

**Inclusion Scotland: Response to Consultation on Social Care  
(Self-directed Support) (Scotland) Act 2013  
Draft Guidance and Regulations**

**1 Introduction**

- 1.1 Inclusion Scotland is a network of disabled peoples' organisations and individual disabled people. Our main aim is to draw attention to the physical, social, economic, cultural and attitudinal barriers that affect disabled people's everyday lives and to encourage a wider understanding of those issues throughout Scotland.

**2 Comments on the Draft Guidance**

- 2.1 Inclusion Scotland welcomes the opportunity to comment on the draft Guidance and Regulations, and in doing so endorses the detailed responses submitted by Self Directed Support Scotland (SDSS).
- 2.2 Inclusion Scotland in particular welcomes the statement of intent in the guidelines. However, we feel this could be strengthened by a specific reference to the United Nations Convention on Rights of Persons with Disabilities (UNCRPD), in addition to the Equalities Act, and underpinning the principles of the legislation.
- 2.3 Section 3 would similarly be strengthened by a specific reference to the human rights approach that underpinned the amendments to the general principles in the bill, Section 2 of the Act.
- 2.4 Lack of appropriate support can prevent people from exercising a wide range of basic and human and civil rights. It is a fundamental to Inclusion Scotland that Self-directed Support should be firmly rooted in the social model and should be about assisting disabled people to have the same choice, control and freedom over their lives as any other citizen, whether at work, at home or as members of the community at large.

- 2.5 Co-production should be at the heart of Self-directed Support with the user and the professional working together to develop a support plan. This applies whatever option is chosen, and the importance of a co-production approach should be included in the guidance.
- 2.6 Disabled people must have access to independent support, information and advocacy to assist them to make informed choices between the four Self-directed Support options, and on the choice of services to meet their needs. The guidance must ensure that Local Authorities take a strategic approach to capacity building for Support Organisations in their area.
- 2.7 It is essential that both the guidance and the regulations make clear distinctions between those who provide information and support to enable people to exercise their rights under the Act (SDS support organisations) and those who deliver services (service providers). This will help provide clarity, but also reduce the risks of conflict of interest, particularly where a service may require to be renegotiated.
- 2.8 Support Plans must be appropriately reviewed to ensure they are continuing to meet the needs and deliver choice to the disabled person. Coproduction should lead to support plans that are sustainable, and coproduction principles apply as much to the review process as it to establishing the support plan.
- 2.9 Whilst recognising that there must be flexibility within the system to enable different approaches appropriate to different circumstances, Inclusion Scotland is concerned that the draft guidance and regulations will ensure a consistent approach to choice and provision of services across Scotland. It is particularly important that there is clear guidance on the portability of a support plan when someone moves from one local authority area to another.
- 2.10 Inclusion Scotland does not believe that there should be charges for social care which are a tax on disabled people. However, if

charges for social care are to be permitted, then it is essential to ensure that these are consistent across the whole country and not dependent on where you happen to live. Charges restrict the choices available to people, and therefore restrict their ability to fully exercise their rights to independent living. There needs to be full consultation and coproduction on any changes to charging policies that may arise as a result of Self-directed Support.

- 2.11 The Scottish Government must provide clear guidance on how complaints and reviews will be dealt with, including provision for independent review of decisions.
- 2.12 Inclusion Scotland welcomes the guidance on children and families, but is concerned that the present wording of part 99 does not give sufficient weight to the rights of the child to be involved in the decisions on their support plans, consistent with a human rights approach and the UNCRDP and the United Nations Charter on the Rights of the Child (UNCRC).
- 2.13 Finally, Inclusion Scotland would like to see the guidance and regulations take account of the implications of health and social care integration that will follow from the Public Bodies (Joint Working) Bill. The present Section 8 of the guidance in particular will need to be revised to ensure consistency with health and social care integration.

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10<sup>th</sup> July 2013