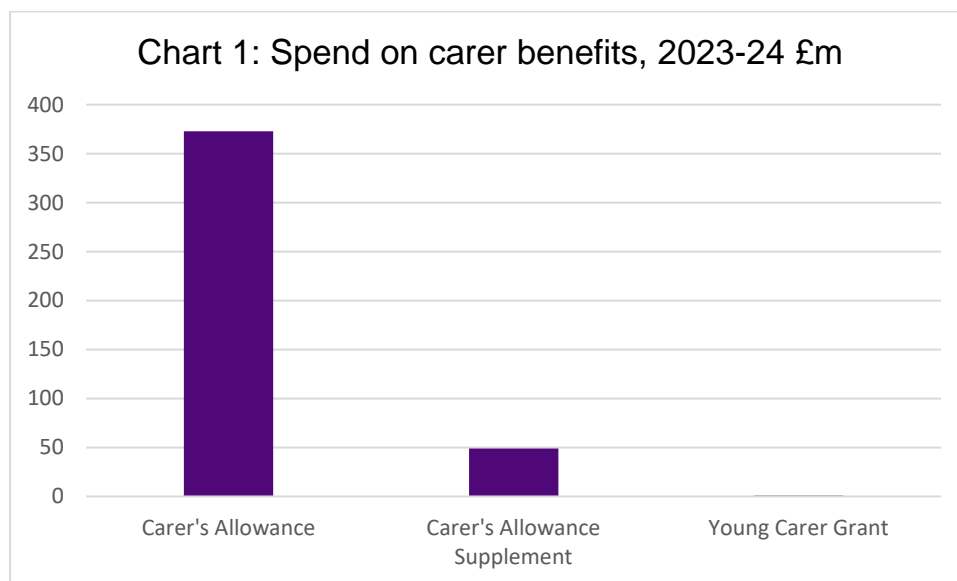
Young Carer Grant

[Young Carer Grant](#) is an annual payment of £359.65 to young carers aged 16, 17 and 18 who:

- don't get Carer's Allowance,
- care for up to three people who get certain disability benefits,
- do so for a combined total of 16 hours week.

In [2022-23, Social Security Scotland paid out 2,645 grants](#), totalling £0.8m.

Chart 1 below illustrates the different scale of these three benefits.



Sources: SFC May forecast, Young Carer Grant statistics

Carer Support Payment

Timetable for introduction

Carer Support Payment (CSP) will start as a pilot on 19 November 2023 in Dundee, the Western Isles and Perth. From spring 2024 more areas will be added until, on 1 October, it will be available across Scotland. It was previously expected that CSP would be available across Scotland from spring 2024. This delay saves £9m in

2024-25 and £10m in 2025-26 ([Scottish Fiscal Commission supplementary costing, September 2023](#)).

From February 2024, around 90,000 people currently getting Carer's Allowance from the DWP will start to be transferred across to Social Security Scotland. There isn't a specific date for the completion of case transfer, but [the Business and Regulatory Impact Assessment](#) (BRIA) re-iterates the commitment that "We remain on track to complete case transfer for all disability and carer benefits by the end of 2025." The Scottish Fiscal Commission's policy costing in May 2023 referred to the intention to complete case transfer by the end of 2024, but it is unclear whether this is still the case. The May 2023 policy costing had stated that:

"Timings for the completion of case transfer are still being finalised, but from discussions between the Scottish Government and the DWP, the current intention is that case transfer will begin at national launch and be completed by the end of 2024." ([Scottish Fiscal Commission, Economic and Fiscal Forecasts, May 2023 para A14](#)).

Once case transfer is complete, further changes to CSP will start to be made (see section below on future changes).

Policy Development

Carer benefits were a focus from the start of the devolution of social security. There has been extensive consultation and discussion on proposed policy changes.

2015

- agreement reached to devolve carer benefits
- [Carer Benefits Advisory Group](#) set up (membership includes today's witnesses.)

2016

- Scotland Act passed
- [Consultation on Social Security in Scotland](#). Increasing Carer's Allowance is a priority.
- Fairer Scotland report refers to existing commitment to extra support for carers of more than one disabled child.
- [Disability and Carer Benefits Expert Advisory Group](#) set up

2017

- Experience panels launched

2018

- Social Security (Scotland) Act passed and Social Security Scotland set up
- Carer's Allowance Supplement starts.

2019

- [Carer's Assistance policy position paper](#) (At that point Carer's Assistance was expected to start in 2021, on broadly the same terms as Carer's Allowance with case transfer by 2024).
- Young Carer Grant starts

2020

- Double payment of Carer's Allowance Supplement, June 2020, under COVID legislation

2021

- [Scottish Carer's Assistance discussion paper](#), leading to assessment of policy options
- Double payment of Carer's Allowance Supplement December 2021, under the [Carer's Allowance Supplement \(Scotland\) Act 2021](#)

2022

- [Scottish Carer's Assistance consultation](#)

2023

- March: [Scottish Government responds to consultation](#)
- June: [Scottish Commission on Social Security \(SCOSS\) scrutiny report on draft regulations](#)
- 14 September: regulations laid, Scottish Government responds to SCOSS
- 19 November CSP starts in 3 pilot areas

2024

- February: case transfer starts
- Spring: further areas added
- 1 October: CSP available nationally

2025

- "We remain on track to complete case transfer for all disability and carer benefits by the end of 2025" (BRIA).

The various policies for implementation after case transfer do not yet have specific implementation dates. (See below on 'future changes').

SCOSS report and Scottish Government response

The Scottish Commission on Social Security is required to report on most devolved social security regulations. They reported on the CSP regulations in June, making 31 recommendations and three observations. The Scottish Government responded on 4 September accepting 26 in full and five in part (recommendations 13, 14, 16, 17, 23 were 'partially accepted'). The following gives a very brief overview of the recommendations and the Scottish Government's response as a guide to the type of issues raised. [For the detail, see the full response.](#)

Table 1: SCOSS report and Scottish Government response

SCOSS report	Scottish Government response
Wider support and communications	
Work with carers on what changes would meet the aim to “recognise the vital caring role” and how wider carer support services could be better joined up with social security (recommendation 1). Aims should be reinforced in communications with carers (recommendation 2).	Recognise that not all aims will be achieved at launch. Will build this and ‘wider support’ over time. At launch ‘wider support’ includes signposting. A communications and engagement strategy has been developed.
Young Carers in Education	
Consider widening access if research shows it wouldn’t be detrimental (recommendations 3 and 4)	Will consider.
Extend Young Carer Grant to 19 yr olds (recommendation 5)	Will consider.
Setting payments at £0	
Clarify provisions for setting CSP at £0 (recommendations 6, 7, 8)	Redrafted so that in some situations payments are temporarily stopped and in others set at £0.
Earnings – assessing, reporting changes, overpayments	
Detail processes for assessing earnings and learning from experience (recommendation 9)	Data agreements in place with HMRC and DWP. Mix of automated and manual processes. Only a small number of CSP clients expected to have complex earnings. Dedicated ‘lessons learned’ team in place.
Respond quickly to changes in circumstances to avoid overpayments arising (recommendation 10)	Access to HMRC employee earnings data, updated monthly. Annual review of self-employed carers (who aren’t on PAYE systems). Payment 4 weekly in arrears as standard.
Clear information to carers on earnings rules (recommendation 11)	Developing a communications and engagement strategy
Data sharing with DWP important to ensure reserved benefits reflect CSP, and respond to changes (recommendation 12).	Data sharing agreements and processes are in place.
Appeal rights should be introduced against recovery of overpayments (recommendation 13).	Considering options for a formal right to review a decision that carer is liable for an overpayment
Consider writing off small overpayments (recommendation 14).	Will not recover overpayments that total less than £65.

Redesigning earnings rules should be a priority for future changes (recommendation 17)	“We are continuing to consider the responses to the consultation to inform our future approach”.
Older carers	
Recommendations for information and communications for older carers (recommendation 15). It’s confusing to require applications from individuals who have ‘underlying entitlement’ and cannot be paid. Work towards a better solution (observation 2).	Letters will be clear that carers with underlying entitlement will not be paid, but can impact on other benefits. Plans for research on further action.
Case transfer letters should link older carers to the Local Delivery Service and other face to face services (recommendation 16)	Local Delivery is only for Social Security Scotland benefits, but letters will signpost to other support.
Technical recommendations	
Recommendations to clarify definitions, drafting and references to other legislation (recommendations 18, 19, 20 21, 22, 23, 24, 25, 26, 27, 28,)	Accepted. (recommendation 23 on reference to school leaving age partially accepted)
‘Rival Carers’	
Clarify the scope of ‘multiple applications rule’ where there is more than one carer eligible for CSP for the same cared for person (recommendation 31). Consider the views of the disabled person when deciding which of two eligible carers are awarded CSP (recommendation 29).	Where two people are eligible, they will be encouraged to come to an agreement about which of them receives CSP. If they cannot, then Ministers will decide, based on factors including the ‘best interests’ of the cared for person. It is not our intention to involve the cared for person in all such decisions.
Work with DWP to adjudicate fairly where one carer applies for CSP and another for CA or UC carer element for the same cared for person (recommendation 30).	Legislation provides for SG and DWP to consult each other in such situations. Administrative processes are being finalised.

Other written submissions

The Committee has received submissions from MEECOP, Scottish Carers Trust and Carers Scotland. Key themes from Scottish Carers Trust and Carers Scotland were:

- Concern that not all 16-19 year olds young carers will be entitled to CSP
- CSP at launch will not address issues around earnings thresholds
- Carers should have a choice of payment frequency
- Further changes are welcome, but there needs to be greater clarity on when case transfer will be completed and when further changes will be introduced, in particular:
 - Changing the earnings threshold

- Carers Additional Person Payment
- Extension of run on when cared for person dies
- Prompt development of plans for a payment to those with 'underlying entitlement' (Carers Scotland).

Carers Trust Scotland made similar points and also emphasised the importance of a take-up campaign.

MEECOP's submission focused on the additional barriers created for those whose first language is not English, particularly for a benefit which is very complex, like CSP.

What the regulations do

The following gives a very brief outline of the regulations. A summary is also available in the [Policy Note](#).

Basic entitlement

A person is entitled to CSP if they:

- are aged 16 or over (regulation 4)
- provide 'regular and substantial, unpaid care' to a 'cared for person' in receipt of a qualifying benefit (regulation 5).

Residence and Presence (regulation 6 to 11)

The general rule is ordinary residence in Scotland, habitual residence in the common travel area and having been 'present' in the common travel area for 26 out of the previous 52 weeks. Temporary absence is allowed of, normally, four weeks, but in some cases up to 26 weeks (regulation 7).

Exceptions to residence and presence rules are complex. Examples include people covered by certain agreements with other countries and people working abroad in the UK armed forces.

Entitlement to other benefits

Someone getting CSP cannot also, at the same time, get:

- Carer's Allowance
- Universal Credit's carer element or Young Carer Grant for a different cared for person (regulation 12).

Education (regulation 13)

A person under the age of 20 cannot get CSP if they are in full-time non-advanced education (e.g. school) except in exceptional circumstances, such as having no parental support.

Earnings (regulation 14 and Schedule 2)

A person cannot get CSP for any week where they earn £139 or more. Schedule 2 sets out how to calculate earnings. For example, deduction of tax and certain care charges, calculation of income from self-employment.

Making Payments

Payments can be made to appointees (i.e. someone appointed to receive benefit payments on behalf of the claimant) (regulation 15).

Carer Support Payment is £76.75 a week. Payment is set at £0 where an overlapping benefit results in no CSP being paid. Overlapping benefits are listed. (regulation 16).

If the cared-for person dies, CSP continues for 8 weeks (regulation 16).

Getting CSP can mean that other benefits are reduced. This is because CSP counts as income for means-tested benefits. Therefore if a person gets a backdated award of CSP, this can mean that another benefit has been overpaid for that period. Regulation 17 allows for an offsetting process known as 'abatement' whereby the amount of backdated award that the carer receives can be reduced so that no 'overpayment' needs to be recovered.

Applications can be backdated by up to 13 weeks (regulation 18).

Carer Support Payment is paid either 4-weekly in arrears or weekly in advance (regulation 22).

Payments can be temporarily stopped if:

- Earnings go above the threshold
- The cared for person voluntarily relinquishes their qualifying benefit
- The individual isn't providing 35 hours a week of care.

CSP can be started again, without requiring a new application form, if any of these conditions change again within 26 weeks (regulation 23).

The regulations set out further situations where CSP payments will stop. These include where the cared for person's disability benefit is suspended, ended or reduced to £0 (regulation 23).

Only one person can be paid CSP in respect of a particular cared for person. If two people are eligible, then CSP will be awarded to whoever they agree between them or, failing that, as decided by Scottish Ministers taking into account various listed factors. Similarly, if one person gets CSP another person cannot get Carer's Allowance or Universal Credit's carer element for the same cared for person (regulation 24).

Continuing eligibility (regulation 25).

CSP is paid on the assumption that eligibility requirements continue to be met.

Deductions (regulation 26)

Deductions can be made from CSP 'at a reasonable level' and 'having regard to financial circumstances' in order to re-pay an overpayment of a Social Security Scotland benefit.

When changes take effect

Regulations 27 and 28 set out when increases and decreases to CSP take effect following, for example, changes in circumstances.

Suspensions

CSP can be suspended if required information is not provided, if there is an appointee and there is a risk of financial abuse or they are unable to continue to receive payments (regulation 29). Financial circumstances must be considered (regulation 30). Individuals must be given reasons and information about how to end the suspension and the right to review (regulation 31). Someone whose CSP has been suspended has a right to a review (regulation 32). Regulation 33 sets out when a suspension ends.

Determination without application

Part 6 of the regulations lists various circumstances in which CSP decisions are made without requiring an application from the client. Examples include:

- when Ministers become aware of a change in circumstances
- when there's been an underpayment or overpayment due to official error
- or to vary or stop a deduction from CSP that is in place to recover an overpayment of Scottish social security.

Temporary breaks from care (regulation 40)

CSP continues if either the carer or person cared is in hospital for up to four weeks.

Movement between Scotland and UK

Someone who gets Carer's Allowance in the rest of the UK who moves to Scotland will not need to make an application in order to change to CSP – Ministers can determine without application (regulation 41). Someone getting CSP moving to the rest of the UK will continue to get CSP for up to 13 weeks after the move (regulation 42) but it will stop if they awarded Carer's Allowance.

Redetermination (regulation 43)

If someone is unhappy with the decision on their CSP, they will have 42 days to request a redetermination and Scottish Ministers will have 56 days to make that redetermination.

Case Transfer (regulation 44, Part 2 of Schedule 1)

Individuals currently getting Carer's Allowance will be sent a notice of intention to transfer and a timescale. They do not need to make an application for CSP. Once Scottish Minister have made a determination of their entitlement, an award and decision letter will be sent. Transfer must be made within the period specified, unless there is good reason to extend it. Once CSP starts, Carer's Allowance stops. People who are appointees for Carer's Allowance will become appointees under CSP.

However, Scottish Minister must review that appointment as soon as reasonably practicable.

Pilot (Regulations, 45, 46, 47 and Part 1 of Schedule 1)

The pilot will run from 19 November 2023 to 30 September 2024 in Perthshire and Kinross, City of Dundee, and the Western Isles.

How the rules differ from Carer's Allowance

The rules are largely the same as Carer's Allowance. The main differences are:

- **'Past presence'**. Before a carer can claim CSP, they need to have been 'present' in the common travel area (UK, Jersey, Guernsey, Isle of Man, Ireland) for 26 out of the previous 52 weeks. In Carer's Allowance the requirement is 56 out of the previous 104 weeks. (See regulation 6)
- **Education**. CSP is available to carers in full-time education who:
 - are aged over 20
 - are aged 16-19 and in advanced education (e.g. a degree)
 - in exceptional circumstances only (such as being without parental support or responsible for a child), those aged 16-19 in full-time non-advanced education, such as school education, are entitled to CSP.

In contrast, Carer's Allowance excludes anyone in full time education from claiming. People in part-time education are eligible under both benefits (see regulation 13).

- **No Advance Payment**. The regulations include provision for Carer Support Payment to be paid either weekly in advance or four-weekly in arrears – which mirrors Carer's Allowance (regulation 22). However the BRIA states that, in practice, it will be paid four-weekly in arrears, unless the individual was being paid weekly in advance before they transferred from Carer's Allowance or is caring for someone who is terminally ill. (BRIA para 8, fairer Scotland para 8)
- **Temporary stop**. CSP can be temporarily stopped if, for example, someone's earnings go over the threshold. It can then be re-started automatically if they come back into eligibility within the next 26 weeks (regulation 23). In Carer's Allowance a new application would be needed.
- **No Advance Applications**. Applications for CSP will not be accepted in advance. In contrast, Carer's Allowance applications can be accepted up to three months before a carer expects to become entitled. The BRIA states: "Our intention is the Carer Support Payment applications will be handled more quickly." The issue of advance applications will be kept under review (BRIA para 7). Awards can be backdated.

Future changes

Many of the changes that carer organisations have requested have been postponed until at least after case transfer is completed. The Scottish Government has four priorities for change.

Priorities for change

[The Business and Regulatory Impact Assessment](#) (BRIA) set out four policies for introduction “for as soon as practicable after case transfer completes”:

- **Carer’s Additional Person Payment** of £10 per week for carers getting CSP who care for more than one disabled person.
- **Increase from 8 to 12 weeks** of the period for which CSP is paid after the cared for person dies.
- Provision of **Short Term Assistance** “in some situations” where a carer is challenging the amount of CSP awarded. Provision of “support” where CSP stops because the person they are caring for is appealing their disability benefit award. This requires further work with DWP.
- Payment of **Carer’s Allowance Supplement alongside CSP** rather than as a lump sum twice a year.

Potential changes

The BRIA also listed other “potential changes under consideration for the future”. These are:

- Increase the amount of time that CSP is paid when the cared for person goes into hospital or a care home
- Allow people to add together hours of caring for more than one person in order to meet the 35 hours per week caring requirement
- Increasing the earnings threshold and allow CSP to continue for a period of time if that threshold is breached.

Last year’s consultation had also asked for views on introducing a new payment for long term carers – in part to recognise that many older carers cannot be paid CSP/Carer’s Allowance due to the overlapping benefits rule. 86% of respondents supported considering this further. The [Scottish Government’s response to the consultation](#) stated that:

“This is a new policy idea and we consider this to be one of the longer-term Carer Support Payment options to be considered in the future. We would need to carry out further work, with carers, support organisations and others in government and public services to understand the impacts of this proposal. We therefore intend to explore this proposal further, as a longer-term change, in line with other ongoing work to support unpaid carers, and taking into consideration the consultation responses.”

Policy Costing

The Scottish Fiscal Commission provides policy costings for new social security benefits. It has updated its previous CSP policy costing to account for the extension of the pilot period to October 2024. The delay to the start of national roll-out will save £9m in in 2024-25 and £10 million in 2025-26.

The first full year of operation will now be 2025-26 rather than 2024-25 because CSP will be available in all areas of Scotland from October 2024 rather than spring 2024.

In 2025-26, CSP is forecast to cost £467m. This is £32m more than would have been spent on Carer's Allowance.

However, only **£7m is due to new rules introduced through these regulations** - specifically, the changes to rules on students, which is estimated to add around 1,500 people to the caseload.

The Scottish Fiscal Commission assumes that case transfer will be completed before 2025-26 and **have included the cost of future changes in their forecast costs**. However, it is important to note that the Scottish Government has not made firm commitments for a start date for these future changes. As noted the priorities are:

- Introducing the Carer's Additional Person Payment (CAPP) – forecast to cost £7m rising to £10m a year
- Extension of support following death of cared for person – included under 'other', implying minimal cost.

The most costly element is the expected increase in applications – which is a cumulative impact assuming all the changes are in place. This impact could be lower if not all the proposed changes are implemented.

The most costly 'rule change' would be changing the earnings limit, but this is, according to the Business Regulatory Impact Assessment "a potential change for the future" rather than a firm commitment.

The table below sets out the Scottish Fiscal Commission's costing.

Table 2: Policy Costing

£ million	2024-25	2025-26	2026-27	2027-28	2028-29
Total additional CSP:	6	42	70	73	77
<i>Of which:</i>					
Pilot	0				
Reduction of restrictions for carers in full-time education	4	7	7	7	7
Higher earnings limit		5	21	22	23
Other eligibility changes [1]		4	5	5	5
Additional applications	2	19	28	29	31

Carer's Additional Person Payment (CAPP)		7	9	10	10
--	--	---	---	----	----

[1] Other eligibility changes include extension of period of support after the death of a cared for person or if the cared for person is admitted to a hospital or care home from 8 to 12 weeks; allowing carers to add together hours spent caring for more than one person; and adding Short-term Assistance (STA) to CSP qualifying payments.

Source: [SFC Supplementary Costing CSP, September 2023](#). NB of these STA and support after death of cared for person are policy priorities. Others are 'potential future changes' (p.7 BRIA).

Suggested themes

The following suggests four themes for discussion:

- Theme 1: carers in education
- Theme 2: overpayments
- Theme 3: future changes
- Theme 4: information, communications and wider support

Theme 1: Carers in education

[Last week](#), the Committee heard that CSP should be available to 16 to 19 year olds studying full-time in non-advanced education. The regulations as drafted only allow this in exceptional circumstances such as:

- No parental support
- Being responsible for a child
- Being entitled to disability benefits and, before they start education are treated as having limited capability for work/work related activity under Universal Credit.

In these regulations, non-advanced education includes:

- School education
- National qualifications below the level of higher or advanced higher.

The exclusion of non-advanced full-time education doesn't apply to apprenticeships or any other education provided through employment - see [regulation 13\(4\) definition of 'advanced education'](#) read with regulation 13(1).

Risk of incentivising carer role

The Scottish Government states that the policy:

“reflects earlier stakeholder feedback on the importance of protecting young carers against inappropriate caring roles, and the need to avoid incentivising young carers to take on significant caring responsibilities.” (Scottish Government response to SCOSS report)

Last week, witnesses refuted this. Fiona Collie (Carers Scotland) said:

“There is no evidence that this would be the case. [...] there seems to be no good reason not to support them. [...] Fundamentally young carers are already providing significant levels of support and at the moment the proposals indicate that we wouldn’t actually provide financial support alongside that.” (SJSS Committee, 21st September, 09.05am)

Paul Traynor (Young Carers Services Alliance, Carers Trust Scotland) said:

“We’d like to know how that decision was reached [...] it’s not about incentivising, it’s about recognising that young carers are already undertaking significant caring roles and they should be entitled to support.” (SJSS Committee, 21st September 09.07am)

He considered that the rule created complexity and queried the rationale for distinguishing between non-advanced and advanced education.

He discussed the Scottish Government’s argument that this group of young carers will be supported through their families and would not be expected to be earners.

Paul Traynor said:

“Many young people aged 16-19 years old in full time non-advanced education [...] do supplement their finances by paid employment. And for many young carers balancing paid employment, fulltime study and caring responsibilities is simply just not possible.” (SJSS Committee, 21st September, 09:11am)

Young Carer Grant

The [Young Carer Grant](#) is available to 16, 17 and 18 year carers who are not getting Carer’s Allowance or Carer Support Payment. It pays £359 per year.

The Committee heard last week that this leaves 19 year old students in full-time, non-advanced education entitled to neither CSP nor the Young Carer Grant. Paul Traynor said that is deeply unfair:

“meaning that they would be the only unpaid carer group over the age of 16 not entitled to any financial support.”[...] and we don’t believe that’s treating this cohort of young carers with [...] dignity, fairness and respect.” (SJSS Committee, 21st September, 9.17am)

The Scottish Government has said it would consider this issue further.

Members may wish to discuss:

- 1. Last week witnesses refuted the Scottish Government’s arguments for excluding 16-19 year old young carers in full time non-advanced education from being able to claim CSP. What was the evidence and rationale for the Scottish Government’s decision?**

2. **If the Scottish Government will not change this rule, will they prioritise extending the Young Carer Grant to 19 year olds?**
3. **If they will do neither – how will they ensure that this group of young carers are supported?**

Theme 2: Risk of Overpayments

Unintentional overpayments can easily occur in Carer's Allowance and in their report The Scottish Commission on Social Security (SCOSS) stated that:

“there can be little doubt that confusion over earnings rules and overpayments will also be a feature of the system in Scotland.”

An [inquiry by Westminster's Work and Pensions Committee](#) highlighted the significant distress this caused in Carer's Allowance. Their recommendations included:

- The design of Carer's Allowance, especially the 'cliff-edge', contributed to creating overpayments.
- Case by case review on whether overpayments were worth pursuing.

Several measures in CSP are intended to reduce the risk of overpayments. These include:

- Not allowing advance applications
- Paying four-weekly in arrears as standard
- Monthly updates from HMRC's PAYE data on employee earnings
- Annual review with carers in paid work who aren't on PAYE such as self-employed carers
- Clear communications on when to report a change of circumstances
- Not recovering overpayments of under £65.

Processes

Last week the Committee heard about the importance of administrative systems and processes for preventing overpayments. Judith Paterson (SCOSS) said:

“We've already learned a lot of lessons from the UK system so we know what to expect. We know that having the right data feeds from HMRC to pick up changes in earnings [...] very important but not sufficient. They also have to have the staff there to act on the data and act quickly. (SJSS Committee, 21st September 09.22am)

Simplifying earnings rules

The complexity of the earnings rules increases the risk of overpayments. The Scottish Government has told SCOSS that it was not possible to simplify them while

still ensuring safe and secure transfer. SCOSS agree with prioritising safe and secure transfer, but told the Committee last week that:

“We would like them to go further when they can on making changes on entitlement rules [...] it needs simplification of those earnings rules” (Judith Paterson, SJSS Committee, 21st September 09.22am)

Payment frequency

The regulations include provision for Carer Support Payment to be paid either weekly in advance or four-weekly in arrears – which is the same as Carer’s Allowance (regulation 22). However, the BRIA states that, in practice, it will be paid four-weekly in arrears unless the individual was being paid weekly in advance before they transferred from Carer’s Allowance or is caring for someone who is terminally ill. (BRIA para 8, fairer Scotland para 8).

Last week, this policy was criticised by Fiona Collie who said:

“We need to have some more thought about that flexibility for individuals to choose how a benefit is paid.” (SJSS Committee, 21st September, 9.52am).

Writing off overpayments

The DWP writes off overpayments under £65. The Scottish Government will not seek to recover overpayments under £65. Last week Judith Paterson pointed out that this was less than one week’s worth of CSP and asked whether it was the right level. She said:

“It strikes me that £65 is perhaps setting the bar quite low” (SJSS Committee, 21st September, 9.26 am)

Maggie Chiwanza (MECOPP) said there needed to be “a degree of flexibility” in how overpayments are managed,

“to ensure people already in stressed situations [...] are supported in an empathetic and compassionate way. (SJSS Committee 21st September, 9.28am)

Right of appeal - Challenging an overpayment liability

Last week, Judith Paterson (SCOSS) explained that there is no right of appeal against a decision that a recoverable overpayment has occurred. She said:

“Where people have been told that they have an overpayment and they have to recover it, at the moment they have no right of appeal. [...] People’s right to social security comes along with having a right to appeal and there isn’t one here. That’s something that’s being looked at but SCOSS would like to see that changed, and changed quickly” (SJSS Committee, 21st September 9.27am).

NB: there are rights to appeal other decisions, such as a decision to stop a benefit, or decision not to award it.

A recent consultation included a proposal to introduce rights of challenge against Social Security Scotland's decision on overpayment liability. [All 25 consultation respondents who answered this question agreed with the proposal](#). The Scottish Government has said it will bring forward a social security bill this year. The detail has yet to be announced.

Members may wish to discuss:

- 4. Last week the Committee heard about the importance of administrative processes in avoiding overpayments. What arrangements are being put in place to ensure timely and efficient processing of information about changes in earnings? How will clients be made aware of the information they need to tell Social Security Scotland?**
- 5. The Committee heard that clients should be given a choice of payment frequency. Why has the Scottish Government decided to pay four weekly in arrears in most cases?**
- 6. Last week the Committee heard that there is no right of appeal on liability for overpayments. Will the Scottish Government introduce such a right?**
- 7. Social Security Scotland will not seek to recover overpayments of less than £65. What is the Scottish Government's response to views that this should be set at a higher level?**

Theme 3: Future changes

'Safe and secure transfer' means that there is minimal change being made from launch. Last week SCOSS told the Committee that they agree with this, but that further changes were needed in order to meet the policy aims of Carer Support Payment. The Scottish Government has said that:

"We recognise that Carer Support Payment from launch will not immediately fully achieve all of the aims we have for carers. These aims are intended to continue to guide the development of the benefit on an ongoing basis."
(Scottish Government response to SCOSS)

Priorities for change.

The Business and Regulatory Impact Assessment (BRIA) set out four policies for introduction "for as soon as practicable after case transfer completes":

- **Carer's Additional Person Payment**
- **Increase from 8 to 12 weeks** the period for which CSP is paid after the cared for person dies
- Provide **Short Term Assistance** "in some situations" where a carer is challenging the amount of CSP awarded

- Paying **Carer's Allowance Supplement alongside CSP** rather than as a lump sum twice a year.

Potential changes

The BRIA also listed other “potential changes under consideration for the future”. These are:

- Increase the amount of time that CSP is paid when the cared for person goes into hospital or a care home
- Allow people to add together hours of caring for more than one person in order to meet the 35 hours per week caring requirement
- Increase the earnings threshold and allow CSP to continue for a period of time if that threshold is breached.

Last week, witnesses called for a clear timeline for these changes. For example, Paul Traynor said:

“What we would like to see is a clear timeline from Scottish Government on when these future changes are going to be made.” (SJSS Committee 21st September, 9.33 am)

He noted that addressing underlying entitlement was a key issue that they would want to see some movement on but this seemed to be “quite low down the priority list”. (SJSS Committee, 21st September 09.37am).

NB: Underlying entitlement is when a person cannot receive the full amount of CSP because they receive an ‘overlapping benefit’ such as the State Pension. The Scottish Government have said they will look at a ‘carer recognition payment’ that might address this.

Fiona Collie suggested prioritising those changes that: “put more money in carers’ pockets” and that changing the earnings threshold would be relatively easy. (SJSS Committee, 21st September 09.35am). The Scottish Government has consulted on increasing the earnings threshold to 16 hours at the real living wage. The Scottish Fiscal Commission has costed this at £21m in 2026-27.

Members may wish to discuss:

- 8. Can you give a clear timetable for the completion of case transfer and the introduction of further changes to Carer Support Payment?**
- 9. Last week Paul Traynor suggested that addressing underlying entitlement was ‘quite low down the priority list’. What is the Scottish Government’s approach to this issue?**
- 10. The Scottish Government has consulted on increasing the earnings threshold. Why is this not one of the priority policies for change after safe and secure transfer?**

Theme 4: Information, communications and wider support

The Scottish Government intends to maximise take-up, link carers to wider support and improve delivery compared to Carer's Allowance.

Last week, witnesses said that they expected the introduction of CSP will result in improved take-up but emphasised the need for good information and simple processes for carers.

Specific suggestions included:

- Considering a simplified application process for those with underlying entitlement (Fiona Collie)
- Informing carers at least six months in advance of pension age whether their CSP will stop at that point and helping people apply for other benefits they may be entitled to (Paul Traynor)
- Ensuring information is clear and accessible, taking account of language issues (Maggie Chiwanza)
- Income maximisation, including for reserved benefits, as part of 'wider support' rather signposting. Signposting puts the onus on the carer – there should be a formal referral to carer services (Fiona Collie).

The Scottish Government's response to SCOSS discusses the Communications and Engagement Strategy.

“A key aim of the communications and engagement strategy for Carer Support Payment is to ensure that carers understand the benefit, and eligibility for this, and that all eligible carers are encouraged and supported to apply.”

The Fairer Scotland impact assessment states carers will be signposted to wider support and services and: “our intention is to continue to strengthen how Carer Support Payment links carers to wider support beyond launch and alongside wider development of the benefit.”

Members may wish to discuss:

- 11. What is being put in place to ensure that all carers have clear and accessible information to help them apply for Carer Support Payment – particularly those for whom English is not their first language?**
- 12. What wider support will be provided and when? Will it include some of the suggestions made last week such as income maximisation and referral to carer support services?**

Camilla Kidner
SPICe
22 September 2023