

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"/> X	<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"/> X	<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?

Comments

Maybe include a sentence - Where the principles of this act is for everyone within society being able to live an equal life and therefore able to make a contribution to the community as an equal citizen with rights and responsibilities.

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Consultation Questions

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"/> X	<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 type="checkbox"/>	<input checked="" type="checkbox"/> X	<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?

Comments

- Although the first contact will probably be through Social Services, we believe that through word of mouth or peer conversations it may be that individuals will want to have a bit more information about SDS from an independent source perhaps the support organisations
- Roles & Responsibilities – **'The Professional'** as long as the practitioner has had relevant training and an understanding of SDS and there is not further confusion about the process. The individual should be at the 'heart of the assessment'. **'The Provider'** – as long as the provider does not have a financial vested interest in their role'. **'Finance Officers'** do have a role although should not get too caught up on the spending of the agreed budget. Some authorities are leading by finance departments instead of the care managers.

We agree that the process should start with and always take consideration of the individual who requires support. This should be taken into consideration in every step of the way and include how much support needed. We feel that it is important that all of the people involved in the supported person's path to SDS should be working together for the best interest of the person. Therefore there will be a requirement for Professionals, Support Organisations, Third Sector and the Private Sector to be open and supporting of each other so that there is a good practice approach.

We note that advocacy does not seem to mentioned under the persons pathway as a support, some people will require this service where there could be family or organisational conflicts

- **Collaboration** – a requirement of knowing rights prior to this so that the person being supported has the same advantage of information as the professional if this is true collaboration
- **Responsibility** – sometimes people need to have the opportunity of working towards taking more control, this should be seen as raising confidence to take more control

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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"/> X	<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 type="checkbox"/>	<input checked="" type="checkbox"/> X	<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?

Comments

We feel that eligibility can be different depending on the assessing officer, this means that each assessment can be rated on who is the assessing officer. Perhaps there needs to be further work done in each council to make sure that it's not a bit of a 'postcode lottery'. We do understand how difficult this can be, however this can cause issues for people needing support.

Risk – it is important to include 'enablement risk' so that people have the opportunity to take steps to live as full a life as possible.

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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"/> x	<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"/> x	<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?

Comments

Risk – again people should be able to take small steps to being more independent with risk – using a risk enabling model (taking risks is part of life). We understand that there is a requirement to judge risk, but it should not be risk averse.

Resources – Community Development within councils and the Third Sector require to be one of the partners within the planning for sourcing and developing opportunities within communities

Choice – this will be an opportunity for the third sector/private sector to develop a market place, however people who receive services should be included in the planning of services

Information & Support – there is a requirement for councils to be more appreciative of local support organisations and value the work that they do at present and will be providing in the future. Councils will require funding support organisations appropriately and work in partnership for the benefit of the people who use the services. There needs to a recognition that support organisations need to develop their services as well as the councils.

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Consultation Questions

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"/> X	<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"/> X	<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?

Comments

Reviews – Traditionally reviews have not been on-going, we understand that this is due to the demand that is put on social workers. Social Workers should be given time to review cases. Sometimes people have had services that they do not require anymore or require different supports this can lead to people becoming dependent on services.

Sometimes due to a delay in reviewing the individual can get into difficulty. Time should be taken to support a person through difficult times so that the person feels empowered, mistakes do happen and this should not always be seen as a failure.

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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"/> X	<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"/> X	<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?

Comments

Developing choice of support – this is not going to happen overnight, therefore people may require to buy services that may not be their first choice as an option. There is a need to keep information of their first choice so that services can eventually be developed.

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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"/> X	<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"/> X	<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?

Comments

Working with NHS – there has always been the option for the NHS to provide funding to the councils to deliver direct payments since 2003. This has never been used to the fullest and therefore people who could have had this option through 'continuing health care needs' have been at a disadvantage. There is a requirement for this to be addressed immediately. There should be better working relationships build up with social services/health/support organisations/providers as there seems to be a lack of knowledge and development in this area.

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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"/> x	<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 type="checkbox"/>	<input checked="" type="checkbox"/> X	<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?

Comments

Children & Families - We feel that there is a real opportunity with SDS for families to have real choice. If children can be included in activities with their peers this is good for parents and children. Transition is a very difficult time for parents when their young person moves into adult services, this also seems to be a difficult time for social service, perhaps there is a requirement for more partnership working within social services.

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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"/> X	<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"/> X	<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?

Comments

Circles of Support – These models have been around for a long time and have not been used much. There is a requirement for more development into this area of work.

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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"/> X	<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"/> X	<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?

Comments

Carers – We are pleased that carers will now be able to have support in their own right and get direct payments. Carers will be more valued as long as their needs are taken into consideration by the assessing officer.

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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"/> x	<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 type="checkbox"/>	<input checked="" type="checkbox"/> x	<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?

Comments

Direct Payments – the writer of this report seems to switch from calling Direct Payments – Direct Payment (Direct Payment is the term used by the DWP for payment of benefits) this may be confusing.

Hopefully individuals will get information about the option 1 choice (Direct Payments) in a positive way. As mentioned previously DP's have been around since 2003 sometimes not promoted well through the councils. It would be useful to have statistics taken about the options people take so that there could be more research around what options are most popular. People for example could need more information/advice or more time to understand the options and their benefits. It is therefore very important that councils refer onto independent support organisations prior to the option choice so that it can be an independent choice.

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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"/> x	<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 type="checkbox"/>	<input checked="" type="checkbox"/> x	<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?

Comments

Sometimes other Act's and legislation can cut across the use of SDS, for example the Protection of Vulnerable Groups does make it difficult to make sure that people are protected. This is due to the sharing of information in relation to SDS this is particular in sharing with Social Services and Support Organisations who are supporting the employers through this.

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?

Comments

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.

Comments

Direct Payments – as long as people get enough funding in their budget to be able to buy the appropriate services. Some providers who deal with specific conditions have particularly high charges, this may mean that the individual can only buy a smaller amount of these services and therefore not totally meet all their needs.

Support Organisations – require to be funded appropriately as they are managed by user-led boards and usually do not have the workforce that larger organisations have in relations to having departments for HR/IT etc,

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.

Comments

We believe in equal rights for everyone

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>

Comments

Everyone should have equal rights

Consultation Questionnaire

Draft Regulations

Consultation Questions

Question 1: What are your views on Part 2 of the draft Regulations (calculation, payment and termination of direct payments)?

Comments

Calculation of Budget – the budget should be enough for the person to meet the outcomes within the assessment. It is difficult to assess how this will work until this is in practice.

Charge for Service – we agree that as previously mentioned this should be fair and equitable

Charge Net or Gross – we feel that this should be ‘net’ as this is more independent (people topping up their funding to pay for services, as this is more in line with having a personal budget)

Payment of Budget – We feel that this could get very confusing as small instalments might not cover all of the costs and could therefore lead to bank charges. If people are in control of their budgets and free to buy for their outcomes this would not work. It may be better to pay 6 monthly, as if buying respite you would need this paid more upfront. We could see this being more complicated for finance departments maybe looking back at the CIPFA document

Payment to Third Party – We have a Payroll/Budget Management Service and find that some authorities are quite resistant to individuals using ‘Third Party Banking’ to manage their budget. We feel that people can direct their support but may need extra support with the budget this should not exclude you from direct payments.

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

Comments

Employment of Family Members – In our experience as a support organisation we feel that the employment of a family member requires being on an ‘exceptional circumstance’. We have first-hand experience, due to the employment climate, of family members wanting to be employed due to financial gain the supported person is coerced into it. Sometimes having different sides of the family working in the same team arguing about employment. The supported person can become more dependent on their family instead of independent. For some people it may be the right decision to employ family members but this is in the minority.

Question 3: What are your views on Regulation 11 which deems individuals who are placed under a variety of criminal justice orders to be ineligible to receive direct payments?

For example, is it appropriate to impose the exclusions listed in Regulation 11? Are there any persons not listed in regulation 11 to whom it would be inappropriate to offer the option of a direct payment?

Comments

We feel that we don't have enough experience of this group to give comments.

Question 4: What are your views on restricting access to direct payments for those who are homeless, those who are fleeing domestic abuse or those who require support in relation to drug or alcohol addiction?

Comments

We agree that direct payments should be opened up to this group, however this grouping may need additional support and this should be funded to allow this

Question 5: What are your views on restricting access to direct payments in relation to the provision of long-term residential care?

This question was raised during the initial consultations on a draft SDS Bill. The Scottish Government would like to invite detailed views before making a final decision prior to the laying of the Regulations before the Scottish Parliament. Should the restriction be removed from the final regulations, thereby allowing direct payments for residential care? Or should it be retained? Please provide reasons as to your support or opposition to requiring authorities to provide direct payments for residential care.

Comments

We strongly support direct payments and other developments for people using residential care no matter what age. We believe there could be more choices and opportunities developed through the 'Market Place' to give a better quality of life.

Question 6: The draft Regulations do not specify circumstances where the direct payment option should be unavailable for care and support to children/families. *Should* there be specific restrictions on choice of support in relation to children/families support (i.e. support provided under Section 22 of the Children (Scotland) Act 1995) and should these restrictions apply to the direct payment only, or to other options as well?

Comments

Question 7: Do you have any further comments on the draft Regulations?

For example, are there any gaps in terms of the topics covered by the Regulations? Are there any major changes that you would recommend? Are there any topics that are more appropriate for statutory guidance rather than Regulations?

Comments

Draft Regulations

Consultation Questions – General Questions

The costs and benefits arising from these regulations

Question 8 : Do you have any comments on the financial costs or benefits of the Regulations?

Can you identify any financial costs or benefits to individuals, local authorities, health boards, providers or any other person or organisation affected by the Regulations. 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.

Comments

The equality and human rights impacts of the regulations

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.

Comments

We believe that it should be equality for all

Question 9 (b): Do you have any views on the impact of the Regulations 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>

Comments

We believe that everyone rights should be taken into consideration