

Consultation Questionnaire

Draft Statutory Guidance on Care and Support

Consultation Questions

Section 2 : Persons Pathway

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?

In the Section on responsibilities, we think that section on professionals having to refer to wider legal duties than just social care is helpful but lacks specificity. Social work professionals should be aware of equality legislation and human rights law, in particular, when carrying out their duties. This is essential in order to place social work action and self directed support within the wider context

The section below, on unpaid carers feels weak on the contribution of carers. There should be a stronger emphasis that carers could play a part in the assessment. And there should also be a stress that Guardians have a right to be an active part of the assessment and that assessment cannot or should not take place without a Guardian's participation when such an order is in place.

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"/>	<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

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

This section is a crucial one in the person’s pathway and needs some adjustment to make it fit for purpose.

Paragraph 21 on eligibility criteria leaves unstated the fact that EC for adults are simply guidance rules to be applied by each local authority. They have no statutory basis and are simply one way local authorities can determine who is or is not eligible for support and services.

It also leaves unstated that we have in effect 32 different EC regimes in Scotland with each council being able to determine when people should get services. Even where these local authorities use the four criteria of critical, substantial, moderate and low there are different understanding of what these mean.

A couple of years ago we undertook a study of EC in Scotland and discovered that there was not even a common understanding about what these terms applied to – some councils viewed them as referring to “risk”, others saw them as an overall judgement of

“need”.

We welcome the development in England of a move to a single definition of EC with clear definitions and a minimum standard for when people can expect support.

Councils will retain autonomy to establish better conditions but would not be able to provide less. This way will provide a base level of support no matter where people live or move to within England.

These guidelines could be an opportunity to do something similar in Scotland.

We think paragraph 24 needs to have further emphasis on the application of available resources within the eligibility & assessment process. We have recently heard of a number of cases where local authority staff have said that they have to adjust the available support a person can get because the resources are not available – in fact telling people they were lucky to be getting what they were. Luck should not come into it. The point of this guidance is to stress the minimum standards for conduct of local authorities and their staff in the assessment process.

As this section moves on to discuss assessment it begins to diverge in serious and important ways from the reality of assessment as it is being implemented through the SDS process in large parts of Scotland.

The guidance from para 27 to 37 feels like a good practice discussion on assessment that should be in the curriculum for every social work student in Scotland. It outlines quite rightly what should be done, how time should be taken, there should be an “exchange” of information and really an assessment is more of a “conversation” than a test.

However the use of tick forms has become commonplace under SDS regimes. We have received 10 such form so far and we know others are considering these. All are different.

Such tick boxes can lead to poor practice. On occasion neither individual nor guardian have been aware they have been completed. On other occasions “conversation” assessments have taken place only for people to find out that tick boxes have been completed afterwards on the basis of what was said. In some cases people are not allowed to see the completed forms even though they have this right under the Data Protection Act.

These actions are not carried out because social worker don’t know any better, it is because they are operating under pressure and are trying to find ways of achieving complex tasks within short timescales. Suggesting good practice to such hard pressed individuals is likely to be received with a wry smile. The Highland SDS Test Site Report noted that the SDS pilot was only one of 15 competing new policy strands the social work department have to manage.

It the intention of the Scottish Government in releasing this guidance is to improve assessment practice, then it will need to be more specific on what it wants.

In 2001 the Scottish Executive produced a comprehensive document on the Single Shared Assessment - Circular CCD 8/2001: Single shared assessment of community care needs.

This was issued under s.5 of the Social Work [Scotland] Act 1968. This section of the 1968 Act stipulates that local authorities must perform their functions under the general guidance of the “Secretary of State” and is enforceable by the courts.

The current practice on assessment is also determined by court decisions such as

- R v North and East Devon Health Authority ex p Coughlan [2001]
- Robertson v Fife Council [2002]
- R (Savva) v Kensington & Chelsea Royal London Borough Council [2010]

As a result we think that this section should be rethought to include

1. Minimum standards for participation within assessments
2. Statement of the rights of individuals to see all documentation associated with assessment
3. Statement of the law and legal decisions affecting assessment and that all assessments are ultimately a public act and open to subsequent legal challenge if inadequately carried out.
4. Statement on the practice of using “self evaluation forms” and where they fit in the assessment process.
5. There needs to be a statement about whether the Single Shared Assessment still remains in place.

38 - The section on Self Assessment is unclear – we are not sure if this refers to the process of “Self Evaluation” that is being used across Scotland or to the process of self assessment. For our comments on Self Evaluation see above.

The law is clear on self assessment and we think this guidance should be too. In R (B) v Cornwall County Council (2009) 12 CCLR 381, the judge ruled as unlawful the practice of self-assessment standing alone as the only assessment. Here it was stated that:

Furthermore, it is right that the views of the service user and family carers are sought as to his needs and the steps the authority propose to take in respect of those needs. The relevant guidance requires that. The user may of course also be able to produce evidence of a particular need. But the [local] authority cannot avoid its obligation to assess needs etc by failing to make an appropriate assessment themselves, in favour of simply requiring the service user himself to provide evidence of his needs.

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"/>	<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 On Risk – this again seems to miss the developing practice across Scotland. We have spoken to a number of families and individuals who have been through the risk enablement process in Glasgow. This is developing as an "evidence" based approach to risk forecasting. In this the key is being able to produce "professional" support to identify risk. Where a nurse, doctor, OT or similar can vouchsafe the likelihood of a risk occurring or if recent evidence of the risk actual taking place then it will be accepted as needing to be addressed. The word of the person or the guardian is not enough on its own. This "corroboration only" seems to be at odds with the partnership vision in this section. No social worker is required to produce evidence that an event won't occur. The burden of proof falls on the individual or the carer. Professional social workers should be able to make a judgement based on their experience to assess likelihood. The DWP in its new assessment for Personal Independence Payment puts such a responsibility on the Health Professional to use their knowledge and experience to assess likelihood of events occurring and the consequences from this.

If one of the principles underlining the Act is collaboration (and not corroboration) then a must more participatory approach should be encouraged, one which draws on the social worker's experience and knowledge. We think a failure to exclude practices such as that of compulsory "corroboration" will undermine public support.

5.3 Resources – we think the principle of transparency is very important. There will be many disputes and disagreements about the level of resources that should be made available in any particular case. It is unlikely that such cases will be easily resolved amicably. What is at stake is too important for both the person and the local authority for agreement to be always reached.

What is important that a degree of transparency at all stages of the resource allocation

process be available so that even if there is not agreement over the level of resources there can be agreement over the method.

This should apply at all stages – not just the setting of an initial budget but at all later stages of negotiation. Even if some decision are made behind closed doors then the basis of that decision should be made available. Publishing Resource Allocation Systems can only ever be one part of the process, there needs to be far greater clarity on how decisions are made which adjust that budget towards a “final budget.”

KM v Cambridgeshire County Council (2012) has made it clear that individuals can expect that

1. The local authority must provide an explanation of how they arrived at the final budget to be offered to an individual and must relate that explanation to the level of needs that the individual had been assessed as having.
2. The local authority must provide a second explanation detailing how this budget can be used to meet the assessed needs. This must be a real explanation based on actual costs of service that the individual could purchase with that budget and should also include an explanation of what support will be provided by family or friends (referred to in the judgement as “Natural Supports”)

The level of detail needed should list the required services and assumed timings, together with the assumed hourly cost. Some recipients require more complicated arrangements which would call for more expansive explanations.

The guidance should make sure that these “requirements” clear to local authorities. Since the principles involvement and collaboration are central to the SDS process we would expect the principle of transparency to go further and for the guidance to place an expectation on local authorities to provide all individuals with clear information about how and why their budgets have been adjusted before then going on to show how that budget could meet their assessed need.

Para 50 – This paragraph contains the phrase “the professional should take steps to inform the person of the amount of support available under each of the options.” There is an implication here, spelled out nowhere else in the document that differing amounts may be made available to the individual if they take out a different option from Direct Payments, Individual Service Funds and Arranged Services.

If this is indeed the case, then this should be spelled out in greater detail. This is quite contrary to the current view of most people who receive SDS. If it is the case, it removes much of the incentive to be creative in support planning. Support planning will become a single step that cannot be altered until the next formal review especially for those who use a “mix and match” approach to experiment with different forms of support.

Para 55 – Under Direct Payments there can be an option for a “third party” direct payment. Can we have a definition of what a third party direct payment is in this section of the guidance? Some local authorities are currently recording Individual Service Fund payments to voluntary organisations where the individual may not know what is

happening as a “third party” direct payment. In future this definition should match up that used for the collection of DP statistics.

Para 60 – We are very happy with this paragraph. We think it is important to note that there has been an ongoing process of personalisation within local authority services - perhaps not as quick as some people would like. Many service users now self determine their level of use of such services, their time of arrival and departure, what they shall do when in attendance and which staff should support them.

Self Directed Supports needs to be seen as more than just the big decisions about which option to take or which service should support you. It is about exercising control day to day and in the things that individuals experience when using services and support. This can happen as much in social worker arranged services as in other arrangement.

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

We think there should be minimum timescales for review – probably every two years with an expectation that people with active needs will need this more frequently.

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

The question of how to develop new services is crucial to the delivery of Self Directed Support. If people are being asked to take on additional financial management responsibilities but the only alternatives are those already existing, many will ask what is the point.

The sparseness of this section is worrying. It is in effect saying to local authorities you should do this but failing in the key task of giving "guidance".

There needs to be more thought about

1. Local authority commissioning
2. Bridging finance
3. Cooperation with the Scottish Government on the use of special project finance
4. The development of Public Social Partnerships
5. Support for cooperative and user controlled developments that are starting from scratch.

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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 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?

Comments

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?

We think particular attention should be paid to the section on transition planning.

It has been shown that early intervention has a very positive effect on future life planning and resulting positive destinations. All young people with additional support needs should have the opportunity to begin planning for transition to young adulthood when this is deemed appropriate but at the very minimum 14 years old.

For this to be effective though the individual should have an idea of the level of support and resources that may be available to them, if any. It is recognised that this may change as individuals will continue to mature and change into early adulthood but at the very least an "indicative budget" should be available as well as information on the type and quantity of resources that should be provided for that amount.

There should be accessible information, which is inclusive of young peoples personalised communication needs (such as, audio video, assistive technologies, board maker), for young people and families that clearly shows what support they are entitled to in the transition period, how they can access it and that covers all options that are available to

them. This should include clear information about their statutory rights, including those relating to the upcoming Children and Young People Bill and other relevant transitions legislation such as, the Education (Additional Support for Learning) (Scotland) Act, Children’s Act, Adult Health and Social Care Act, Health, Protection of Vulnerable Adults, Guardianship and Social Care (Self Directed Support) (Scotland) Act amongst others.

The guidance would be strengthened if it place particular responsibilities on the Education Department within local authorities such as:

- Education should take the lead in co-ordinating services as under the Education (Additional Support for Learning) (Scotland) Act as it is the responsibility of schools Named Person to coordinate young people’s transition initially. This role is not fully realised in some education departments in Scotland even though it is a duty.
- There should be a dedicated Transitions Team in every Local Authority. The team may consist of other professions than solely social work. . This team should work with young people between the ages of 14 to 25 years in line with the Children and Young People Bill’s suggested age range for Looked after Children.
- There should be a key worker available to all young people who need them over the transitions period.

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?

We think that this section underplays the rapid growth in guardianship that has taken place since the introduction of Self Directed Support. Much of this has been encouraged

by local authority staff. While guardianship can take over all control of a person's life and has to be approved by a sheriff, there is a sense that this is driven less by concerns about a person's capacity and more by social work concerns about who will be responsible for large amounts of social work money paid to individuals to manage their support. The Adults with Incapacity Act note that the least invasive option should always be chosen. The guidance should emphasise this in para 113.

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

We think that decision to give local authorities a power to support carers and not to make it a duty is a wasted opportunity.

As a result most of this section is at best advisory. We will need to see more about how this works in practice.

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?

See above comments on third party direct payment and clarity over funding available under each option.

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?

The section on charging should be reworded to be in line with other guidance on charging issued by the Scottish Government which recognises that local authorities make the decision about whether or not to charge for social care. Fife has recently dropped its

charges for Home Care. Others have never charged for some services. The NHS does not charge for its reablement or intermediate care services.

This guidance is a bit too “gung ho” on suggesting that local authorities look at new ways of charging for self directed support. It might be more appropriate to suggest that local authorities follow the North Lanarkshire example and stop charging when people take up self directed support. This provides a positive incentive for people to adopt SDS.

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.

We think particular thought needs to be given to how to support people with learning disabilities to take control over their own lives. We understand that a number of projects are being funded by the Scottish Government to develop this bit of work but this has not yet led to any clear way forward.

It may be that further guidance may need to be issued in the future which clarifies the type of support, advice and information that should be given to people with learning disabilities.

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>

We think the guidance will be neutral on the development of Human Rights.

Personalisation has the possibility to enhance human rights by enabling people to take part, enjoy respect, be free from discrimination and have a private life.

However there have been suggestions [Dalrymple et al.] that there is a current human rights deficit at the heart of the development of personalisation. All major decisions are taken by professionals working for local authorities and the debate is around what can be afforded and how people’s needs and wants have to fit within this.

Unfortunately the guidance however well meaning it is, is unlikely to tackle this power imbalance between local authorities and individuals. New rights and a way of enforcing them is what is needed but the guidance cannot provide them but at least it doesn’t make things worse.

What the guidance can do it is to set a path of travel for the development of social care services. We know many people who are enjoying for more control over their services than would have been common even just 10 years ago.

There will undoubtedly be many challenges along the road. Our organisation because of the work we do will meet many of the people affected by them but that does not blind us to the positive changes that Self Directed Support can bring to many vulnerable people.

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)?

We think that this is a helpful way of proceeding. We think as long as local authorities have to provide reasons why a close relative is not to be employed and that individuals can challenge this if it is not felt to be correct then this will be helpful.

We agree with the exclusion of guardians from being able to be employed in any circumstance. We think this is a helpful demarcation between responsibilities.

Recently we were asked for advice about a couple who wanted to care for their son by applying for guardianship and asking for a direct payment to pay themselves. The local authority was currently refusing the application. In our discussions over the future position, the family suggested that one parent apply for guardianship and control of the Direct Payment and the other be the one employed as a paid carer.

If people can work this out now, then after the guidance is introduced this may become common and the guidance needs to think about whether this is sufficient separation between responsibilities.

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?

Comments

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.

Comments

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