

# 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 checked="" type="checkbox"/>	<input 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?*

The College of Occupational Therapist supports the values and principles. Joint commissioning with health can raise issues regarding choice especially in relation to appointing private practitioners through a direct payment this can be explored further in section 8.

## Draft Statutory Guidance on Care and Support

### 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"/>	<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"/>	<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?*

The College of Occupational Therapists welcomes the section on Participation as this will support individuals to participate in the activities of their choosing, which are meaningful and purposeful to them. The value of meaningful and purposeful activity, although evidenced, seems often to be overlooked but is essential for health and wellbeing, and therefore to the economy.(Creek 2003)

The section on Involvement where it states “Communities should be assisted to play an active role in the commissioning of services” needs to be clarified further. It is difficult to understand what is meant by this and indeed who is responsible in doing this?

**Draft Statutory Guidance on Care and Support**

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

In Regards to Eligibility Criteria the College of Occupational Therapist welcomes the inclusion of prevention, however there needs to be clarity around the point that the Eligibility decision is made in relation to SDS. Although not good practice an initial decision is often made at the point of referral which then informs how quickly a person is then assessed or indeed if they are signposted at this point prior to receiving an assessment.

Despite the Scottish Government Eligibility Framework there is no standard throughout Scotland and leads to a risk of increasing inequality in those areas which already have a high level of demand/health inequalities to address. The College would welcome a standard throughout Scotland to ensure equity.

In regards to assessment The College welcomes the mention of using professionals in regards to assessment and the emphasis on collaboration.

Implementing an outcomes approach though a standardised assessment tool would assist in evidencing that an outcome had been achieved.

The College would like to draw your attention to the Canadian Occupational Performance Measure (COPM), evidence based measure used by occupational therapists. It helps clients to identify and prioritise what they wish to do and can score their progress and outcomes with them. This supports the self directed care and personalisation agenda and the need for 'supported assessment'. It provides evidence to the organisation that their occupational therapists are effective in their practice and delivering desired outcomes, and also evidence of positive use of SDS.

Whichever assessment tool is used co-production must be at the heart of the assessment where the person identifies the things that they can and want to achieve alongside things that they may require support to achieve.

In point 39 it states that "the support plan (where the person is eligible for support) should articulate the eligible needs, outcomes and plans for the individual"

In order to ensure co-production and a person centred approach it also needs to include the ineligible needs and how either the person or other services can assist in meeting the desired outcomes. e.g. Someone may wish to learn to use a computer and the local college has a course. This activity may be partly eligible in terms of assistance to get to the college, but the person may apply for the course and pay for it themselves and the college would be running the course-this brings together 3 elements to achieve 1 outcome. Unless the assessment reflects this it will be service driven with only detail the eligible need -assistance to get out in the community. This is partly addressed in Section 5. But needs to be clear in this section as well.

## **Draft Statutory Guidance on Care and Support**

### **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 checked="" type="checkbox"/>	<input 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?*

The College welcomes the acknowledgement that professional expertise is required to complete the assessment. In Scotland there are approximately 500 Occupational Therapists employed in local authorities and often 'care manage' people with long term conditions.

Occupational therapists are skilled in assessing the impact that a condition has on what an individual wants to do. Section 52. needs to indicate that it isn't Social Workers alone that have the function and indeed the values and principles are also clearly in line with the values and principles of Occupational Therapists. I would like to draw your attention to the COT Position Statement on the value of occupational therapy and its contribution to adult social service users and their carers (COT 2008) which shows a clear link in values.

In regards to risk it would be appropriate to refer to Moving and Handling equipment in this section. Local Authority Occupational Therapists often provide specialist equipment to people and if they opt to take a direct payment and employ a PA/agency there are training needs that must be identified as well as a retained duty to ensure that the equipment is being used safely. I would like to refer to the College of Occupational Therapist Manual Handling Guidance 2006

#### **4.1.3 Delegation outside of the line management structure**

When delegating manual handling tasks to others outside of the line management structure-

It is vital that the delegating occupational therapist is aware of the manual handling policy of the other service or organisation, and the impact of the policy on the activities the other person is being asked to perform. Their line manager or employer should be made fully aware which manual handling task/s are being delegated.

It is important to note that when delegating tasks (or providing guidance) to others, whether within a line management structure or manual handling method and the required skill level;

- provide detailed guidance to delegated ‘supervisor/s’ of the care team to pass on to their staff. It would not be considered reasonably practicable to keep re-visiting the situation to guide each and every member of the team;
- be advised when equipment is delivered and the plan is initiated, and ensure that the situation is monitored regularly.

It is important to note that the occupational therapist is NOT responsible for the provision of formal training to care staff, unless this is recognised as part of his/her designated employment role. However, he/she may wish to feed back any training needs identified whilst working with care staff.

## **Draft Statutory Guidance on Care and Support**

### **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"/>	<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 checked="" type="checkbox"/>	<input 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?*

Comments

## **Draft Statutory Guidance on Care and Support**

### **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?*

Comments

## **Draft Statutory Guidance on Care and Support**

### **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?

The College of Occupational Therapists supports joint commissioning and is hopeful that the Public Bodies Joint Working (Scotland ) Bill will go some way to remove the artificial divide between Health and Social Care. A persons needs and what makes them well can rarely be divided in this way.

There are still risks though that decision will be based around what is considered to be Health and what is considered to be social care.

There is also the question of Direct Payments being used to employ a private practitioner e.g. Nurse, Physiotherapist or Occupational Therapists and this indeed would reflect real choice.

**Draft Statutory Guidance on Care and Support**

**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 type="checkbox"/>	<input checked="" 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 section 93 It states that the names person will be a person from Health or Education but doesn't mention Children's Social Work Services whose teams can be involved prior to birth. Is this an omission or intended?

**Draft Statutory Guidance on Care and Support**

## 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?*

Comments

## Draft Statutory Guidance on Care and Support

### 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 checked="" type="checkbox"/>	<input 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?*

Comments

## **Draft Statutory Guidance on Care and Support**

### **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?*

Comments

## **Draft Statutory Guidance on Care and Support**

#### 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 type="checkbox"/>	<input checked="" 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"/>	<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?*

In regard to Section 143 it indicates the potential for choice in relation to SDS rather than Re-ablement, but it doesn't refer to rehabilitation outside of this which could potentially be made through a direct payment. An example would be

someone using a personal trainer to build upper limb muscle strength after a spinal injury instead of the local 'rehab' service. Further examples and descriptions are required here in order to ensure clarity.

In Section 153 there is a question of alternative funding streams that are available to an individual for an adaptation through the scheme of assistance. This needs to be referenced here and there is also the facility for the individual to arrange their own adaptation. The College of Occupational Therapists would like to draw your attention to the Adaptations Working Group - Final report - Adapting for Change <http://www.scotland.gov.uk/Topics/Built-Environment/Housing/access/ROOPH/ADWG/finalreport>

Following this there is the Consultation Issue regarding people fleeing domestic abuse, assistance to address homelessness or drug and alcohol addiction. Although the College of Occupational Therapists understands the reasoning behind the exclusion of these groups there really is an issue in regard to equity, equality human rights and indeed an individual person centred approach.

All 4 options should be offered and the Skilled professionals role would be to ensure that some of the risks involved are negated by the support offered and the agreements made during the assessment. E.g. small instalment payments, advocacy, informal carer agreeing to support the person.

There are potential health and wellbeing benefits when people are able to make decisions and take control.

## **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 College of Occupational Therapists is the professional body for over 28,000 occupational therapists, support workers, and students in the UK, of whom 3,000 are in Scotland. COT contributes to policy consultations throughout the UK, sets professional and educational standards for OTs, provides leadership, guidance and information relating to research and development, education, practice and lifelong learning.

OTs work in a variety of settings including the NHS, Local Authority Social Work Services and Housing Departments, schools, primary care settings and a wide range of vocational and employment rehabilitation services, including within the voluntary and private sectors. Occupational therapy is founded on the concept of occupation/activity being essential to human existence, and to health and wellbeing. Occupation has the potential to restore, maintain and improve physical and mental health and to prevent ill health. OTs are regulated by the Health Professions Council and work with individuals of all ages with a wide range of

occupational problems resulting from physical, mental, social or developmental difficulties.

If you require any further information please do not hesitate to contact me  
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College of Occupational Therapists  
01289 305560  
Gabrielle.stewart@cot.co.uk

#### 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

#### 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

#### **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

## 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

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

Comments

**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?

This area does raise concerns in regard to health inequalities

**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?**

Once again this raises issues in regard to equality and human rights and should be based on individual assessment and not of a specified group

**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.

**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

**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