

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"/>

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?

While we welcome the clear pathway set out in **Table 1**, 'The person's pathway', it is the view of Discoveries that **Step 2: First contact, and Table 2: role: the professional** should signpost the supported person or their representative to Advocacy and Brokerage support services, in advance of assessments (and reviews) in order for the person to plan for and articulate their view of a good, ordinary life. Advocacy and brokerage may also be required during and post-assessment. It is our view that people should be signposted at this early stage in order to be supported to think in an outcomes-focussed and creative way about what can be arranged and achieved, with paid and unpaid support. The person should have the decision of whether they wish to contact these services, rather than when the professional sees fit; giving more control to the person, in line with the ethos of Self-directed Support.

This section should also take the opportunity to mention that eligibility criteria should be shared publicly and with supported people at as early a stage as possible, in order to promote coproduction and transparency. Eligibility criteria should be clear and accessible.

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 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?

It is our view that setting out clear principles in the guidance is a positive step; however, with only some of the principles being statutory, this risks a lack of change and innovation. Discoveries feel that there should be further emphasis in the Statutory guidance on the right to an ordinary, good life. Our views on **table 3**, are as follows:

- **Collaboration:** Eligibility criteria should be clear, transparent and accessible from as early a stage as possible, to support the person in feeling an equal partner in the assessment process.
- **Informed choice:** Again there should be mention of signposting to Advocacy and Brokerage support at as early a stage as possible. Our work with individuals and families informs us that a lack of this type of support leads to a lack of confidence, ability to articulate desired outcomes and lack of opportunity to plan for a) What a good life looks like to them and b) How paid and unpaid support could help make this happen.
- **Innovation:** Although it is not a statutory principle, it is hoped that the use of the other principles will lead to innovation, with the help of creative thinking from people, professionals, providers and advocacy/Brokerage services. Discoveries feel it is essential that we think of Individual Service Funds as a pot of money to be as creative and flexible with as possible, to meet the outcomes of people.

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 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?

Discoveries welcomes **section 4, point 25**, that the authority should 'publish the eligibility criteria/framework and it should do so in a clear and transparent way'. However, we feel there should be more emphasis on this throughout the legislation and that eligibility criteria should be:

- Available publicly
- Clear and accessible
- Available to people and their circles of support at as an early a stage as possible, to promote true coproduction and transparency in the process.

The work that Discoveries has done with families has informed us to a real barrier here; people tell us they do not know why they are denied assessment in more detail than they simply were not eligible. This leads to a lack of confidence and empowerment, undermining the ethos and principles of the Act.

We feel it should also be included in the guidance that assessments should be done with sufficient notice. People inform us that all too often assessments are done with very little notice- leaving no time to seek support to plan, prepare and articulate desired outcomes. Guidance should make it explicit that eligibility criteria must reflect the statutory principle of participation and a right to an ordinary life.

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Consultation Questions

Section 5 : Support Planning

This section of the guidance covered:

- general guidance on support planning

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

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

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

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

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

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

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

Table 6: key ingredients are a useful inclusion to the guidance. However, we feel there should be a reminder that what we are talking about with people is the right to an ordinary, good life. With the current use of the word outcomes, it is important to remember that to many people, this is more jargon and may isolate them from the process. People that we have worked with as part of Discoveries tell us that ordinary, everyday language provides the most accessible experience.

Section 5.3: This section is an important, positive reminder that the assessment should not be all about the financial resources available and that many other aspects can come in planning for a good life- hobbies, community, family, friends, work. Discoveries feel that this brings up two important points to be emphasised in the statutory guidance;

- The opportunity to use Individual Support Funds in creative, innovative ways, thinking about what else a person can access to meet their needs aside from traditional services. Discoveries hope to see and to produce case studies of this happening as the Act becomes practice over the next few years; true examples of people being supported to think differently about 'support' and what is possible.
- Linking in with making the above point a reality, people all too often require support to think in different, creative ways, as they may have never been encouraged to do so before. Again, we would reiterate the need for people to access innovative planning tools and support to have their voices heard, **pre-assessment and pre-review** if the person sees fit, in order to best utilise the assessment and feel confident in articulating their desired outcomes.

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?

No comment on this section.

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?

No comment on this section.

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

No comment on this section.

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?

No comment on this section.

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?

Point 106: Discoveries welcomes the recognition that people may require further assistance with decision making and we feel that there should be a degree of emphasis on the supported person having the knowledge to access advocacy and brokerage in order plan, seek support and information, and to shape the support package post-assessment, rather than the professionals signposting at a stage they see fit.

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?

No further comments on this section

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

Point 126: circumstances where professionals cannot offer a Direct Payment:

It is the view of Discoveries that we are against the blanket exclusions of those who have been deemed ineligible to receive a direct payment. We feel that each case should be discretionary due to the often complex requirements of individuals and that exclusions undermine the fabric of the Act—The right to a direct payment should be a default position, with the Social Worker having the discretion not to offer this; only where there is evidence that it would not be spent or managed in a way that would meet their outcomes. Individuals should not be denied this right purely because of a label.

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

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

Very useful	Quite Useful	Not very useful	Not at all useful
<input 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?

No further comments.

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 main areas that Discoveries feel are lacking in the guidance are:

- Our points about accessing Advocacy and Brokerage at an early stage.
- Accessibility of eligibility criteria.
- An emphasis on people being support to use their 'pots of money' (ISFs) and other mechanisms in creative, flexible ways to be a part of their community and lead a good life- thinking not just about the financial resources available.

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.

No further comments here.

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.

No further comments here.

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>

No further comments here.

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)?

No further comments here.

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

It is our view that supported people should have maximum choice, control and flexibility and if this means that a family member can be employed under the circumstances listed in the regulations, Discoveries see this as a positive addition. We would hope to see all of the circumstances listed, remaining in the regulations.

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?

Discoveries disagree with any groups being deemed as ineligible for direct payments and feel it would be more in keeping with the ethos underpinning the Act, to maximise possibilities and therefore keep each person's individual case as discretionary to the professional.

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?

Please see answer above.

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.

Again, Discoveries feel it is not in keeping with the Act to exclude people who fall into this category. The restriction should be removed from the final regulations. Decisions on access to direct payments should relate to the person's ability to manage the payment (with support as appropriate) and not based on any other factor. People in residential care homes stand to benefit the most from personalisation of services.

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?

It is the view of Discoveries that there should *not* be restrictions on the choice of care and support for children and families. Due to the complex nature of families looking after children with disabilities, we feel maximum choice and opportunity should be available.

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?

No further 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.

No further 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.

No further 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>

No further comments.

Social Care (Self-directed Support) (Scotland) Act 2013
Consultation on draft statutory guidance for care and support

CASE STUDY SUBMISSION

Name of the organisation/s submitting the case study: Discoveries project: A consortium of ARK housing Association, Edinburgh Development Group, Thistle Foundation, Kindred and The Action Group.

Contact name for the organisation submitting the case study: Beverly Paterson

Contact telephone: 0131 475 2315

Contact e-mail address: Discoveries@actiongroup.org.uk

Provide your case study in the following space (maximum 350 words)

The following case study comes from a parent who was part of his daughter's Discoveries Big Plan 'team'. The Big Plan is an innovative planning tool facilitated by Edinburgh Development Group. This Big Plan was delivered in Buckie (Moray), in partnership with ARK Housing Association.

Background:

"Sarah shares supported accommodation with another lady. There's a slight difference there; Sarah really likes swimming and walking but the other person doesn't, it's a bit awkward. At weekends and when it's their holidays, they get one carer between them you see, so she can't always do what she enjoys"

Experience:

"Doing the Big Plan brought out further the things that Sarah enjoys. You can't get a direct answer when you ask Sarah a question but the people who were in her team know her well, based on past experience and what she likes doing. It's a good tool, to bring to the fore and concentrate on what she enjoys. We were trying to get more things into her life."

Result:

"Sarah loves being around young children so the Big Plan helped us to realise that she might like working with them. So, now she's helping out with the children in the crèche at a Sunday school and she also assists children with disabilities in a day centre that she attends. Sarah's support has helped make these action steps happen; they arranged for those things.

We also identified that Sarah wanted to spend more time with family - her sister, sister's husband and two children. So what we did was arrange a trip down there (to England). We stayed in a hotel while Sarah got to stay with them and get the time she needed with them.

The other thing that came out of the Big Plan was trying to arrange horse riding for Sarah during the holidays, because a lot of these places tend to shut at the same time as the schools. We're looking into that."

Difference made:

“I think it gave the carers and the family better ideas of how to support Sarah; it made us more aware that there are things out there. The concept of getting to talk on the microphone, Sarah enjoyed that. I’m not sure if it’s from the Big Plan but I’ve noticed she’s a bit more confident, she’s doing things on her own a bit more.”

CASE STUDY SUBMISSION

Name of the organisation/s submitting the case study: Discoveries project: A consortium of ARK housing Association, Edinburgh Development Group, Thistle Foundation, Kindred and The Action Group.

Contact name for the organisation submitting the case study: Beverly Paterson

Contact telephone: 0131 475 2315

Contact e-mail address: Discoveries@actiongroup.org.uk

Provide your case study in the following space (maximum 350 words)

The following case study comes from a Personal Assistant who was part a supported person's Discoveries Big Plan 'team'. The Big Plan is an innovative planning tool facilitated by Edinburgh Development Group. This Big Plan was delivered in Edinburgh in partnership with Thistle foundation.

Background:

"Before the Big Plan, Janet was almost stuck in a rut; not wanting to go out, not sure what to do- she felt anxious and would almost panic about making decisions.

Janet doesn't communicate verbally, through sign or with Talking Mats so you have to know her well, but once we were there, people from the community would join in with our team and once Janet got to know them she made some nice friends."

Experience:

"At the Big Plan we got a lot of information about things we hadn't thought of before. We talked a bit about healthy eating and someone would say 'my cousin's a chef, you should talk to them' and things like that. People really took the time to help us.

The Big Plan definitely surprised me, in terms of finding out Janet's hopes and dreams".

Result:

"The Big Plan has definitely made a big difference because we are now working on those action steps that Janet identified. When you can actually see things happen, you get such a sense of achievement. I can see how much it means to her, it's amazing".

Difference made:

"Since the Big Plan, Janet is having more of a say and is more interested in making decisions. It's definitely built her confidence. It's given her encouragement to think about what she wants to do with her life; enabled her to think about change.

It has definitely made us more able to provide personalised support to Janet; that goes for

the whole team. It has encouraged us to review Janet's 'My life, my support' plan and incorporated Janet's action points from the Big Plan into that. These are huge goals and targets. Most of them have been achieved and are being maintained, it's like we're setting the Big Plan into stone— Janet's hopes and dreams from it. There are still things that can be improved but putting this into Janet's support plan is saying 'this is what we've achieved so far, this is what we are going to do and this is why'.