

The ALLIANCE Consultation Response

Draft Statutory Guidance to accompany the Social Care (Self-Directed Support) (Scotland) Act 2013

About the ALLIANCE

The ALLIANCE's vision is for a Scotland where people of all ages who are disabled or living with long term conditions, and unpaid carers, have a strong voice and enjoy their right to live well, as equal and active citizens, free from discrimination, with support and services that put them at the centre.

The ALLIANCE has three core aims; we seek to:

- Ensure people are at the centre, that their voices, expertise and rights drive policy and sit at the heart of design, delivery and improvement of support and services.
- Support transformational change, towards approaches that work with individual and community assets, helping people to stay well, supporting human rights, self management, co-production and independent living.
- Champion and support the third sector as a vital strategic and delivery partner and foster better cross-sector understanding and partnership.

Introduction

The ALLIANCE supports the foundation of the Draft Statutory Guidance on care and support being based upon the principles of independent living, included within the Statement of Intent. The ALLIANCE has consistently commented that Self Directed Support is a mechanism to enable individuals to attain the life that they want. The ALLIANCE believes that the Draft Statutory Guidance on care and support presents an opportunity to ensure that the intentions of the Social Care (Self-Directed Support) (Scotland) Act are promoted throughout Scotland. **The ALLIANCE therefore recommends that the Draft Statutory Guidance on care and support have a greater emphasis on embedding a standardised approach to delivering choice and control to all individuals who are eligible for self-directed social services.** At the same time the guidance must be flexible enough to ensure that people's specific requirements for both the assessment and management of Self Directed Support can be met.

However, some ALLIANCE members have expressed concern that the guidance can be interpreted as being directed towards a population of disabled people who have the capacity and the means to attain their right to independent living in isolation of the broader context of barriers which prevent many people from living equally in their communities. **The ALLIANCE believes that there is a need for a stronger commitment to ensuring that individuals with enhanced support requirements have an equal opportunity to fulfil their right to choice and control over their support.** The following response is a consideration of the Draft Statutory Guidance on care and support and its implications for individuals with long term conditions, throughout which the ALLIANCE offers suggestions for increasing the potential for Self Directed Support to improve choice and control for all.

Finally, the ALLIANCE takes a particular interest in the role that the Draft Statutory Guidance on care and support will play in relation to the broader legislative framework. Firstly, the integration of the health and social care systems will potentially re-define the relationship between the service design and delivery, and the individual, within which Self Directed Support will be a major influence in the commissioning process. Understanding the limitations of this, **the ALLIANCE believes that a stronger link could be made between self-directed social care and the integration with health as the Public Bodies (Joint Working) (Scotland) Bill is implemented.** Meanwhile, the Children and Young Peoples Bill offers greater opportunity for collaboration between services and increases the child rights framework at an individual and national level. Within this context, it is essential that the rights of disabled children to direct their own support are secured. **The ALLIANCE believes that greater consideration is needed of the potential opportunities for Self Directed Support to improve the delivery of joined up support for disabled children to achieve positive educational, social and health outcomes.**

Person's Pathway

The ALLIANCE welcomes the inclusion of the supported person's pathway as an indication of the individual's journey from identifying their outcomes to achieving the life they desire. However, the guidance describes the pathway as though it is a linear process through which the individual passes. This unintentionally gives the impression that people will achieve their outcomes if they progress through each step in turn. **The ALLIANCE would welcome a pathway that acknowledges the cyclical and changing nature of people's support and desired outcomes.**

We do however feel that there is a missing step between five and six, which should recognise an individual's need for support to put their arrangements in place. From agreeing on a support package, to receiving it, individuals may require information, advice and guidance (an aspect which is identified in Section 7 the guidance) to secure the appropriate provision to meet their needs and outcomes. **We would therefore welcome the addition of a new 'Step 6' which is labelled 'Putting support in place'.**

Support Planning

The ALLIANCE supports the general principles included in the support planning section of the guidance, in particular the link between outcomes and support to achieve them. Likewise the ALLIANCE is encouraged by the emphasis placed on supporting individuals, with them at the centre of the process, to identify risk incurred in some aspects of receiving and managing support. **We feel that such a tone should be replicated in other sections of the guidance, specifically around the choice of options, in order to account for the needs of certain individuals who require enhanced support to make informed decisions and to understand the four options of Self Directed Support.**

The ALLIANCE strongly supports and advocates asset-based approaches to meeting individual needs and encouraging community participation, and we welcome the inclusion of this approach within the resources section of the guidance. However, we would like to raise concern about the implication that such resources should influence the resource allocation process when identifying how much support is offered by the local authority. There may be a risk that local authorities may concentrate too heavily on non-financial resources at the danger of denying individuals their entitled support package. **We would therefore prefer that the asset-based approach is a subsequent consideration to enhance an individual's support arrangement and urge the guidance to reflect this.**

In order for social work practitioners to advise individuals effectively on the resources available to them in their area, it is important that they are fully informed and have the necessary contacts available to provide comprehensive advice. To ensure this, **the ALLIANCE believes that the guidance should promote more effective collaboration between local authorities and Disabled People’s Organisations / User-Led Organisations within their area in the promotion of asset-based approaches to support individual needs.**

The ALLIANCE believes that a standard system for resource allocation would be a preferred approach to ensure that people receive an equal level of service and an equitable support package wherever they are in the country. We believe that more consistent approach could be promoted within the guidance by presenting a broad set of principles to which all local authorities should adhere. Such principles may include, for example, the allocation of support to enable individuals to attain the main aspects of independent living as set out in the statement of intent. We believe that this would also progress the opportunities for individuals to be able to transfer their support arrangements between local authorities, thus enhancing their freedom of movement as it is stipulated within the UN Convention on the Rights of Persons with Disabilities.

While we appreciate local expertise, and value the relationships that can be harnessed by practitioners, the ALLIANCE is concerned that such reliance upon individuals may lead to inconsistency and preferential treatment from those who are more qualified or have more authority to offer greater amounts of support etc.

Eligibility and Assessments

The ALLIANCE does not believe that the guidance should refer to “a good quality assessment” as it should be the aim that all assessments are of an equal standard. While we welcome the inclusion of, and would like to see more, examples and case-studies demonstrating the desired assessment practice, this should be advocated as a standard approach. We believe that such an approach should follow the principles laid out in the guidance, but that **the guidance should go further in giving an indication of how the conversation between professionals and people should be conducted. This could encourage greater confidence that the process will be universally applied with the central aim of empowering individuals to steer the assessment.**

Most importantly, the ALLIANCE, in agreement with our members, believes that the connection between eligibility criteria and outcomes based assessments relies too heavily upon individuals meeting the initial threshold for support without having had a person-centred discussion of their desired outcomes. This, the ALLIANCE believes, could prevent individuals from getting the right level of support to meet all aspects of their lives. **Through consultation with our members, the suggestion was posed that an outcome based discussion is conducted as one of the main factors in determining an individual's eligibility for support.** There has been considerable research undertaken, such as the Talking Points Approach, which has demonstrated the positive effects of person-centred discussions upon individual outcomes. The ALLIANCE supports the integration of such an approach into the delivery of eligibility assessments.

In this regard, through consultation with our members, the ALLIANCE found there to be a concern with the current guidance on the assessment in respect to the identification of outcomes. It is believed that there is not enough direction given on the discussion that should take place between the individual and professionals conducting the assessment. While the identification of outcomes is a personalised approach, individuals who have not been given choice over their own lives previously, or may be unaware of their rights and opportunities, may find this to be difficult. With existing Self Directed Social Care, such as direct payments, being mainly accessed by individuals who have full capacity and the ability to manage their support finances, there is a concern that the guidance is too dependent upon individuals having such capabilities. The assessment should be accessible and appropriate to all individuals who require social services. We therefore believe that there should be a framework for the discussion to be had between the professionals and the individual in order to support them in the identification of their desired outcomes. Within this conversation, a power shift needs to occur from the profession to the individual to enable a truly person-centred approach. This need not be prescriptive, but more of a template conversation, including for example:

- Individual's aspirations for employment or education
- Preferred living situation (who with and where)
- Hobbies and interests
- Social relations
- Preferred mode of getting around
- Preferred communication style

Through this approach the assessment process can be a meaningful identifier of the most appropriate support for the respective individual. Such a conversation should form a key component of the allocation system employed by the local authority in deciding upon the social arrangements that will best meet the individual's life. In order for such an assessment to be carried out effectively and consistently across Scotland, the ALLIANCE believes that practitioners conducting assessments with individuals must be fully aware of the intentions of the Act. **Therefore, the ALLIANCE would like to see a greater emphasis on providing practitioners with training to deliver the Self Directed Support strategy.** The professional's role in the application of eligibility criteria should reflect the intentions of a personal outcomes based approach. As well as considering how a person's needs and risks might change, they should also take account of the changing nature of an individual's personal outcomes.

The ALLIANCE believes that the guidance does not adequately consider the needs of individuals with fluctuating conditions, for whom their eligibility for support may only occur when their condition has an effect. The assessment process, we believe, must be conducted in such a way to consider the effect of a person's condition over time. **To do this, the ALLIANCE suggests the assessment takes account of the individual's condition history for the previous year in order to determine the level of support that might be required, should their condition display a higher level of impairment.**

Monitoring and review

Compared to the detail given in the guidance on the assessment process, the ALLIANCE believes that this section lacks depth and does not follow the same principles as expected through assessment. The ALLIANCE believes that the review process is as essential, if not more important, in demonstrating the benefits and pitfalls of an individual's Self Directed Support package. **The ALLIANCE feels that there should be far more robust guidance on the review process, which recognises the impact that a review can have in assessing the suitability of an individual's support in meeting their outcomes.** Given the underlying principles of the guidance being choice and control, we believe that the review process should give the individual greater opportunity to evaluate whether their arrangement is meeting their needs and to choose another option if necessary. We therefore believe that the guidance on reviews should incorporate principles for effective review, including:

- A timeframe for conducting the review – through consultation with our members, **the ALLIANCE believes the guidance should recommend that reviews are conducted within the first three months of an individual beginning to self-direct their own support.** Without this being specified, we feel that the onus is too heavily on the individual to decide when to review their situation, and that some will be unlikely to do so. If people are new to directing their own support, the novelty may override the reality of whether the support is effectively meeting their needs. This is both potentially detrimental to the individual and inefficient to the tax payer who may be funding support that is not achieving the desired outcomes.
- Following this the ALLIANCE strongly recommends that the guidance specify that: **if an individual requests a review, the responsible social work department should aim to conduct this within a reasonable timeframe.**
- Choice should be more strongly emphasised through the guidance on reviews – as the guiding principle of the Social Care (Self-Directed Support) (Scotland) Act the ALLIANCE believes that the review process should be one of the main mechanisms to increasing an individual’s right to choose between the four options of Self Directed Support, especially if their initial decision is not meeting their intended outcomes. **We would therefore like to see a clear direction within the guidance that the four options of Self Directed Support should be reconsidered during the review process to enable the individual to change how their support is delivered.**
- For the review to be most effective to the individual to whom it is related, they must be in control over how the review is conducted and who is present during it. The ALLIANCE has become aware of situations where individuals have been told that their Personal Assistants are not allowed to be present in the individual’s review. This, we believe, goes against the principles of choice and control and that individuals should be chairing the review process in a way that meets their needs. **The ALLIANCE urges that the review section of the guidance should be expanded to incorporate the individual’s right to determine the conduct of their review.**

Finally, the monitoring of Self Directed Support should incorporate a role for the local authority to analyse the needs of those in their area at a strategic level, including whether there are unmet needs. To do this, the local authority should have the potential to collect all data to and from their commissioning pattern for future use.

Commissioning for self-directed support

As stated above in the section *Monitoring and review*, **the ALLIANCE believes that there should be a greater relationship between the collection of data during the review process and the planning of services to meet the needs, specifically in relation to un-met needs.** While we value the emphasis in this section on consultation with user groups, **we believe that there is a much more streamlined effect if the data collected during individual assessments and reviews can be utilised to influence the commissioning strategy of the local authority.** We would therefore suggest that the guidance advises local authorities to use data gathered during individual reviews to inform their strategic planning. An example of this is the IROC tool used by Penumbra which produces individual data that is aggregated up to shape service development.

Options

The ALLIANCE believes that, given the choice of four options of Self Directed Support is at the heart of the Social Care (Self-Directed Support) (Scotland) Act, the guidance on this section could be far clearer and provide a better opportunity for individuals to make an objective choice between them. Our members believe that this could best be achieved by increased use of personal stories and individuals' lived experiences of the Self Directed Support process, or examples illustrating how the options can be communicated in practice.

In general terms, **the ALLIANCE firstly believes that there should be provisions made within the guidance to allow people to have sufficient time to consider which of the options they would like to select before making a final choice.** We would not like to be prescriptive about this time period as it will depend on the individual's capacity to make an informed decision. However, we would support the guidance's inclusion of a statement of the following sentiment; "Having been given information about, and following a discussion on the implications of the four options of Self Directed Support, individuals should be given sufficient time to consider the choice of support that would best meet their outcomes".

Secondly, during consultation with members, it was suggested that **there should be a national script for describing the four options of Self Directed Support to the individual, which is not necessarily conducted by the local authority.** This is for two reasons.

Firstly, we believe that, no matter where in the country, individuals should have equal understanding of the four options of Self Directed Support in order to have the same opportunities to access support that best meets their needs. This should not be dictated by the absence of local provision or the resources available within the local authority. Therefore, it is vital the information about the four options of Self Directed Support is communicated to the individual in a style that they understand, and provided in a format accessible to the individual. Secondly, we believe that there may be a conflict of interest if the local authority is responsible for offering the four options of Self Directed Support at the same time as having a financial interest in securing provision under Option 3.

Following a standardised approach, describing the four options of Self Directed Support – as described in the above paragraph, our members suggested that **there should be local information included within the consideration of the best option to meet individual outcomes**. By having knowledge of the available services and support within their area, individuals should be more able to make a fully informed decision on the support they would like to receive.

Finally, to ensure that individuals have the knowledge and understanding to make informed choices in respect to the proposals outlined in the previous paragraphs, **the ALLIANCE believes that the conversation between professionals and individuals should be officially recorded with a copy made available to the individual**. This would enable the individual to reflect upon their decision at the appropriate stage if they feel that their support needs could be best met through another option.

The ALLIANCE will now comment on the specific aspects of the options.

Option 1 – While Direct Payments have been available to people eligible for social care since the Community Care (Direct Payments) Act 1996, the uptake has been comparably low to those who use commissioned services and to other areas in the UK. The ALLIANCE is concerned that the guidance on Option 1 does not give sufficient acknowledgement of the potential benefits to individuals through direct payments and does not provide an adequate reassurance that individuals will be supported throughout the process in order to manage their direct payment in a way that meets their identified outcomes.

To rectify this, the ALLIANCE supports the recommendations, set out in the response from the collaborative consultation event June 6th, to include in the guidance:

- **Giving individuals the opportunity to try Option 1 with the knowledge of being able to switch to another option**
- **A fixed review period**
- **Real life examples demonstrating the benefits of option 1**
- **Confidence in a support infrastructure, such as CILs.**
- **Information on where to get support in managing a Direct Payment**

Option 2 – The provision for individuals to be able to access a full range of support must be equally available through Option 2, as it should be through Option 1. There is a concern that the suggestion in this section that; “Typically, the individual will be informed of a resource that will be made available to deliver their support plan”, undermines the individual’s right to choice of support and control over its delivery.

While the ALLIANCE supports the intention of section 57, to give someone the flexibility over the commission of their support, the implication in the guidance is that the individual would need to have a good degree of understanding over the financial arrangements. **The ALLIANCE would like to see clarification of this section, which recognises the individual’s right to determine the support that they receive without being responsible for directing the financial resources to fund it.**

On the other hand, we welcome the tone of section 58, clearly stating that the individual is the director of the provisioning of their support. However, we are confused as to why this could not include the employment of a personal assistant who is paid for out of an Independent Service Fund that is held by the local authority or another third party. This restriction seems unnecessarily restrictive and we feel that there is enough distinction between this option and Option 1 for this to be a valid arrangement.

Option 3 – While there have been suggestions made throughout the consultation period that Option 3 is promoted as maintaining the current service provision, the ALLIANCE believes that Option 3 offers the potential for those who wish to remain supported by local authority provisions to have equal access to self-determination through a co-productive dialogue with the local authority. However, **the ALLIANCE believes that there needs to be a more explicit reference to their choice and control being upheld within the context of local authority arrangements.** This could simply be achieved with the addition of this phrase being attached to Paragraph 60.

Our primary concern with this section relates to the assumption that Option 3 will continue to be selected by large numbers of individuals, and would therefore like to see the removal of the first sentence in Paragraph 60. This is because within the spirit of the guidance, the ALLIANCE believes that choice and control should be made freely and that the self-directed approach should be promoted through other mechanisms, such as Options 1 and 2.

Option 4 – The provision made available in Option 4, for individuals to “experiment” with the other options to identify if their needs can be appropriately met, is supported by the ALLIANCE as we believe that choice cannot be made without experience of available options. However, **we feel that there needs to be a robust review process in place for individuals who have a mixture including a direct payment in order to assess the suitability of this option and allow individuals to amend their support arrangements.**

Information

The provision of information regarding the options of Self Directed Support and the management of support is central to the successful delivery of the Self Directed Support strategy. This could, however, be undermined by the fact that it is dependent on local authorities’ assessment of whether such assistance is reasonably required which determines if an individual receives the information necessary to make an informed choice of the four options of Self Directed Support. There appears to be a lack of consistency within the information section as it suggests that individuals “should be able to access information and advice”, whereas the ALLIANCE believes that there should be a duty to ensure the person has this access when making a decision, including about informal support. **The ALLIANCE therefore recommends that information provided must be accessible and available to all individuals who are eligible for social services, and that they should be made aware of their right to this information from the outset of their engagement with social services.**

The ALLIANCE has a similar concern around the local authorities’ judgement of whether they consider it appropriate to offer information to individuals who may require advocacy support. We feel that the principles of independent advocacy are based upon an individual’s assessment of its benefit to their situation and should not be restricted at the discretion of local authorities. **Therefore the guidance should make it clear that local authorities should present the option of advocacy to all individuals going through the process of Self Directed Support.**

The ALLIANCE is concerned that there is the potential for there to be a conflict of interest within the provision of information to individuals who may then decide to either purchase services from the local authority or choose to receive direct services from them. While it is reasonable to set out in guidance that the information should be provided in an impartial and transparent manner, it is conceivable that the local authority may be under pressure to present options that benefit their delivery of services.

The role of the NHS

The ALLIANCE strongly supports the inclusion of guidance on joint working between health and social care. We value a commitment to increasing a collaborative approach between services with respect to both financial and human resources. Within the current framework of legislation, specifically the Community Care (Joint Working etc.) (Scotland) Regulations 2002, the ALLIANCE believes that the guidance gives sufficient explanation of the opportunities to share responsibility between the local authority and health boards. However, **the ALLIANCE believes that the guidance could be stronger in demonstrating the social care functions that can be transferred to the NHS and the process through which this is achieved.** Given the low take up of support through this mechanism and the small number of people in Scotland who receive jointly-funded packages, the ALLIANCE believes that there is an opportunity within this guidance to promote the increased collaboration between local authorities and health boards to ensure that Self Directed Support is effectively applied throughout health and social care.

The guidance must also be considered within the context of current developments including the progress of the Public Bodies (Joint Working) (Scotland) Bill. Implementation of the provisions of the Bill will have a major influence in the direction and delivery of Self Directed Support. With the potential for health boards to take the lead on the joined up delivery of services, we believe that the health service must become sufficiently adept in promoting and distributing Self Directed Support packages to those who have both social care and healthcare needs.

The guidance should clearly state that **Self Directed Support is an opportunity to meet both the health and care needs of individuals and therefore the funding should not only focus on one aspect, but to understand the holistic nature of individual outcomes. We therefore believe that paragraph 90 could be more flexible in the approach to jointly funded budgets by focusing on agreeing individual outcomes rather than the services to meet specific health or social care needs.**

Based on the findings from the NHS Lothian and Fife test site evaluation it is clear that given the freedom, people can use budgets creatively to meet their desired health outcomes in a fashion which often reduces the cost of health services. Therefore allowing a more flexible approach to joined up budgets, **would provide the potential for a far more fluid system for funding health and social care needs in the future.**

Children and young people

While the section on children and families gives a comprehensive overview of social care law relating to children and young people, the guidance fails to adequately discuss the application of Self Directed Support for children and their families. There are many aspects of providing Self Directed Support which have specific implications for children and young people, these include:

- The potential for Self Directed Support to be utilised in an educational setting. For example, a family may wish to employ a personal assistant to accompany their child within the school environment, while they would be within their right to do so; this has a number of implications in the planning and delivery of universal educational support for children with additional support needs. Another example is that the direct payment may be used to purchase private educational services in preference to that provided by local authorities, such as home schooling or after school support. Again this has major implications for commissioning of educational services for disabled children. **We believe that the guidance should give specific reference to potential of opportunities for Self Directed Support to be employed between health, social care and the education system.**
- While the ALLIANCE are satisfied with paragraph 93, taking account of the role of the named person, **we would like to see in the guidance specific reference to the Child's Plan (introduced through the Children and Young People's Bill) which makes the link to the potential opportunities for Self Directed Support to achieve joined up outcomes for children and young people.**

- The ALLIANCE would like to see a stronger emphasis on child protection issues set out within the guidance. While it is stated that it is the local authority's responsibility to safeguard and promote the wellbeing of children, the ALLIANCE believes that Self Directed Support presents a number of potential issues in relation to the protection of children. **We would therefore urge the guidance to include a specific reference to the process of ensuring that Self Directed Support can be utilised for children and young people in a way that maximises their choice and control while preventing them from being at risk of abuse.**
- During the passage of the Social Care (Self-Directed Support) (Scotland) Act, there was a specific amendment to remove age from the criteria of the consideration of a child's views of the four options of Self Directed Support. The ALLIANCE is therefore disappointed that the guidance makes such a clear distinction between children under and over 16 years of age, as we believe that those under 16 have just as much right to make an informed decision of the choice that best meets their outcomes. We are concerned that placing a duty on the appropriate person, most likely to be the parent, could be too restrictive of the child's ability to have their views and opinions taken into account. **We would therefore like the guidance to give more direction to local authorities to put a system in place that gives children and young people an equal opportunity to express their choice and control over the four options of Self Directed Support.**

Given the many issues that concern children and young people in all aspects of Self Directed Support, **the ALLIANCE believes that the guidance relating to children and young people should be interspersed throughout the guidance, alongside that relating to adults.** We believe that this would mainstream the practice towards children and make the transitional process between child and adult services smoother.

Decision making

The ALLIANCE believes that this section of the guidance should be framed from the point of view of the supported person being able to communicate on the basis of provision being made available. Therefore the responsibility for ensuring that the individual's right to choice and control must be upheld by the professional undertaking the assessment process. **The ALLIANCE therefore believes that there should be a much stronger link in this section to the right of individuals to receive advocacy support in making decisions and understanding the consequences.**

Carers

As with the passage of the Social Care (Self-Directed Support) (Scotland) Act, the ALLIANCE supports the extension of Self Directed Support to carers. We believe that the guidance is sufficient in the promotion of this availability within the guidance and that it effectively describes the process through which the four options of Self Directed Support can be offered to carers. However, **the ALLIANCE would welcome reference within this section to the dynamic between carers and the supported person both of whom could be in receipt of Self Directed Support.**

Direct Payments

As direct payments have been available to people eligible for social services since the Community Care (Direct Payments) Act 1996, the ALLIANCE would have hoped that there would be a greater proportion of social care recipients receiving a direct payment. In contrast to England and Wales, Scotland has a low percentage of social service recipients who have a direct payment. Meanwhile, much of the evidence suggests there are positive outcomes for those who have been using direct payments and the outcomes can be achieved in a more flexible and person centred manner. **The ALLIANCE would therefore recommend that the guidance places more emphasis on Option 1 being taken up by those for whom choice and control over their support could be best achieved through a direct payment.**

Through consultation with members on the uptake of direct payments, the concern emerged that the approach taken by some professionals in the explanation of the four options of Self Directed Support actively discourages individuals from choosing a direct payment on the assumption that they will not manage the associated responsibilities. The ALLIANCE fears that the focus within this section on the responsibilities incurred with taking a direct payment will exacerbate the likelihood of professionals advising individuals against choosing Option 1. **We would therefore like to see a more balanced approach that clearly highlights the benefits, beyond that of being flexible, that could be achieved through a direct payment.**

The second concern to emerge in our consultation was that the repercussions associated with not managing or misusing a direct payment may be a reason for the resistance towards taking on the responsibility. For example, the financial penalties that may be incurred if it is considered that the direct payment has been misused may be a deterrent to even those who are unlikely to purposely do so. **The ALLIANCE would therefore like to see a clear reassuring statement that individuals will not be prosecuted in this way if a direct payment has been unintentionally misused.**

Furthermore, individuals may fear that if the direct payment is terminated they will at the same time lose much needed support from social services. **The ALLIANCE would urge additions to the guidance that give a clear reassurance that should a direct payment be terminated, the individual will have options 2 and 3 made available to them, and that this transition will be managed in the most transparent and supportive manner to ensure their needs are met throughout.** Finally, the ALLIANCE is very supportive of a third party option for direct payments that could enable more people with complex needs, or those who have resisted direct payments in the past, to have the same choice and control without the stress of managing a budget. We believe that this could be more effectively expressed throughout the guidance as it has the potential to be a benefit in a variety of situations, such as:

- Those who decide to employ family members could utilise the third party option to ensure that the dynamic between support provision and payment of support does not negatively impact on the family relationship.
- Individuals who have learning disabilities or mental health issues for whom the ability to manage their own support has previously been denied due to their challenge with managing financial responsibility.
- Children and young people who have the right to receive a direct payment through their parents may benefit giving their direct payment to a third party who could potentially use it to manage parental employment, thus making it a more equal and fair employment opportunity for all parties.

Charging

The ALLIANCE is firstly disappointed at the continuation of charging for Self Directed Support under the related legislation. It is our position that the receipt of social services should be universally free, as independent living is a right that should be afforded to all. We are concerned that the guidance lacks description over charging policies and such freedom could lead to inequality between local authorities who may determine their charging policy based on the resources available. For example during the consultation process of the Social Care (Self-Directed Support) (Scotland) Act debate arose with regard to whether charging should be gross or net of the direct payment, the decision on which could potentially disadvantage some individuals, depending on the local authority's position. Such discrepancy between 32 local authorities is unhelpful and potentially damaging to the national roll out of the Self Directed Support strategy.

The ALLIANCE would therefore like the guidance to advocate a nationally consistent approach, which allows for a degree of local flexibility, to charging individuals who receive either a service from local authorities, an indicative, or an actual budget based on a fair and equitable calculation that acknowledges individuals' financial opportunities to attain a good quality of independent living. To ensure that individuals can plan and budget their support effectively, the ALLIANCE believes charging policies must be co-produced with local disabled people and their organisation, and publically available.

Our Members

The ALLIANCE is the national third sector intermediary for a range of health and social care organisations. The ALLIANCE has around 300 members including large, national support providers as well as small, local volunteer-led groups. Many NHS Boards and Community Health and Care Partnerships are associate members.

The ALLIANCE's vision is for a Scotland where people of all ages who are disabled or living with long term conditions, and unpaid carers, have a strong voice and enjoy their right to live well, as equal and active citizens, free from discrimination, with support and services that put them at the centre.

Consultation

The ALLIANCE held the consultation for members on the 3rd July 2013. We would like to thank the following organisation and individuals for their contributions reflected in the above response;

Bobath Scotland

Glasgow Council for the Voluntary Sector

MND Scotland

Momentum

Multiple Sclerosis Society Scotland (MS)

People First (Scotland)

Quarriers

Revive MS Support

Scottish Social Services Council

Scottish Council for Voluntary Organisations (SCVO)

Shared Lives Plus

Therapy4Health

Town Break Stirling Group

Wel Network Support Group

Contact Details

Thank you for considering the comments discussed in the above consultation response on the Draft Statutory Guidance on care and support of the Social Care (Self-Directed Support) (Scotland) Act. Should you wish to contact the ALLIANCE regarding the contents of this response, please direct any enquires to:

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