



Citizens Advice Scotland response Consultation on Young Carer Grant Regulations December 2018

Citizens Advice Scotland (CAS), our 60 member Citizen Advice Bureaux (CAB), the Citizen Advice consumer helpline, and the Extra Help Unit, form Scotland's largest independent advice network. Advice provided by our service is free, independent, confidential, impartial and available to everyone. Our self-help website Advice for Scotland provides information on rights and helps people solve their problems.

In 2017-18 the Citizens Advice Service network helped over 295,100 clients in Scotland and dealt with almost 800,000 advice issues. With support from the network clients had financial gains of over £138 million and our self-help website Advice in Scotland received approximately 3.2 million page views.

Introduction and context of response

Citizens Advice Scotland (CAS) welcomes the opportunity to comment on the draft regulations for Young Carer Grant. CAS supports the introduction of the Grant, which is the first entirely new benefit to be created under powers devolved in the Scotland Act 2016. Young carers in full-time education currently are ineligible for support from Carer's Allowance, but as is recognised from evidence in the consultation document, they face a range of issues as a result of their caring role at a critical time of transition in their lives.

When CAS consulted CAB advisers on this issue, there was overwhelming support for a Young Carer Grant. 73% of respondents to an online survey thought that young carers should receive both additional financial and non-financial support, with a further 3% favouring them receiving additional financial support only. 20% of respondents favoured providing non-financial support only.¹ The proposed structure of Young Carer Grant – a £300 annual cash payment, with a further package of support including free bus travel, and tailored entitlements and rewards such as leisure activities through the Young Scot National Entitlement Card – is in keeping with this approach. Additionally, it is also likely to increase the number of young carers who recognise that they are carers, which will enable them to access further support services.

As part of the long-term development of carer's benefits in the new Scottish social security system, CAS recommends that the current restriction on carers in full-time education from receiving Carer's Allowance is removed. This will have the potential to have an even more significant benefit to young carers who would qualify, and help avoid them dropping out of education due to not having access to sufficient financial support to study whilst performing their caring responsibilities.

¹ See pages 117 - 120, A New Future for Social Security consultation – Response from Citizens Advice Scotland, October 2016
https://www.cas.org.uk/system/files/publications/social_security_consultation_-_response_from_citizens_advice_scotland.pdf

Q1. Do you think the draft regulations are likely to meet the policy aims set out in this document?

Q2. Can you identify any potential unintended consequences of the regulations?

The draft regulations largely meet the policy aims set out in the consultation document, subject to the areas highlighted below.

Form and evidence required (Reg. 4(5)(b))

The illustrative regulations, do not specify in what form, or accompanied by what evidence, a valid application for Young Carer Grant would need to be made, save for a provision that refers to it being set out in regulations made under section 20(1) of the Act. We would welcome clarification on whether it is intended for the form of application for Young Carer Grant to be added to these regulations, or made in a separate set covering applications for all devolved benefits.

Details of care provided (Reg. 5(2))

The draft regulations include a specific provision that the care provided must be *“relating to...the day to day physical tasks and needs of the person cared for...or the mental processes related to those tasks and needs”*. This is more specific than the provisions in the Social Security (Scotland) Act for Carer’s Assistance. Whilst not appearing to be an unreasonable description, clarification on whether this is based on an existing description would be welcome. Care must be taken to ensure that the eligibility for Young Carer Grant is not unintentionally more restrictive than that for other carer’s benefits.

Qualifying benefits for person being cared for (Reg. 6(2)(a))

The draft regulations envisage the Young Carer Grant having the same conditions as the existing carer’s benefits (Carer’s Allowance, Invalid Care Allowance) and future Scottish benefit (Carer’s Assistance), in respect of the qualifying disability benefit that the cared for person must receive. As neither the regulations for Carer’s Assistance, nor future Scottish disability benefits, have yet been laid, in future it may be that a broader range of disabled people would be eligible through this route. At this stage however, consideration could be given to whether Severe Disablement Allowance (which is due to be devolved) could be included as a qualifying benefit.

Once the devolved benefits are established, in addition to receiving an appropriate qualifying disability benefit, CAS would support including receipt of Short Term Assistance as a further qualifying condition. This will ensure that if a cared for person loses entitlement to disability benefit, but is challenging the decision through the redetermination and appeals process, their carer does not lose entitlement to Carer’s Allowance as a consequence. This would resolve a current problem facing CAB clients.

Restriction on claiming Young Carer Grant if another person is claiming Carer's Allowance for the same person (Reg. 7(2)(c))

As detailed in our response to question 5, CAS would recommend this restriction is removed, to enable young carers who are otherwise qualified to receive the Young Carer Grant.

Restriction on more than one young carer receiving a Grant for caring for the same person (Reg. 8)

As drafted, the regulations prevent more than one young carer receiving a Young Carer Grant if they are caring for the same person. However, it would be possible within the rules for multiple carers to qualify apart from this rule – for instance, if two siblings were to share full-time caring responsibilities for a parent between them and provide 17 or 18 hours' weekly care each. Indeed, in this situation, although the care provided might be equivalent to the total amount to qualify for Carer's Allowance (35 hours per week) and individually above the amount to qualify for Young Carer Grant (16 hours), one of the young carers would not be able to claim. This situation would appear to be somewhat unfair, and would risk excluding young carers from the wider support referred to above. CAS would recommend this restriction is removed.

Recommended additions

As detailed in our response to questions 6a and 6b below, CAS would recommend the timescales for re-determinations and appeals for Young Carer Grant should be included in the regulations.

As detailed in our response to question 4 below, CAS would recommend that applicants should be able to combine hours caring for more than one person to meet the required 16 hours per week.

Q3. We are aware of the changing role of carers and the needs of the cared-for person. Due to this, we are proposing that young carers would make a new application each year in order to receive payment. Do you agree with this proposal?

Yes, although additional steps could be taken to make the re-application process easier and increase take-up.

Citizens Advice Scotland supports all steps being taken to increase take-up of benefits that a person is entitled to, including proactive work by Social Security Scotland to highlight benefits that people may be entitled to, such as writing to a person who has previously received a Young Carer Grant and would still be young enough to claim. However, we recognise the concerns of young carers around this, as detailed in the consultation document, that this may cause distress if the cared for person has died during the year, which would be a risk of proactively contacting potential applicants.

However, CAS recommends that Social Security Scotland make use of existing information they hold about a person to make the application process easier. For

instance, from the information held from the person's previous Young Carer Grant, it should be possible to pre-populate the application form when a young carer contacts the agency to re-apply, meaning that they might merely need to confirm the previous details are still correct, rather than having to fill in the form again. In an online survey in 2016, 79% of CAB advisers who participated agreed that data sharing should be enabled to make the application process for Scottish social security payments easier, and to enhance the user experience.²

Q4. Should applicants be able to combine hours caring for more than one person to meet the required 16 hours average each week?

Yes.

As part of consultation with CAB clients and advisers to inform Citizens Advice Scotland's response to the 'A New Future for Social Security' consultation, some clients raised the issue of people who care for more than one person, feeling it was unfair that they only received payment of Carer's Allowance for one, as it did not provide recognition of their role.

If a young carer was providing a total of 16 hours or more of care per week between more than one person (for instance, if both their parents required care), the impacts on their health and education outcomes are likely to be the same as if they were providing 16 hours care to one person only. On that basis, CAS recommends that this group of young carers should also be entitled to the Young Carer Grant.

Q5. Should young carers be eligible for the Young Carer Grant when another carer is in receipt of Carer's Allowance for providing care for the same person?

Yes.

The draft regulations currently exclude young carers from being entitled to receive a Young Carer Grant if another person already receives Carer's Allowance for the cared for person. However, it would be possible that a young carer would be able to provide the amount of care to a person that would otherwise qualify them for a Young Carer Grant, in addition to the care provided by a recipient of Carer's Allowance. For instance, a young carer might provide 16 hours of care to a parent with severe care needs, in addition to 35 hours provided by their parent's partner.

As part of CAS consultation with CAB clients to inform our response to the 'A New Future for Social Security' consultation, several carers who participated commented on situations where more than one person was involved in someone's care, and felt it was unfair it was not recognised by Carer's Allowance.³ CAS has recommended

² See page 224, A New Future for Social Security consultation – Response from Citizens Advice Scotland, October 2016
https://www.cas.org.uk/system/files/publications/social_security_consultation_-_response_from_citizens_advice_scotland.pdf

³ See page 128, A New Future for Social Security consultation – Response from Citizens Advice Scotland, October 2016

that addressing this should be considered as part of the Scottish Government's considerations in developing a Scottish successor to Carer's Allowance.

Given the policy intent of the Grant, which aims to "provide support during a key transition period in young carers' lives to help improve their health and education outcomes", and the real potential that exists with the creation of the Grant in helping identify young people who are carers, enabling to access a range of carers' support services, this restriction would seem to blunt the full effectiveness of the Grant. CAS would recommend this restriction is removed, to enable young carers who are otherwise qualified to receive the Young Carer Grant.

Q6a. Is 31 calendar days an acceptable time limit for requesting a re-determination?

Whilst 31 days is consistent with the regulations for Best Start Grant, Citizens Advice Scotland would recommend that consideration is given to extending the timescale to make a re-determination request to six weeks (42 days) for all devolved benefits. This would enable individuals to gather and submit further evidence, as well as being able to seek and receive independent advice if they need it. This is challenging in the current reserved benefits system, where the timescale is set at four weeks, and consultation with CAB advisers has suggested that six weeks would be a more appropriate period across the new Scottish social security benefits.

CAS has previously recommended that, under the new Scottish social security system, there should be statutory time limits for an internal review to be requested as well as for the agency to make a re-determination. We had recommended that the periods for both could have been set out in the Social Security Act to provide consistency. Although we accept the Scottish Government's rationale for not doing so was that different periods might be appropriate for different benefits, CAS believes it would be beneficial to have consistency across the new social security system if possible.

CAB evidence has revealed that there is room for improvement in the timescales within which a claimant must challenge a decision. In a survey carried out by CAS on Mandatory Reconsideration, two advisers raised their concerns:

"There is not enough time to get supporting evidence [at mandatory reconsideration stage]. The onus is on the client but a lot of health professionals will not supply a letter unless it is requested [by DWP]. Clients are disadvantaged as they feel they are not believed so need to get medical evidence but are unable to do so."

"Unfortunately the majority of cases are not successful at mandatory reconsideration without medical evidence (and more than 50% are won at tribunal)."

As the Scottish Government has recognised, advice and advocacy will play a key role in supporting the new Scottish social security system, so processes must be

designed with this in mind, allowing enough time for people to access services and book appointments with advisers.

Although it is important to ensure that there is enough time to gather supporting evidence and access advice, it is also important that a timescale exists, otherwise claimants will be less likely to act on a decision while it is still relevant to their current circumstances and condition. Whilst many of the issues relate to Personal Independence Payment, the underlying problems are the same, and having a consistent approach would be beneficial.

Therefore, CAS recommends that an internal review request, including any additional evidence the individual wishes to submit, should be returned to the Agency within six weeks of the date on the decision letter. In addition to this, as is the case under the current mandatory reconsideration process, if the six week deadline is missed then the Agency should use its discretion to allow reasonable late requests.

As detailed in our response to question 1 above, the timescale for making a request for a re-determination does not appear in the draft regulations attached to the consultation document. CAS would welcome clarification that it is intended to insert this into the regulations, in order to meet the requirement to do so in section 41(4) of the Social Security Act.

Q6b. Is 16 working days an acceptable time for a re-determination to be completed by Social Security Scotland?

Whilst Citizens Advice Scotland would consider that a limit of 16 working days to be acceptable, we would recommend consideration is given to reducing the period to 15 working days to make a re-determination, which would be consistent with the timescale proposed for Best Start Grant and Funeral Expense Assistance. Having a consistent period where possible will make information and advice more straightforward, and has the potential to be easier for people who need support from the system.

CAS has previously recommended that, under the new social security system, there should be statutory time limits within which the agency must return an internal review decision to the claimant. We have recommended that decisions should be returned as soon as is practicably possible, but no longer than four weeks.

In light of this, we welcome the commitment to be able to make a re-determination in a shorter period (three weeks), and would be content for that to be set as a limit in statute.

In general, setting a statutory time limit for a re-determination to be made is important in the context of experience of the current reserved benefits system. CAS has previously raised concerns that no statutory time limit exists within which the

DWP must provide a decision in response to a mandatory reconsideration request⁴. The DWP indicated that a mandatory reconsideration should be processed within 14 working days, although data on the time taken to reach a decision has been described by the Work and Pensions Committee as “sporadic and incomplete”⁵. Department ‘targets’ do not constitute a time limit, and in reality some claimants can wait weeks to receive a decision. This presents a problem both for claimants and for advice agency staff, who do not know how long to wait before contacting the DWP regarding a reconsideration request.

Additionally, an individual cannot lodge an appeal to a tribunal until their re-determination request has been received, which creates a barrier to justice if the re-determination is not carried out in a timely manner.

As detailed in our response to question 1 above, the timescale for making a decision on a re-determination does not appear in the draft regulations attached to the consultation document. CAS would welcome clarification that it is intended to insert this into the regulations, in order to meet the requirement to do so in section 43(5) of the Social Security Act.

Q7. Do you have any comments on the proposed approach to residency?

CAS agrees that requiring applicants to be habitually resident in Scotland is a reasonable requirement. As set out in the consultation document, the test for establishing this – an applicant having their main home in Scotland, having an intention to keep living there, and be legally entitled to be in Scotland – is sensible. This would also be consistent with the approach taken to other devolved benefits.

Q8. Are you aware of any equality impacts on age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex or sexual orientation of the Young Carer Grant that we have not identified?

No

Q9. Are you aware of any impacts of Young Carer Grant on children’s rights and wellbeing that we have not identified?

No

Q10. Can you identify any business related impacts of Young Carer Grant that we have not identified?

CAS agrees with the acknowledgement in the Business and Regulatory Impact Assessment that “the introduction of Social Security Scotland could cause additional requests for information and support from existing advice services.” As detailed in

⁴ Response to Social Security Advisory Committee Consultation on Decision Making and Mandatory Reconsideration – Citizens Advice Scotland, March 2016 <http://www.cas.org.uk/publications/social-security-advisory-committee-consultation-decision-making-and-mandatory>

⁵ Benefit delivery: Fourth Report of Session 2015-16 – UK Parliament Work and Pensions Committee www.publications.parliament.uk/pa/cm201516/cmselect/cmworpen/372/372.pdf

our response to the Scottish Government's 2016 consultation on social security⁶, this is for a number of reasons:

- The introduction of a new system in Scotland – alongside the UK system – has the potential to increase complexity for claimants
- Changes to benefits make clients concerned, as recent changes have involved reassessments and/or reductions in payments
- Two substantial benefit changes – Universal Credit and Personal Independence Payment – are still being rolled out to hundreds of thousands of claimants in Scotland. Demand for advice on these issues will inevitably increase at the same time as the new Scottish system is embedded
- Tens of thousands of claimants are likely to be worse off as a result of the UC and PIP roll out^{7 8 9}
- The move to digital public services will cause access problems to those who lack online access and skills¹⁰

With particular regard to the Best Start Grant, there is the potential for increased demand for advice from people who may be eligible for the Nursery Payment and School Payment, which do not currently exist in the Sure Start Maternity Grant.

Advisers commented on the impact that these factors would have on the demand for their services:

“More confusion and help needed, with separate systems running in parallel. Clients now do not always know what benefits they are receiving so the new powers will add complexity.”

“The confusion resulting from the changes will mean much greater numbers seeking advice and help.”

“They will be anxious about losing their benefits or having to claim again under a new system. They will also be worried that they will be paid less or there will be a delay in payment.”

“Even more complicated for advisers to give correct advice.”

“This will definitely lead to an increase in enquiries as clients try and get used to another new benefits system and more financial resources will be required by CABx

⁶ See pages 177 - 181, A New Future for Social Security consultation – Response from Citizens Advice Scotland, October 2016

https://www.cas.org.uk/system/files/publications/social_security_consultation_-_response_from_citizens_advice_scotland.pdf

⁷ P. 232, Green Budget 2016 – Institute for Fiscal Studies <https://www.ifs.org.uk/publications/8129>

⁸ Universal Credit in East Lothian: Impact on Client Income – Musselburgh and Haddington Citizens Advice Bureaux, August 2017 https://www.cas.org.uk/system/files/28.09.17_report_for_website.pdf

⁹ Up to 31 October 2017, 16,970 claimants in Scotland were not awarded PIP under normal rules after undergoing a DLA to PIP reassessment. Response to Freedom of Information request, Department for Work and Pensions, May 2018 <https://assets.documentcloud.org/documents/4493586/Letter-From-Department-of-Work-and-Pensions.pdf>

¹⁰ Disconnected: Understanding digital inclusion and improving access – Citizens Advice Scotland, February 2018 https://www.cas.org.uk/system/files/publications/cas_disconnected_report.pdf

without having hopefully to go through all the extra work we have to do to access funding.”

While advisers were very clear about the impact of changes on the need for advice, they also saw opportunities to improve the system that would help to support their work and potentially to reduce the need for advice. However, it must be noted that advisers saw this as a long-term ambition. Advisers commented:

“I believe that, so long as we adopt a caring and holistic approach, then the benefits to clients (and CAB) will be huge.”

“If the proposed changes are made it is likely benefit enquiries would increase in the short term but ideally long term we'd see more people out of poverty and potentially lower demand on services.”

The changes to the UK benefits system from 2010 may provide a relevant example of the impact of changes to benefits on the demand for advice. In the period, 2011/12 to 2014/15, bureaux advised on 93,000 *additional* new issues compared to what would have been expected under 2011/12 levels – this equates to around 600 *additional* benefit issues every week since the implementation of the welfare reforms. In that three year period, bureaux advised on over 666,000 new benefit issues in total.

Q11. Do you have any additional comments on the content and proposals of this document?

No.