

PE1533/HH

Petitioner's submission of 22 March 2018

1. Introduction

We welcome the Scottish Government plans to extend Free Personal Care to all adults who require social care. However, we have concerns that the intention and ambition of this policy may be undermined by the mechanisms used to implement it.

In announcing this policy, the Health Secretary, Shona Robison said

“We will now take forward the work of extending free personal care to everyone who requires it, regardless of age. At least 9000 people will benefit from this change and we will work closely with local government and others to implement these changes so that all those who require personal care are able to access it.”

We understand that the government is likely to implement this policy by amending existing legislation, producing new guidance, then transferring additional funding to local councils, with the expectation they will use this additional resource to reduce care charging for disabled people.

If this is the mechanism used to deliver the extension of free personal care to under 65s, then we have evidence that it will only benefit a small proportion of the 9,000 people who access personal care and will fall far short of the government's ambition for this policy that 'all those who require personal care are able to access it.'

We believe that if this proposal is to deliver the change that is expected by the Scottish Government and disabled people, then a fairer method of implementation is needed.

2. The Current System

Currently for adults over 65 who receive personal care, councils apply a zero rate on each hour of personal care for charging purposes.

However, personal care doesn't include many elements of a social care package, a disabled person may receive, e.g. respite care, day care centres, or the employment of Personal Assistants. These elements of social care are still charged for and in some cases the charge incurred is the maximum charge the council can apply to that individual. This means that there is no financial benefit for the zero rated personal care hours.

This issue is likely to be even more prevalent when free personal care is extended to younger adults. This is because they are more likely to have a larger care package and more likely to have social care needs which are not defined as 'personal care' For example, they may receive support to enable them to work, attend college and play an active role in their communities. All these activities will still be chargeable.

Previous care charging initiatives by the Scottish Government have not delivered the type of changes that were expected. In 2016-17, the Scottish Government gave £6 million to local authorities to reduce social care charges on disabled people.

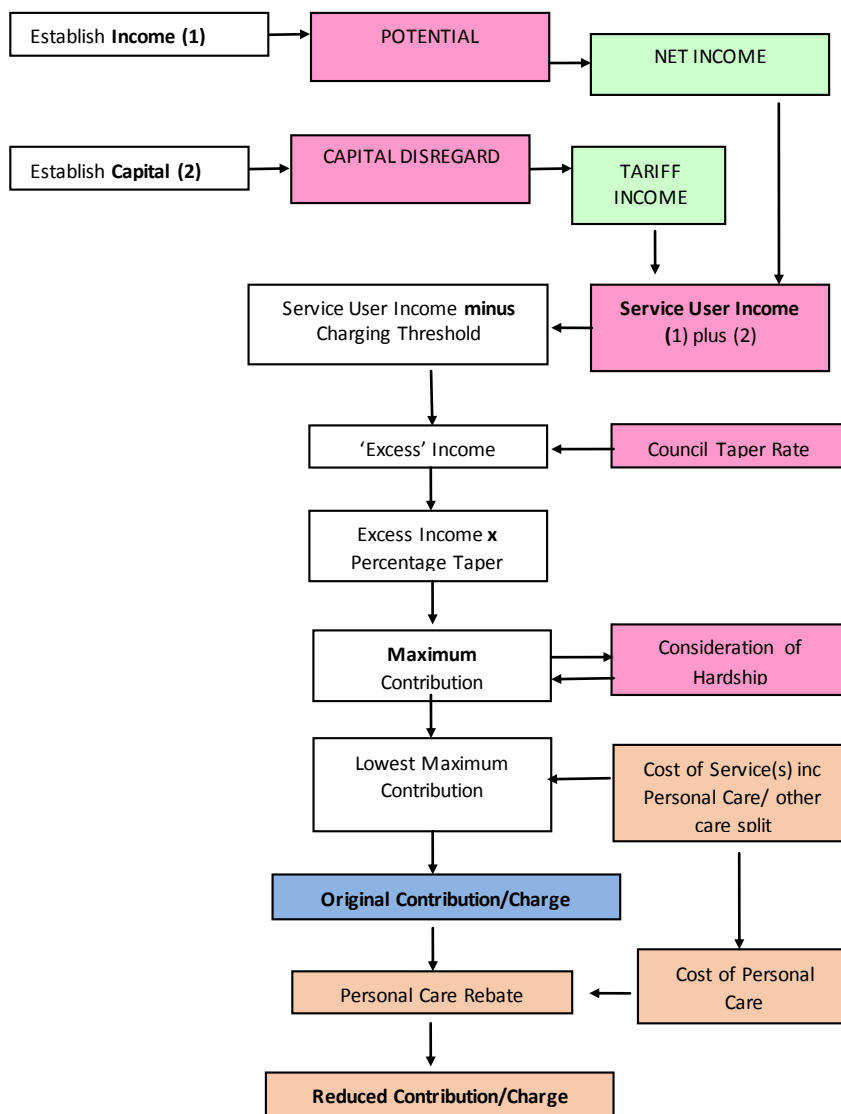
Scottish Local Government Finance Statistics for 2016-17 show that instead of income from service users falling by £6 million, there was a rise of £1.67 million! An additional net £7.67 million of charges had been raised on services needed by disabled people.¹

3. The Proposal

In order to deliver the Extension of Free Personal Care, each adult under 65 receiving care would still be assessed and the balance between personal care and other support in their care package would be identified.

The current charging regimes would still be applied with all the income thresholds, allowable expenses, taper rates and service rates. However, at the end, after the current calculation has been made, a Personal Care Rebate is applied to the charges deducting the individual cost of personal care hours. The following diagram based on an original COSLA diagram contained in the annual Care Charging Guidance show how this would happen.

¹ LFR03, Scottish Government Local Government Finance Statistics, request only.



The boxes in orange show the additional steps that would be included. This has the advantage for local authorities of leaving existing processes of assessing contributions in place with a simple additional step.

The Cost of Personal Care is a simple calculation of number of hours times the local hourly rate. This establishes the maximum possible level of rebate. The value of the rebate can never be greater than the “original contribution/charge”.

- Where the cost of personal care was higher or equal to the “original contribution/charge” a null charge would be set.
- Where the cost of personal care was lower than the “original contribution/charge” a reduced charge would be set.

The Scottish Government would still set the amount it was going to transfer to each local authority in lieu of personal care charges in its normal budget setting process.

An example of how this works:

Peter currently pays £42 per week for 10 hours of home care. Following the extension of FPC, he will have 10 (4 personal and 6 other care) hours of social care for which the initial calculation will still be £42 per week but then a Personal Care rebate of £40 off his weekly bill, leaving him with a weekly charge of just £2. *[Assuming the cost of an hour of care locally was £10.]*

This would mean that everyone who received personal care would see an improvement in their care charges. Care users would still pay care charges for their other care hours of support. The Scottish Government would be seen to be improving the position of care users. Local Authorities would still be in receipt of the current full value of income they receive from care charges – now made up of a mixture of paid charges and a “free personal care” contribution from the Scottish Government.

4. Merits

- This would be fairer to individuals, deliver net benefit to all personal care recipients under 65 and meet the Scottish Government’s promise to extend Free Personal Care to under 65s.
- Local authorities would not be at a financial disadvantage because of this policy
- The Scottish Government would meet the spirit of its promise to extend Free Personal Care

5. Equality Issues

Some concern has been raised that this is treating the implementation of Free Personal Care for under 65s differently from those of over 65.

Everyone should be treated fairly regardless of their race, gender, age or any other protected characteristic. However, treating someone fairly can sometimes mean having to treat them differently, in order to take into account their circumstances and enable them to participate on equal terms with everyone else.

This is a well understood principle within social care with different services being provided to those with mental health issues from those with learning disabilities. Similar differences exist between the levels of support offered to adults over 65 to those under 65.

5.1 Average Hours Of Support

Figures published by the Scottish Government indicate that in 2017 on average adults over the age of 65 received 9.3 hours support per week.

The same figures showed that adults under the age of 65 received significantly more support of 22.5 hours per week.²

5.2 Balance Of Care

² Scottish Government Social Care Statistics. <http://www.gov.scot/Publications/2017/12/3849>

There are further differences in the pattern of Home Care and Personal Care for Older and Younger Adults. A few years ago the Scottish Government published the raw data used to construct the more general Social Care Statistics.

1. Adults over 65 have the balance of their support tilted towards personal care and get less hours of support on average.

Over 65's getting care in their own home in 2012	2012	% of all home care clients
Number getting Home Care	51,119	
Number getting Personal care	46,739	91%
Number getting Home Care only	4,380	9%
Number getting Personal Care only	36,928	72%
Number getting both	9,811	19%

Source: Raw Data Social Care Tables 2012, Scottish Government – (No longer available online)

2. Adults under 65 have the balance of their support more equally split between personal care and other types of hours of support. On average they get more hours of support than older adults.

Under 65's getting care in their own home	2012	% of all home care clients
Number getting Home Care	11,108	
Number getting Personal care	7,281	66%
Number getting Home Care only	3,827	34%
Number getting Personal Care only	1,328	12%
Number getting both	5,953	54%

Source: Raw Data Social Care Tables 2012, Scottish Government

91% of all older adults receive Personal Care and 72% receive only Personal Care. A policy that simply doesn't charge for Free Personal Care will mean that the vast majority will see a clear benefit.

However for younger adults with higher levels of care the same policy will have much less effect. A very small proportion, perhaps just the 12% getting personal care only and a few others, will benefit. Others will see no change from the introduction of the policy and it is possible, especially if at the same time this policy is introduced local authorities continue to raise other charges and introduce new ones, many people will actually be worse off.

Our proposal of a Personal Care Rebate would bring clear benefits to the 66% of younger adults who receive some Personal Care.

5.3 Existing Differential Treatment

Current care charging regimes treat older people and younger adults differently in a number of respects. The most obvious of these is in the level of Income Disregard.

Weekly Income Disregards ³	Single Person
Less than 65	£133
Over 65	£200

This demonstrates that introducing a new way of implementing Free Personal Care would be similar to current ways of establishing differential treatment according to particular groups' needs and circumstances.

6. Financing of The Policy

The introduction of this rebate would make no difference to the funding of this policy by the Scottish Government. Their current assessment of the cost for the Extension of Free Personal Care is between £8-11 million per annum. This will be provided to local authorities on the basis of the currently agreed formula.

7. Implementation Of Policy.

The Extension of Free Personal Care will be introduced through an amendment to the existing regulations of The Community Care (Personal Care and Nursing Care) (Scotland) Regulations 2002. This will simply remove the current age limitations.

The way this policy will be implemented will be explained further in guidance from the Scottish Government and then included in the annual "National Strategy & Guidance on Charges Applying to Non-residential Social Care Services".

The Scottish Government guidance should be issued under section 5(1) of the Social Work (Scotland) Act 1968. This would mean that local authorities should not deviate from this without very good reasons.

8. Ending Care Charing

SACT continues to call for an end to all social care charges, as only this will remove the current discrimination against disabled people whereby they are charged for the essential support they need to enjoy the same human rights as anyone else.

Ending care charging is the only solution to the current unfair system of charging for social care in Scotland today. The current charging regime is overly complex, hugely inconsistent and expensive to administer.

9. Conclusion

Providing free personal care to under 65s in the same way as it is currently done will still leave the vast majority of younger adults facing significant charges to receive the social care they need for independent living. This will fail to meet the Scottish Government's aims and desperately disappoint disabled people who are looking to this initiative to improve their lives.

³ COSLA, National Strategy & Guidance Charges Applying to Non-residential Social Care Services 2017/2018