

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

Would be good to introduce how self directed support changes the relationship with the person and the professional / local authority / support providers. Enabling more choice and control. Local authorities and professionals become facilitators and enablers and will have to relinquish some of the control and power they currently hold to make this shift.

### 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 type="checkbox"/> Yes	<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 type="checkbox"/> Yes	<input type="checkbox"/>	<input type="checkbox"/>

**Question 2c: Do you have any further comments on this section of the guidance?**

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

**Comments**

It was good to see Innovation in the principles. Professionals will need to be empowered to have the time to work out creative solutions with people and this will require a different mindset to current practice requiring resources and time to develop from where we are now. Innovation does not just mean something new and experimental but means being responsive to what the individual is saying they want from their lives, what outcomes they seeking to achieve from their budget.

The definition of Responsibility relies on a judgement from the professional that the person is exercising their choice and control in a responsible way. In practice this will not be so clear cut and it would be helpful to have what exercising choice and control in an irresponsible way means and what would the outcome be if the professional made this judgement that the person is not acting in what they view as a responsible way.

Wonder if there needs to be something in the principles about power and how professionals and organisations will need to **relinquish** the power and control they currently hold in determining people's support arrangements. Professionals to be able to facilitate people (and their families) leading the process and not just being involved in it.

Again this is a different mindset to current practice which can be seen as gatekeeping resources.

Currently professionals do not have the time or relationship to develop innovative person centred supports and instead refer people to support services who then do this work once the person is 'in' the service.

**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"/> <b>Yes</b>	<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 type="checkbox"/> <b>Yes</b>	<input type="checkbox"/>	<input type="checkbox"/>

**Question 3c: Do you have any further comments on this section of the guidance?**

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

**Comments**

Eligibility will have a negative effect when it is focusing on people in crises and only providing life and limb support. People have to emphasise their deficits to become eligible for support they are entitled to which is at odds with this legislation.

Would seek eligibility in the guidance that refers to people as citizens with rights to funding that is required for their support to meet their personal and quality of life outcomes.

Eligibility criteria should be transparent and fair. Risk of narrow eligibility criteria which is used to prevent people getting the support they need and undermines the legislation and this guidance. Is important that eligibility criteria can incorporate people's rights to support who have fluctuating needs and also provides for people on the edge of the criteria (preventative measures). With a little bit of support and funding people can manage very well and this minimises future costly crises, criteria should recognise this.

Assessment: should not just involve supported person and professional but should involve anyone the person wants, this is fundamental to good assessment. Often support staff from provider organisations will be the person that the supported individual wants involved and the professional should involve the provider if this is what is requested.

Outcome focused assessment. The timing of assessments is currently an issue, can be waiting a long time for professional to be allocated. As a provider this can mean that we often undertake the assessment and support planning in the meantime to support the person to identify their own outcomes and how we can support them to achieve this. This work is ongoing whilst we continue to deliver support to the person and could be recognised within the guidance as it assumes only local authority staff complete assessment and support planning. Often a professional is only involved in the setting up of a service and then will end involvement soon after. This means that providers are taking a lead in ensuring that the support is meeting the person's individual outcomes.

Currently we have occasions when professionals are involved in an assessment and support planning role but are also involved in arranging aspects of support which can affect the person's independence. At these times the role of the professional is as assessor and provider of support. (e.g. when OTs are care managers).

**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 type="checkbox"/> Yes	<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"/> Yes	<input type="checkbox"/>	<input type="checkbox"/>

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

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

Comments Good section. Good support planning will need to involve others when it is the informed choice of the person – e.g. families, support workers. Would be good to consider 'how will we know this support plan is working' in the plan – what would success look like.

Would be important that the support plan can be adapted and changed by the person when it is in place. Would be good to identify which parts of the plan the professional would need to be involved in discussions to change the plan. Otherwise delays in professionals getting out to the person will be restrictive to the person getting the support they want or need. This should only be fundamental/significant changes or when issues of risk may arise.

Duty of Care / Risk – rights to complain should be made clear if person disagrees with professional decision. Professional should advise of advocacy if there is disagreement. Taking risks is part of being a citizen and having an ordinary life. Risk enablement section is good but there are inconsistencies between professionals approach to risk.

## **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 type="checkbox"/> Yes	<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"/>	Yes	<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 in practice we work with people who have had support from Freespace for a number of years. As a provider we conduct reviews and monitor support and it is difficult to see how the new arrangements will mean that each supported person's support will be reviewed and monitored by a professional from the local authority. Also some of the people we work for have resisted professional involvement as they just want to get on and live their lives with minimal intervention from the local authority. This is more a question of how in practice this will change things for people who have had very minimal contact with professionals.

## **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 type="checkbox"/> <b>Yes</b>	<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"/> <b>Yes</b>	<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

Table 8 looks like a good approach and would be good if the guidance recommends this approach and links this to desired outcomes of individuals.

## **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 type="checkbox"/> <b>Yes</b>	<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"/> <b>Yes</b>	<input type="checkbox"/>	<input type="checkbox"/>

**Question 7c: Do you have any further comments on this section of the guidance?**

*Please provide your suggestions for improvements or additions to this section. Are there any further topics that you would like to see included, any changes that should be made or any other comments you'd like to make?*  
that are more appropriate for statutory guidance rather than Regulations?

Comments Would be good to see more case studies of how this can work in practice.

**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"/> <b>Yes</b>	<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"/> <b>Yes</b>	<input type="checkbox"/>	<input type="checkbox"/>

**Question 8c: Do you have any further comments on this section of the guidance?**

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

Comments

**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 type="checkbox"/> <b>Yes</b>	<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"/> <b>Yes</b>	<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

Really good to make mention of circles of support. Circles are a good model and it would be helpful for this to be emphasised further in the guidance. Consideration to be given to how circles are facilitated and how this can be resourced in the guidance would help. Many professionals will never have engaged with a person's circle before. As well as being a great way to support individuals to achieve personal outcomes, circles of support are very helpful for professionals to help them conduct their role in line with the principles set out in this Guidance.

## **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 type="checkbox"/> <b>Yes</b>	<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"/> <b>Yes</b>	<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 type="checkbox"/> Yes	<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"/> Yes	<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"/> Yes	<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"/> Yes	<input type="checkbox"/>	<input type="checkbox"/>

**Question 12c: Do you have any further comments on this section of the guidance?**

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

Comments

In response professionals should be compelled to offer a variety of options in

the provision of intermediate or re-ablement services.  
Should not have blanket exclusions of any groups of people or service such as residential care. Yes professionals should be required to offer all 4 options (homelessness, alcohol and drug dependence and domestic violence)

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

### **Consultation Questions – General Questions**

#### The Guidance document as a whole

#### **Question 13: Do you have any further general comments on the guidance?**

*For example, are there any gaps in terms of the topics covered by the guidance? Are there any major changes that you would recommend? Do you have any comments on the style and layout of the guidance, or the language used in the guidance?*

Comments

#### The costs and benefits arising from this guidance

#### **Question 14: Do you have any comments on the financial costs or benefits of the requirements set out in the guidance?**

*Can you identify any financial costs or benefits to individuals, local authorities, health boards, providers or any other person or organisation affected by the guidance. In considering the costs and benefits you may wish to consult the Business Regulatory Impact Assessment published for the Social Care (Self-directed Support) (Scotland) Act available at the following hyperlink:*

<http://www.scotland.gov.uk/Publications/2012/03/5525>

*We plan to update the BRIA in light of the comments and information from this consultation.*

Comments

#### 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?

Comments

**Question 4: What are your views on restricting access to direct payments for those who are homeless, those who are fleeing domestic**

**abuse or those who require support in relation to drug or alcohol addiction?**

The values and principles of self directed support are good and should be followed regardless of client group of need/ preference for residential care.

**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.

There will be many opportunities and advantages for people in residential care to receiving a direct payment. If direct payments are not available for people using residential care this would be very unfair.

**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?**

Agree that circumstances should not be specified. No reason to have different rules to adults. May need more clarity and guidance in working with families where drug and alcohol are issues and safeguards that may be required.

**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