

**Barnardo's Scotland response to draft Self-directed Support
(Direct Payments) (Scotland) Regulations 2013**

Barnardo's Scotland welcomes the publication of the draft regulations and pleased to have the opportunity to respond to them.

Part Two of the Draft Regulations

Barnardo's Scotland agrees with the draft regulations as set out in Part Two. However, we believe that people should have the right to appeal any of the decisions made under Part Two. This should be set out clearly in the regulations and guidance.

Part Three

In relation to the circumstances where a family member may provide support we have some concerns with how the regulations are currently drafted regarding 9.2.a. We are concerned that the regulations, as currently drafted, would mean that a child in receipt of care via a direct payment may not have a say over the decision regarding whether or not a family member provides that support as the agreement is made between the 'family member' and the 'direct payment user'. The definition of 'direct payment user' could refer to the parent/guardian of a child in receipt of care. We believe that a child should be involved in decision-making relating to their care as set out in Section 8 of the Social Care (Scotland) Act, which relates to the decision around which option to choose.

We also have some concern with regards to 9.2.b which states that a family member must be 'capable of meeting the direct payment user's assessed need'. We believe that it is important that the term 'capable' is defined in order to ensure that an appropriate decision is made regarding the delivery of care. This could be set out in the statutory guidance.

The regulations should be amended to reflect the above comments.

Part Four

Barnardo's Scotland has some concerns regarding the list under 12.2. Although we understand that there may well be circumstances where it would not be the best course of action to allow a homeless person, a victim of domestic abuse or a person dependent on alcohol or drugs to choose Option 1, we do not think that this would always be the case and so to arbitrarily list those under categories

12.2.a, 12.2.b, 12.2.c we believe is unfair. We believe that local authorities should have the power not to require to give someone the opportunity to choose option one, but that this should be left to the discretion of the social worker/professional with support from the statutory guidelines.

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