

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 type="checkbox"/>	<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?

- ATP contribution was clear, step 3, financial health check
- Needs to indicate that a person will have to have a financial assessment and may have to contribute financially (at step 3) – needs to be worded carefully
- It presents a clear pathway
- Theory is good but the practice is more difficult (the guidance will help)
- Highlighting of the importance of outcomes would be helpful here

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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 type="checkbox"/>	<input checked="" 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
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<input type="checkbox"/>	$\sqrt{\quad}$	<input type="checkbox"/>	<input type="checkbox"/>
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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?

- Needs to apply to all workers and individuals that are involved with the process (and person)
- More emphasis on people’s responsibility and clarification on the term ‘safety’
- How do we really involve people in making/being involved in making an informed choice? And how do we demonstrate/do this?
- More thought (clarification) needed around risk management (and risk enablement)
- Needs to be more emphasis on safety and risk
- How do we ensure individuals are actively involved in organising and planning support?
- More clarity around eligibility or assessment – principles need to be clear and transparent – further guidance here would be helpful
- Needs to be an emphasis on the need for consistent information – and the role of independent bodies with this
- Need to include more than the ‘providers’ – other organisations too
- Would be good to include a focus on the need for ‘good conversations’ and the need to build capacity for this
- Need strategies in place to avoid family members dictating outcomes

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

- Role of carer and carer support to individual (is important too)
- too long winded, split into 2 sections: eligibility and assessment (including ATP) (easy read too)
- Critical risk for carer – individuals and carers alike
- Barriers need to be removed – rethink eligibility and budget constraints
- Need clear complaints and appeals procedures in place
- Link SDS Act with the Human Rights Act – to help with cultural shift
- Meeting only 'critical' need from the eligibility framework is getting in the way of implementing SDS in some areas – some guidance around how to interpret eligibility in an SDS context would help here
- If you are assessed as not eligible you should have the opportunity for this to be reviewed
- Good that guidelines emphasise need for co-production in policies including those around eligibility/assessment
- Issue of risk and eligibility needs to emphasise it applies to all involved (including carers)

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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 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 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?

- 5.2 should read 'participants' rather than 'both parties' (because there might be more than 2?)
- Where there is reference to preventative support it would help to have an explanation of what it is
- Refer people to carers section? Indicate here that carer's needs to be considered too
- Would it be worth explaining that a person may include carer's needs in their plan without the carer having to undertake a carers assessment – especially as the carer may not identify themselves as needing support
- Why not split the sections up to make it easier to digest/understand
- Would it be worth linking this section to the Carers Strategy?
- Like mention of advocacy centre
- Like rules for Option 1 – good that it's clear that some people can't access option 1
- Option 2 needs to be clearer that it's sometimes called an individual service fund – (and what that is)
- Option 1 needs to indicate that someone else can manage the money on your behalf (family?) (in 'Easy Read')
- options 1&2 not clear in the 'easy read' version
- Tie in monitoring of funds in this section?
- Needs to be more 'chunked' or have an index at the start of the section
- SSSC codes of practice – shouldn't all people who are involved adhere to these? through all aspects of the process? As a minority of people could be left vulnerable by people who have ulterior motives
- Please emphasise that outcomes need to be reviewed, measured, and that everyone involved in the plan will be accountable/responsible
- Loss of personal relationships/need to build on this so that individuals know the workers involved and can then build a relationship
- Practitioner capacity (to support people through the process is an issue – maybe some clarification about where other people/organisations can support people through the process would be helpful here?)

- Mixed support packages don't always work e.g. people taking their PA's into provider and LA establishments
- Local models of integrated working are proving positive for SDS
- It is a challenge for agencies to provide more flexible support so some examples here would be good
- 'community support' is not always there in reality
- Friends and neighbours supporting – consistency is an issue
- Timebanking? Alternative ideas? In as examples?
- Would it be worth considering standards for SDS – like standards for community engagement?
- How do we ensure all people understand (process, options etc...) when they may have capacity issues e.g. dementia
- Needs more in this section about outcomes and reviews – that outcomes will be measured and reviewed. Will help emphasise that people have a responsibility and have control over their future and lifestyle choices
- To have an index/contents list to help break up/navigate?

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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 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 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?

- Move away from budgets
- Independent tribunal for appeals and complaints
- Set system around reviewing/ make clear that package (if money involved) is not forever
- Reviewing of outcomes needs to be understood as a 'given'
- Flexibility is key – please emphasise this
- No record of historical cases – how do we review?

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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 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 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?

- An individuals outcomes are our business – how they achieve them is not (as long as is legal!)
- A DP is the only means of paying a budget, no flexibility around this, paid every 4 weeks, 4 wks and 5 wks
- How do we manage problems of failure?
- Talking about money is difficult
- Language – stay with one term – stay with SDS instead of personalisation
- Disability and equality training for all
- A link in this section to the role of community planning partners and other LA departments would be good – a bit like 'it's everybody's job to help me meet my outcomes'

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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 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 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?

- What are the barriers? (for client receiving help)? Funding – 1 budget NHS/SW Service
- Staff training and development – do we have systems?
- No model in place – need one for D&G – specific pathway/framework
- Must be an integrated approach – please emphasise here
- Good case studies – but clearer examples would be beneficial
- Who decides on funding and support? Multi-agency approach – examples did not reflect this
- Local examples of integrated working are proving good for SDS
- There needs to be lots more joined up working
- Links to Integration Agenda here?
- Something about the difference in language – person centred does not necessarily mean Self Directed

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 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 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?

- How will it impact on children (without disability)? The Act tends to be confusing. Not clear who is in need... perhaps changes to the eligibility and priority criteria are required for SW, particularly children and families
- Case examples here would be helpful

- Children in Scotland Act 2011 (not 1995) – needs updating on p.46
- Need 'appropriate' communication skills – service to service, service to carer
- Need a name – lead professionals for families
- References to use in transition would be helpful
- Something about taking an SDS approach being helpful to manage the transition between childhood (childrens services) and adulthood (adult services)
- Links to child protection practices here?

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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 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 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?

- No mention/detail of 'community capacity'
- Can be a daunting process for carers and families who now employ staff to provide care packages. Training e.g. help to write an action plan
- Guide/map is necessary to signpost people in the right direction, starting with the named person/lead professional
- needs a diagram to illustrate 'circles of support'

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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 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 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?

- Needs to be clearer and available in other formats
- Clarification of roles of family members. Paid family members? Should not be 'exceptional' circumstance. Have to go back and forward in the guidance/regulations to obtain information.
- Case study 3 – family receives a budget. Isabel and Johns story.
- Block contracts – need to rethink how this is managed. Council's need to look at other sources for funding/support

- Charges? People need to be realistic – what is fair and what is not.

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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 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 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?

- Clarification of 'short break', 'holiday' and 'respite' needed
- (follow the plan)
- Very wordy document. Needs plain English check. Requires further clarification.
- Why have certain groups been excluded e.g. those affected by homelessness, domestic abuse

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"/>

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 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?

It is good to have the links here to other relevant parts of SW and make sense of them in an SDS context

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?

- Very 'wordy' document, needs plain English check. Requires further clarification in parts
- More detail required
- More clarity
- Monitoring support/ best practice
- Access to services – geographical issues
- LA's varied approaches – when people move
- Training/delivery
- Plain English check?

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)?

- Agree to having a consistent policy across Scotland
- (But feel that it) Can feel like a postcode lottery
- Concerns about the consistency of the policy
- Individuals ATP must be calculated quickly and within a timescale for them being informed and there must be contingency planning
- ATP should be included in public information
- Reg 4: we welcome that DP’s should be net, there are policy implications for gross payments
- Reg 6: 3rd party payments via option 2, need more detail around 3rd parties managing a DP (contract with 3rd party)
- Agree with Reg 7
- Is it capped and how does that fit with principles?
- Lack of discretion for the LA
- Reg 3 – means testing, what are the timescales? Is there a right to appeal?
- Means testing should be transparent

- What if service user refuses to pay any addition?
- Discrepancy between adults and children (means testing)
- Clarity of criteria adults/children on payment
- Who is going to be means tested – the service user or the family?
- Inconsistency in costing could result in different choices
- Reg 5 need flexibility to agree in the main
- ATP needs to be made clear from the outset and ensure person/family understands what it means for them
- How do we manage access/use of DP's with regard to people with capacity issues? May have issues for banking laws?
- Flexibility of plans can become confusing if support is not being used – keeping track of invoicing and money spent/left over
- If a family member supports the person with the DP – how easy (or not) would it be for the person speak up if they have concerns?
- More detail needed re: part 2.6b (user retains control over DP)

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

- Some concerns about the employment of family members and dual role
- PVG issues
- Conflict of providers/PA
- Application of item 1 and differences across region
- Welcome detail part 10 of employing family members
- What does a 'cared adult' mean?
- Need flexibility to use discretion
- Choice and suitability of Guardian for the DP control
- Criteria for suitability and the capacity of service user to make choices of the suitability
- Minimum standards in relation to DP's
- People at risk due to DP's being paid to individuals who do not have the correct qualifications/training/skills (non-regulated employment agencies)
- Better to have family members supporting an individual to employ a PA as it avoids difficulty taking action against a family member if they are the PA
- People will be reluctant to 'shop' family members
- Some concern that PVG's are not mandatory for PA's (or family members)
- Conflict of approach (to goals/outcomes) between family members and provider staff in relation to plan
- Prefer SW discretion with regards to cautionary item (i) – too much of catch-all. SW discretion needs to be consistent and equitable
- A POA cannot be a PA – would welcome that being clarified

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?

- Consideration of individuals who have been – 3rd party or individual
- PVG checks on 3rd party who are running a package on behalf of someone
- Reg 11 – subsection 2 should cover all sections: 1A
- No appeal
- LA's need to have discretion to make decisions on ss2
- About assessment not whether eligible/ineligible because something previously done
- Is it a reasonable list? (section 11)
- Should people guilty of financial misappropriation be excluded? Needs consideration if this person is to be a budget holder but be aware of penalising people for past 'doings'
- People don't usually insist on a PVG for the person advising on the budget/holding the money

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?

- Options to look at support that can be put in place to help individuals manage budgets until ready
- Inconsistency with other national documents – e.g. Road to Recovery
- Learn lessons from England – SDS for substance users
- Lack of clarity on the reasons for those that are ineligible
- Should not be denied to anybody. If people need support to manage it, they should be allowed

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.

- Complex subject and requires more discussion/clarification
- It should come down to outcomes – long term aims that the person is looking for. Money should not go anywhere if not outcomes focussed
- Challenge as some may be able to determine outcomes and others not
- Who determines these outcomes?
- Can change the balance of power
- Lack of flexibility in the infrastructure in Scotland do not think that SDS can address this
- Equity between children and adults - if not specified we may develop unrealistic expectations
- Fairness in the eligibility or unfairness and distribution
- Difficulty if funding part removed from the care provider. If additional needs are identified when assessed will additional funding be given?
- If you want to be a budget holder and use it out of area that should be ok. However this creates big problems for commissioning

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?

- Is section 22 only for disabled children?
- (more comment from children's staff)

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?

- Residential care - clarity required
- Complexities and inconsistencies between DP's and personalisation – why are we bothering about DP's – why bother?
- Lacking in the appeal area i.e. decision making who makes the final decision?

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.

- Costing – rural allocation versus urban
- Transport is an issue in rural areas
- Is it affordable.... so many initiatives and at the same time needing to save money
- Is it scaleable?
- How will it be audited and evaluated?
- Administration of process
- Complex part payments

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>

- Restricting some rights to people with criminal records and dependency issues
- Need to clarify what is classed as ‘income’ with regards to contribution to social care (especially for people with a disability) – people are not charged for health care – is this fair?