

Consultation Questionnaire

Draft Statutory Guidance on Care and Support

Consultation Questions

Section 2: Values and Principles

**Question 1a: Was this section of the guidance clear and easy to understand?
(please tick)**

Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Question 1b: How useful did you find this section of the guidance?
(please tick)**

Very useful	Quite Useful	Not very useful	Not at all useful
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 1c: Do you have any further comments on this section of the guidance?

Some advice to help you to answer this question – Please provide your suggestions for improvements or additions to this section. Are there any further topics that you would like to see included, any changes that should be made or any other comments you'd like to make?

It would have been helpful to have more information on eligibility criteria and an explanation of why criteria is localised.

This section talks about both Social Services and Social Care – it is important to recognise that the differences between the two may not be very clear for people not familiar with the systems.

In the *first point of contact* part of the process, it should be acknowledged that some people may require to be supported to contact Social/Health services due to their disability (i.e. communication difficulties).

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Section 3: Values and Principles

**Question 2a: Was this section of the guidance clear and easy to understand?
(please tick)**

Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Question 2b: How useful did you find this section of the guidance?
(please tick)**

Very useful	Quite Useful	Not very useful	Not at all useful
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 2c: Do you have any further comments on this section of the guidance?

Some advice to help you to answer this question – Please provide your suggestions for improvements or additions to this section. Are there any further topics that you would like to see included, any changes that should be made or any other comments you'd like to make?

We feel this section needs to include the service users representative in table 3. Specifically, the principal on *Collaboration*, currently only references the professional and supported person (service users). It is important to recognise that disabled children and young people usually have their parent representing them.

More consideration should also be given to the cultural barriers faced by people accessing services and how such challenges can be managed effectively.

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Consultation Questions

Section 4: Eligibility and Assessment

Question 3a: Was this section of the guidance clear and easy to understand? (please tick)

Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>

Question 3b: How useful did you find this section of the guidance? (please tick)

Very useful	Quite Useful	Not very useful	Not at all useful
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 3c: Do you have any further comments on this section of the guidance?

Some advice to help you to answer this question – Please provide your suggestions for improvements or additions to this section. Are there any further topics that you would like to see included, any changes that should be made or any other comments you'd like to make?

It would be helpful to provide guidance on the role of brokerage services in this section.

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Consultation Questions

Section 5 : Support Planning

This section of the guidance covered:

- general guidance on support planning

- risk
- resources
- the choices that must be made available to the supported person and
- information and support

**Question 4a: Was this section of the guidance clear and easy to understand?
(please tick)**

Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Question 4b: How useful did you find this section of the guidance?
(please tick)**

Very useful	Quite Useful	Not very useful	Not at all useful
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 4c: Do you have any further comments on this section of the guidance?

Please provide your suggestions for improvements or additions to this section. Are there any further topics that you would like to see included, any changes that should be made or any other comments you'd like to make?

5.1 General guidance

We welcome the principle of 'support plans' being presented in a range of formats to assist supported person's understanding. More specific reference to other professionals involvement i.e. speech and language therapist would enhance this commitment.

5.2 Risk

An example of a risk factor may have assisted the reader through this section as people will have different interpretations of what constitutes a risk.

The hyperlink paper from 'In Control' identifies 6 control checks in relation to risk management, inclusion of these in the section may have been useful to recognise that risk and safeguarding issues are being considered. The control checks were:

- First Contact
- Assessment
- Capacity
- Support planning
- Plan review and sign off
- Outcomes review.

This section could also go further to highlight the realities of safeguarding issues in particular around the role of personal assistants.

5.3 Resources

We thought the reference to no 'single approach to resource allocation' may impact on how different authorities interpret their responsibilities and therefore this may require further guidance for service users.

Clause 47 refers to "the person's wellbeing and inner strength" as an area for the professional and service user to explore. We feel 'inner strength' is not tangible and is subjective.

5.4 Choices

The idea that a 'collaborative approach' between supported person and professionals is the way forward is positive (please see response to Q2c). However this clause (52) seems too granular e.g. the paragraph starting "it is helpful to think about self directed support in the context of the profession it evolved through ..." It should be acknowledged that much of the evolution has been driven by disabled people rather than professionals.

The view from a social worker that Self Directed Support is real social work is a positive message however we need to be mindful of the realities and pressures of modern day social work. This section presents a very positive image of the social work role which may not always be possible in reality. Time and support to implement Self Directed Support must be provided for social workers if it is to be implemented successfully.

The description of the 4 options is useful setting them out clearly for the reader. The recognition that option 3 will still be used by large numbers of people where 'professionals select support and make arrangements for people in collaboration and agreement with them' is helpful. This provides a balanced view of the future when Self Directed Support is implemented

5.5 Information and Support

We remain concerned about the knowledge of front line staff and the time it takes to deliver the messages and options for Self Directed Support.

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Section 6 : Monitoring and Review

Question 5a: Was this section of the guidance clear and easy to understand? (please tick)

Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>

Question 5b: How useful did you find this section of the guidance? (please tick)

Very useful	Quite Useful	Not very useful	Not at all useful
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 5c: Do you have any further comments on this section of the guidance?

Please provide your suggestions for improvements or additions to this section. Are there any further topics that you would like to see included, any changes that should be made or any other comments you'd like to make?

This section is brief and in the main self-explanatory, however we do feel *Clause 78* could

be clearer.

Clause 79 makes reference to conducting reviews annually. We believe a review should be scheduled at the beginning of the process e.g. after 12 weeks to assess things are working. Also a mechanism for the professional or service user to call an earlier review may also be helpful. Some mention of location of where a review takes place may also have been helpful, particularly in the context of service users having more control – i.e. determining venue for review.

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Consultation Questions

Section 7 : Facilitating genuine choice for individuals

Question 6a: Was this section of the guidance clear and easy to understand? (please tick)

Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>

Question 6b: How useful did you find this section of the guidance? (please tick)

Very useful	Quite Useful	Not very useful	Not at all useful
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 6c: Do you have any further comments on this section of the guidance?

Please provide your suggestions for improvements or additions to this section. Are there any further topics that you would like to see included, any changes that should be made or any other comments you'd like to make?

Overall we feel there is a risk that the guidance, as currently set out, can not ensure a consistent approach across councils when making decisions on self directed support. We raise this, in order to help prevent a post code lottery scenario where you might be assessed in different ways depending on where you live.

It would be helpful if specific guidance on commissioning for self directed support, in particular how to deliver the step change between block funded services and direct payment funded services could be included in this section. There is also the need for a transparent pricing approach from all providers. We feel it is important that true costs are included in the price, without this voluntary providers may be seen as more expensive and this will impact on market supply.

We also believe a number of questions need to be addressed:

- If an assessment indicates that a high level of support and therefore funding is required but the LA budget constraints mean they can only afford to give a lower level of funding does the service user have a right of appeal?
- How will services users' choice be protected to be able to continue to use/buy services if the critical mass needed to make delivery of a specific model viable is not reached?
- How can we ensure that the rates attached to direct payments are sufficient to buy the support available?

Our experience with parents of disabled children with complex needs is that rates are currently set too low to buy support from a provider employing practitioners with the necessary level of skill. Further to this, depending on where children and their families live, they may not be offered the same choice of provision from their own council as you would in others. A strategic planning process for councils and local area co-ordinators managing resources may assist this. It would also be useful if the Government monitored the

resource allocation in Local Authorities after implementation to ensure consistency and equity.

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Consultation Questions

Section 8 : The role of the NHS professional

**Question 7a: Was this section of the guidance clear and easy to understand?
(please tick)**

Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Question 7b: How useful did you find this section of the guidance?
(please tick)**

Very useful	Quite Useful	Not very useful	Not at all useful
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 7c: Do you have any further comments on this section of the guidance?

Please provide your suggestions for improvements or additions to this section. Are there any further topics that you would like to see included, any changes that should be made or any other comments you'd like to make?

that are more appropriate for statutory guidance rather than Regulations?

It would be helpful if the guidance could make reference to continuing care funding and eligibility, this would equip service users and social care professionals with the knowledge and pathways available for pooled funding.

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Consultation Questions

Section 9.1 : Children and Families

Question 8a: Was this section of the guidance clear and easy to understand? (please tick)

Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>

Question 8b: How useful did you find this section of the guidance? (please tick)

Very useful	Quite Useful	Not very useful	Not at all useful
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 8c: Do you have any further comments on this section of the guidance?

Please provide your suggestions for improvements or additions to this section. Are there any further topics that you would like to see included, any changes that should be made or any other comments you'd like to make?

In Clause 92. The final bullet point talks about have regard for race, language, religion and culture. We think this should be expanded to include all protected characteristics outlined in the Equality Act 2010 (gender, gender identity, transgender, sexual orientation) otherwise the opportunities to recognise the intersectionality of a person's identity is missed and in terms of both equality and human rights this is a fundamental issue. Also these aspects of a persons' identity could play a part in their levels of vulnerability and their desired personal outcomes, alongside those highlighted.

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Consultation Questions

Section 9.2 : Supported decision-making and circles of support

**Question 9a: Was this section of the guidance clear and easy to understand?
(please tick)**

Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Question 9b: How useful did you find this section of the guidance?
(please tick)**

Very useful	Quite Useful	Not very useful	Not at all useful
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 9c: Do you have any further comments on this section of the guidance?

Please provide your suggestions for improvements or additions to this section. Are there any further topics that you would like to see included, any changes that should be made or any other comments you'd like to make?

It would be helpful in this section to set out a number of scenarios as to when the 'circles of support' could be called upon. We are thinking in particular where there is a tension between parent's wishes and those of their child's (service user). For example, the child may not like over night stays in a short breaks service – not wanting to be away from home, yet the parent relies on that time for their own emotional wellbeing. This tension may become more acute as the child grows up.

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Consultation Questions

Section 9.3: Carers

**Question 10a: Was this section of the guidance clear and easy to understand?
(please tick)**

Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Question 10b: How useful did you find this section of the guidance?
(please tick)**

Very useful	Quite Useful	Not very useful	Not at all useful
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 10c: Do you have any further comments on this section of the guidance?

Please provide your suggestions for improvements or additions to this section. Are there any further topics that you would like to see included, any changes that should be made or any other comments you'd like to make?

In Table 3 – Arranged services – we think that alongside peer support sessions, carers should also be directed to emotional wellbeing and physical wellbeing checks and or support.

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Consultation Questions

Section 9.4: Direct payments

Question 11a: Was this section of the guidance clear and easy to understand? (please tick)

Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>

Question 11b: How useful did you find this section of the guidance? (please tick)

Very useful	Quite Useful	Not very useful	Not at all useful
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 11c: Do you have any further comments on this section of the guidance?

Please provide your suggestions for improvements or additions to this section. Are there any further topics that you would like to see included, any changes that should be made or any other comments you'd like to make?

Clause 125 states “under a third party direct payment, the person remains in control of the payment and the person remains responsible for the direct payment”. We feel this is unclear and could be strengthened by emphasising that this means the service users in control of who they buy support from and what for.

The use of a clear contract with the third party recipient of the Direct Payment would also help protect the service users' ability to get what they need, when they need it to achieve the outcomes set out in their plan. A template contact to this effect may be helpful.

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Section 9.5: Wider legal duties and strategic responsibilities

Question 12a: Was this section of the guidance clear and easy to understand? (please tick)

Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>

Question 12b: How useful did you find this section of the guidance? (please

Very useful	Quite Useful	Not very useful	Not at all useful
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 12c: Do you have any further comments on this section of the guidance?

Please provide your suggestions for improvements or additions to this section. Are there any further topics that you would like to see included, any changes that should be made or any other comments you'd like to make?

Draft Statutory Guidance on Care and Support

Consultation Questions – General Questions

The Guidance document as a whole

Question 13: Do you have any further general comments on the guidance?

For example, are there any gaps in terms of the topics covered by the guidance? Are there any major changes that you would recommend? Do you have any comments on the style and layout of the guidance, or the language used in the guidance?

The guidance is helpful, any comments made aim to strengthen it. In particular around:

- Preventing a postcode lottery – achieving a consistent approach across councils.
- Recognising the role of parents as carers for their children, but also the tension between the two that can arise over support packages.
- Understanding that quality and safe provision may not always be the cheapest.

The costs and benefits arising from this guidance

Question 14: Do you have any comments on the financial costs or benefits of the requirements set out in the guidance?

Can you identify any financial costs or benefits to individuals, local authorities, health boards, providers or any other person or organisation affected by the guidance. In considering the costs and benefits you may wish to consult the Business Regulatory Impact Assessment published for the Social Care (Self-directed Support) (Scotland) Act available at the following hyperlink:

<http://www.scotland.gov.uk/Publications/2012/03/5525>

We plan to update the BRIA in light of the comments and information from this consultation.

The Business and Regulatory Impact Assessment (BRIA) states the following as a benefit:

'Local authorities and providers, who have a close interest in delivering high-quality services which respond to and meet individual needs. Self-directed support enables people to have the support that they want, and when and where they want it. It focuses on maximising individual choice and control, eliminating waste and providing a system that is accessible and better suited to the needs of the whole person.'

While we would not disagree with the above benefit of moving towards self directed support, we want to ensure there is an understanding about the true costs of delivering quality provision. We would not want to see a move towards securing support at the lowest cost with little regard to the quality that that brought. A personal assistants register could be a helpful vehicle to help maintain a high level of safeguarding and quality control in the market.

The equality and human rights impacts of the guidance

Question 15 (a): Do you have any views on the impact of the guidance on any or all of the following equality categories:

- i) age;**
- ii) disability**
- iii) gender;**
- iv) lesbian, gay, bisexual and transgender;**
- v) race, and;**
- vi) religion and belief**

Some advice to help you to answer this question - By “equality impacts” we mean whether or not the guidance will affect certain groups in a positive or a negative way. In considering the impacts you may wish to consult the Equality Impact Assessment published for the Social Care (Self-directed Support) (Scotland) Act available at the following hyperlink:

<http://www.scotland.gov.uk/Publications/2012/03/9876>

We plan to update the Equality Impact Assessment in light of the comments and information from this consultation.

As stated above (Q8.c) there is a need to include a fuller consideration of all protected characteristics outlined in the Equality Act 2010 (gender, gender identity, transgender, sexual orientation).

We believe it is important for professionals to be able to recognise and address how a young person who may be lesbian, gay or bisexual, who may have gender identity issues or be living in their preferred gender role, or someone who is female in what may be a very male dominated and hierarchical culture/community may have additional risks and vulnerabilities to take account of.

From an equality impact assessment perspective, if all protected characteristics are not highlighted and acknowledged, there is a danger of directly and in-directly discriminating against one or more groups of people by protected in law.

Question 15 (b): Do you have any views on the impact of the guidance on human rights?

For more information about human rights please see the Scottish Human Rights Commission’s website at:

<http://www.scottishhumanrights.com/abouthumanrights/whatarehumanrights>

Consultation Questionnaire

Draft Regulations

Consultation Questions

Question 2: What are your views on Part 3 of the draft Regulations (appropriate/inappropriate circumstances for the employment of close relatives)?

Obviously the employment of a close relative will be done with the agreement of the service user. In the cases where their communication is impaired all necessary steps to understand that child or young persons wishes should be put in place - especially as that relative may be providing intimate care.

Question 9 (a): Do you have any views on the impact of the Regulations on any or all of the following equality categories:

- i) age;**
- ii) disability**
- iii) gender;**
- iv) lesbian, gay, bisexual and transgender;**
- v) race, and;**
- vi) religion and belief**

By “equality impacts” we mean whether or not, and in what ways, the Regulations will affect certain groups, and whether they will impact on those groups in a positive or a negative way. In considering the impacts you may wish to consult the Equality Impact Assessment published for the Social Care (Self-directed Support) (Scotland) Act 2013, available at the following hyperlink:

<http://www.scotland.gov.uk/Publications/2012/03/9876>

We plan to update the Equality Impact Assessment in light of this consultation.

See response to Q15a Statutory Guidance

Case study

We are happy for the following case study to be used as an example of how direct payments can be used to ensure vital support remains consistent during the transition period between children’s and adults services.

John

John is 20 and from birth was diagnosed with a complex learning disability and epilepsy. From the age of nine John received a short break and outreach service from Action for Children which was financed by Social Services.

This package of support was successful for several years. The three day a month short break service gave John the opportunity to have time away from home and continue to have his communication, development and wellbeing supported. This also gave John’s family a break.

The outreach service was delivered as a four hour period one day a week. This outreach service increased John’s opportunities to participate in community activities and supported John and his other family members participating in events within their own community.

As the transition stage to adult services approached, John's mother was faced with many challenges, so often faced by families with disabled children, which caused delay in securing an appropriate Adult Service tailored to John's specific needs.

During this period of transition John no longer accessed the services of Action for Children through Children's Services. Instead, John's mother took the opportunity to agree a Direct Payment arrangement with Social Services and with this purchased the same outreach support from Action for Children.

This provision of support provided John with much needed continuity with the opportunity to continue participating in activities within his local community. It also allowed Action for Children to assist in John's transition plan. The Direct Payment option allowed John's mother the opportunity to have time to continue sourcing an appropriate Adult resource as her improved parental wellbeing, knowing John's needs were continuing to be met, led to better involvement and co-operation with adult services.

The Direct Payment option employed by John's mother allowed her maximum flexibility in purchasing services that still met the outcomes set for John while the main outcome in securing a suitable Adult Service for John were explored.