

BRIEFING PAPER

Scotland Act 2016: Carer's Allowance

A summary of the SPICe (Scottish Parliament Information Centre) Briefing

The Scotland Act 2016 devolves Carer's Allowance to Scotland. This Briefing Paper provides information on Carer's Allowance including:

- Entitlement Rules
- Expenditure and Caseload
- How the definition of a carer's benefit changed through the stages of the Scotland Bill
- How devolution of powers and funding for Scotland might affect the amount allocated for a carer's benefit
- Longstanding issues with Carer's Allowance, and
- The Scottish Government's proposals for reform.

More information can be found on the SPICe website:

<http://www.parliament.scot/parliamentarybusiness/99927.aspx>

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Who Are Scotland's Carers?

There are an estimated 759,000 adult carers (aged 16 or over) in Scotland and 29,000 carers under the age of 16. These people are often referred to as unpaid carers because they provide care to family members or friends. The people being cared for may be affected by disability, physical or mental health issues, substance misuse or frailty. Some of these conditions are long term and require life-long care, whereas some carers may need to provide substantive care for shorter periods of time.

Carers can be any age. The likelihood of being a carer increases with age. In most age groups, women undertake more caring than men. This changes for the over 75s. Caring can have a negative impact on the health and wellbeing of the carer.

Whilst most working age carers are in employment, there are also carers who leave employment to care for someone. Carers who leave employment are more likely to be those who provide more intensive levels of caring. Whether in employment or not, carers face financial difficulties due to higher utility bills and having to make adaptations to the family home.

Support is normally focused on improving the wellbeing or financial situation of the carer. For example, they may receive support from family and friends as well as voluntary, private and public services e.g. in the form of practical or financial support, respite services or information and advice.

The **Carers (Scotland) Act 2016** aims to ensure improved and more consistent support for carers from Local Authorities.

Entitlement to Carer's Allowance

Carer's Allowance is paid at the weekly rate of £62.10 (April 2016). It is a non means-tested benefit and does not rely on national insurance (NI) contributions. This means that the amount of other income or savings a person has, or whether they have worked, does not affect the benefit.

To be eligible, a person must provide 'regular and substantial' care for a disabled person who receives a qualifying (disability related) benefit. Regular and substantial care is defined as at least 35 hours a week.

The qualifying benefits and amounts are:

- **Disability Living Allowance (DLA)** - the care component at the middle rate or highest rate only;
- **Personal Independence Payment (PIP)** - the daily living component at either the standard or enhanced rate;
- **Attendance Allowance (AA)** - at either the lower or higher rate;
- **Constant Attendance Allowance (CAA)** - paid with the Industrial Injuries or War Pension schemes;
- **Armed Forces Independence Payment (AFIP)** - the award can vary depending on the cared for person's injury.

The person claiming **Carer's Allowance** must also:

- Be aged 16 or over;
- Not be in full time education (i.e. studying more than 21 hours per week);
- Not be earning more than £110 per week in employment; and

Be present and resident in Great Britain and not subject to immigration control

Expenditure and Caseload

Total expenditure on **Carer's Allowance** in Scotland for 2014-15 was £203 million. Expenditure in Scotland has, however, decreased compared to England and Wales. As at August 2015, 110,810 people in Scotland met the eligibility criteria for **Carer's Allowance**. Of these, only 66,140 actually received the benefit (60% of those eligible). The most likely reason for this is the 'overlapping benefit rule' (explained below), which means that a person cannot receive more than one income-replacement benefit at a time. This mostly affects carers who have reached State Pension age.

Definition of a Carer's Benefit

The **Scotland Act 2016** came into force on 23rd March 2016. The definition of a carer's benefit, at section 22(4), is:

"a benefit which is normally payable in respect of the regular and substantial provision of care by a person for a disabled person, and for this purpose a 'disabled person' means a person to whom a disability benefit is normally payable."

Funding

The UK Government will continue to provide the Scottish Government with a block grant, the amount of which will be determined by the Barnett Formula.

The Barnett formula is the mechanism used by the UK Treasury to adjust the amounts of funding allocated to Northern Ireland, Scotland and Wales. In 2013-14 it applied to about 85% of the Scottish Parliament's total budget.

Overlapping Benefits Rule

The overlapping benefit rule means that a person cannot be paid more than one non-means tested benefit in full at the same time. This is the case for benefits which compensate people for their inability to work because of unemployment, sickness, pregnancy or old age.

It is possible that a person may be entitled to **Carer's Allowance**, but because of the overlapping benefit rule they do not actually receive it. If a person receives less than the basic rate of Carer's Allowance from another benefit (as outlined below), then that benefit is then topped up to the amount they would receive from **Carer's Allowance**. The following benefits are subject to this:

Contributory Benefits

- **Contribution based Jobseekers Allowance;**
- **Incapacity Benefit;**
- **Contributory Employment and Support Allowance;**
- **Maternity Allowance;**
- **Retirement Pension;**
- **Bereavement Allowance or Widow's Pension; and**
- **Widowed Parent's Allowance or Widowed Mother's Allowance.**

Non-contributory Benefits

- **Carer's Allowance**
- **Severe Disablement Allowance.**

The overlapping benefit rule affects a significant number of older people who are in receipt of the state pension. While a pensioner may have an entitlement to **Carer's Allowance**, they may not receive the award. However, if they are in receipt of **Pension Credit** they would be entitled to a **Carer Addition Benefit** of £34.60 per week (April 2016).

Interaction with Other Benefits

There are several other ways that Carer's Allowance interacts with other benefits. These will need to be considered if a new carer's benefit is proposed by the Scottish Government.

Replacement of Disability Living Allowance with Personal Independence Payment

Entitlement to Carer's Allowance requires the person being cared for to be in receipt of **Attendance Allowance (AA)**, **Disability Living Allowance (DLA)** or **Personal Independence Payment (PIP)** at certain rates. **PIP** is replacing **DLA** for people of working age, all of whom should have been contacted by September 2017.

The UK Government aims to target **PIP** to those whose health condition or impairment has the greatest impact on their daily life. It also, however, wants to reduce caseload and expenditure. Estimates in 2012 suggested that by 2018, around 607,000 fewer people would receive **PIP** than would have received **DLA**. This means that a disabled person's entitlement to a benefit could change and their carer would no longer be able to claim **Carer's Allowance**.

Severe Disability Premium

A person who receives certain disability benefits may lose entitlement to the **Severe Disability Premium** if their carer claims **Carer's Allowance**. In written evidence to the Welfare Reform Committee of the Scottish Parliament, Enable Scotland noted that many disabled people receive an additional element in their means tested benefits because they do not have anyone in receipt of Carer's Allowance for them. Any changes which open up access to Carer's Allowance may have significant implications for this group of claimant.

Carer's Allowance Counted as Income

When a person claims a means-tested benefit, the amount they receive will depend on how much income they have. This includes income from earnings, as well as a range of benefits and tax credits. **Carer's Allowance** is one of the benefits counted as income. It is, therefore, counted in full when calculating, for example, someone's **Income Support**.

With regards to the new Fiscal Framework agreed between Scotland and the rest of the UK, Carer's Allowance will continue to count as income. Any increase in award, however, will not be counted as income.

Amount of Carer's Allowance

Carer's Allowance is currently paid at the weekly rate of £62.10 (April 2016). It is the lowest award of all income replacement benefits. The UK Parliament Work and Pensions Committee previously recommended that the benefit should be radically overhauled to recognise the contribution made by carers.

Increasing the Amount

The Scottish Government announced in November 2015 that it plans to increase the rate of **Carer's Allowance** to match that of **Jobseekers Allowance** for the over 25's.

Paid work, Study and Younger Carers

Carer's Allowance and Paid Work

A carer can be eligible for **Carer's Allowance** if they work, provided they do not earn more than £110 a week.

The UK Parliament Work and Pensions Committee said that the earnings limit makes it almost impossible for carers to combine paid work with caring responsibilities. A carer loses their entitlement to **Carer's Allowance** if they earn even pennies more than the earnings limit.

When the **Scotland Bill 2015** was introduced, the definition of a carer's benefit included the stipulation that recipients would not be 'gainfully employed'. The Devolution (Further Powers) Committee said that the definition was overly restrictive and would limit what the Scottish Government could do.

There are also concerns around the National Minimum Wage (NMW), specifically when increases can push carers over the earnings threshold which then means they lose their entitlement to claim.

Carer's Allowance and Studying

Carer's Allowance is not available to students in full time education, which is defined as 21 hours or more per week. This leads to carers being forced to choose between entering education without financial support, or living on benefits.

Carer's Allowance and Young People

Carer's Allowance is not available to carers under the age of 16. According to Scotland's most recent census (2011), there were 1328 people aged 15 and under who provide more than 35 hours of unpaid care per week.

During her statement on '*Taking Scotland Forward*', made in the Scottish Parliament in May 2016, the First Minister announced that the Scottish Government would also consider the introduction of a **Young Carer's Allowance** to provide extra support for young people with significant caring responsibilities.

Benefit Cap

The Benefit Cap is part of the UK Government's welfare reforms and applies to certain benefits. It currently limits household benefits to:

- £26,000 per year for a family;
- £18,200 per year for a single person without children.

The annual limit will be lowered via the **Welfare Reform and Work Act 2016** to:

- £20,000 per year for a family (except in London where it will be £23,000);
- £13,400 per year for a single person without children (except in London where it will be £15,410).

The new thresholds are expected to begin in Autumn 2016. **Carers Allowance** is one of the benefits included in the cap. Following a landmark High Court ruling, however, where it was found that including **Carer's Allowance** within the cap discriminated against disabled people and their carers, this will no longer be the case.

Other Issues

Qualifying Hours

The definition of a carer's benefit was amended in the **Scotland Bill 2015** to remove the restrictions on age, employment and studying. The requirement to provide 'regular and substantial' care, however, remains as 35 hours per week. The **Scotland Act 2016** does not provide an interpretation of 'regular and substantial care' so any new legislation for a carer's benefit would have to set out an interpretation/definition of that term.

Qualifying Benefit

Carer's Allowance is only available to those caring for a person in receipt of certain disability benefits. Where a cared-for person is not entitled to or chooses not to claim a qualifying benefit, the carer is left without monetary support, even if they otherwise meet the eligibility criteria. This has the potential to be a significant issue when those on **DLA** transfer over to **PIP**.

There is a fast-track process which allows terminally ill patients to obtain **DLA**, **PIP** or **AA** two weeks after applying and without having to go through a face to face assessment. This fast track process is not available to carers.

The Scottish Government said that the application process for carers will be considered as it puts in place new arrangements. Treating applicants with dignity and respect is a key aim, especially when a claimant is caring for someone with a terminal illness.

Scottish Government Proposals for Reform

Increase the Award

The Scottish Government intends to increase the award for **Carer's Allowance** to the same rate as **Jobseekers Allowance** for those aged 25 and over, from £62.10 to £73.10.

84 Day Rule

In September 2015, the Scottish Government announced that it would scrap the '84 day rule'. This refers to instances where a child loses their **DLA** entitlement if they are in hospital for 84 days or more, either consecutively or linked to the same course of treatment. This announcement was made so that not only will children continue to receive **DLA**, but their family will continue to receive **Carer's Allowance**.

Carers (Scotland) Act 2016

The **Carers (Scotland) Act 2016** redefines a carer for the purposes of Local Authority assessment. Once the Act is in force, there will no longer be a requirement for the care provided, for the purposes of such assessments, to be 'substantial' and 'regular'. This is different to the requirements for **Carer's Allowance** - in the Local Authority context, a person does not have to show they provided 35 hours of care in a week.

Currently, carers who provide regular and substantial amounts of care to a person who receives community care services has the right to request an assessment of their ability to care. Following that assessment, the Local Authority can provide support services to meet identified needs.

Under the Act, Local Authorities will have a duty to provide support to carers who meet locally agreed eligibility criteria. The Scottish Government has indicated that it will ensure any new benefit for carers provides better integration with carer support in Scotland.



LINKS

- **Carers (Scotland) Act 2016**
<http://www.legislation.gov.uk/asp/2016/9/contents/enacted>
- **Carer's Allowance**
<https://www.gov.uk/carers-allowance/overview>
- **Disability Living Allowance (DLA)**
<https://www.gov.uk/dla-disability-living-allowance-benefit/overview>
- **Personal Independence Payment (PIP)**
<https://www.gov.uk/pip/overview>
- **Attendance Allowance (AA)**
<https://www.gov.uk/attendance-allowance/overview>
- **Scotland Act 2016**
<http://services.parliament.uk/bills/2015-16/scotland/documents.html>
- **Pension Credit**
<https://www.gov.uk/pension-credit/overview>
- **Severe Disability Premium**
<https://www.gov.uk/disability-premiums-income-support/overview>
- **Income Support (IS)**
<https://www.gov.uk/income-support/overview>
- **Jobseeker's Allowance (JSA)**
<https://www.gov.uk/jobseekers-allowance/overview>
- **Welfare Reform and Work Act 2016**
<http://services.parliament.uk/bills/2015-16/welfarereformandwork.html>

