POLICY NOTE

The Carers (Scotland) Act 2016 (Adult Carers and Young Carers: Identification of Outcomes and Needs for Support) Regulations 2018

SSI 2018/xxx

1. The Carers (Scotland) Act 2016 (Adult Carers and Young Carers: Identification of Outcomes and Needs for Support) Regulations 2018 are made in exercise of the powers conferred by sections 8 and 14 of the Carers (Scotland) Act 2016 ("the Act"). The instrument is subject to affirmative procedure.

Policy Objectives

2. Sections 8 and 14 of the Carers (Scotland) Act 2016 allow Ministers to regulate to make provision about the identification of personal outcomes and needs for support for adult carers and young carers.

3. The Scottish Government had previously decided not to regulate under these powers before commencement of the Act. That decision was made in discussion with stakeholders. It was concluded that practice in identifying outcomes and needs already operates in the context of national policy on personalisation and self-directed support and takes into account local arrangements and the individual circumstances of carers and cared-for persons. Rather than cutting across or restricting this practice through regulation, a decision was made to cover identification of outcomes and needs in statutory guidance under section 38 of the Act.

4. The Scottish Government has since been working closely with stakeholders to co-produce guidance on person-centred approaches to developing adult carer support plans and young carer statements under the Act, with identification of personal outcomes and needs for support as an integral part.

5. It has recently become apparent that regulations under sections 8 and 14 of the Act are essential for the key definitions of 'identified personal outcomes' and 'identified needs' to work. These definitions are fundamental to the core duties in the Act about adult carer support plans, young carer statements and provision of support to carers. The definitions appear in section 5 of the Act and refer to outcomes and needs being identified 'by virtue of section 8 or 14'. Regulations under these sections are therefore necessary to enable outcomes and needs to be identified 'by virtue of section 8 or 14'. This will ensure that the duties in relation to adult carer support plans, young carer statements and carer support can work as intended by the Act.

6. An overriding principle of the Act is to ensure that person-centred support is delivered to carers. The Regulations take a deliberately light-touch approach so as to meet the requirements of the Act without restricting existing person-centred approaches to identifying personal outcomes and needs for support.

7. The Regulations therefore identify the 'responsible local authority' as responsible for identification of an adult carer's outcomes and needs because it is also responsible for adult carer support plans under the Act. Similarly, the function for young carers is allocated to the 'responsible authority', because it is also responsible for young carer statements. Forthcoming statutory guidance will emphasise that allocation of these functions to the 'responsible local authority' and 'responsible authority' does not

preclude them arranging for another body, such as a local carer support organisation, to do the work on its behalf.

8. The Regulations' requirements for review of personal outcomes and needs; and for them to be identified following conversations with the carer are also in line with the approach to adult carer support plans and young carer statements, which will be covered in the statutory guidance. The guidance will also explain that such conversations can take a variety of forms, for example in the case of carers with communication difficulties.

Consultation

9. The Scottish Government has consulted informally on these Regulations with representatives of COSLA and the national carer organisations.

Impact Assessments

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

Financial Effects

11. The Business and Regulatory Impact Assessment for the Act has also been reviewed to take account of the above instrument. This is also available on request and is expected to be published before 1 April 2018.

Scottish Government
Health and Social Care Integration Directorate
Carers Branch