

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 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"/>	<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?

Comments Step 3 of Persons Pathway –

Does person have capacity to make decisions?

Is an advocate required.

Risk assessment needed.

In an urgent situation can Local Authority provide a community care services before an assessment of needs is completed.

Step 4 of the Persons Pathway

Recognise persons personal and community assets, strengths and actions they can undertake to achieve their outcomes.

Community care services are offered to:

Adults aged 18 and over who:

Are in need of care and attention

Suffer from illness

Suffer from mental disorder/illness including personality disorder, substance misuse related brain damage or learning disability however caused or manifested.

Are persons who in the opinion of the local authority have asked for assistance for local authority services and facilities.

Are in need of care and attention due to use of drug/alcohol dependency, or having been released from prison or other forms of detention.

Are persons subject to immigration control.

****This section should also contain reference about Community Care Services – who they are provided to and from what age.**

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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"/>

**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"/>	<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: helpful to include reference to:
Principles outlined in Mental Health (Care and Treatment) Act 2003 in particular reference to the least restrictive interventions.
Citizen Leadership and incorporate work by Changing Lives. This is at heart of co-production.
Recovery principles outlined by Scottish Recovery Network.
The persons personal and community assets and strengths.
Enable self determination and links with personal and community supports.
People need help and support to become involved in their community.

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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"/>

**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 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: Include reference to:

Work with and manage risk to enable desired and required outcomes to be identified and then incorporated into support plans.

Personal and community assets, supports and strengths.

Support may need to be provided in an emergency outwith a community care assessment.

Where an MHO is involved for but no care management, then MHO have a duty to refer to care management for a community care assessment.

Support required for many people to prepare for assessments with good correct advice and information being given to the person before and after assessment.

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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"/>

**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"/>

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: Helpful to include reference to:

Working with and managing risk to enable desired and required outcomes to be achieved.

SSSC codes of practice.

Local Authority duties to safeguard vulnerable adults and our duties to investigate complaints into power of attorney and private guardians and to investigate under Mental Health (Care and Treatment) Act 2003 where a person with a mental disorder may be at risk and to investigate abuse by providers under Adult Support and Protection.

Local Authority duties to safeguard children and the public.

Support planning is essential to achieve individuals outcomes.

Professionals and workers need to be aware of what is available for people to access in the persons community and use of an advocate service.

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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"/>

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: Include reference to:

How reviews link to other processes such as Care Programme Approach, AW1 Case Conference, ASP Case Conference, Compulsory Treatment Order review, Short Term Detention review to ensure that a streamlined and person centred approach is undertaken so that the person is not overwhelmed by continual and

separate review processes.

Frequency of reviews should be determined and agreed by level of risk presented to self, other and from others.

Many feel anxious and concerned about continually being assessed and reviews and assessments should only be by agreement.

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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"/>

**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"/>

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: Include reference to:

Local Authority should provide/promote a variety of types of support.

Local Authority should provide/promote a variety of providers including in rural areas as well as larger towns/cities, but this also has sustainable problems for smaller local providers, also in rural areas there are many lack of transport issues.

Local knowledge of resources available needed.

Local/national area directories of resources, providers and facilities needed.

There is a need to promote a variety of support, and resources which encourage community inclusion and open up opportunities for people who need support to be able to benefit from and contribute to their community.

Workers will need to have an increased awareness about what is available in their local communities and how people can be supported to benefit from these.

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

It would be useful/helpful to include guidance on how that funding can be released, used and potential timescales.

More health and social care joint working/sharing needed of funds available.

Better knowledge and understanding required of who provides which care and services also who does each role – does it come from Health Care Funds or Social Care funding?

Joint working is not only desirable but essential if those with health related needs are to be supported in the community.

The health professionals we have been speaking to have little if any awareness of Self-directed Support. More work is needed in this area.

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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"/>	<input checked="" 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?

Comments:

No experience for me in this area.
No reference to mental health needs.

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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?

Comments:

Part 113: - Incapacity needs to be amended to state that queries about a persons capacity requires a medical assessment and clarity should be sought from a medical professional.

A supported person should be included and asked who they would want to help them in decision making.

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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"/>	<input checked="" 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?

Comments: Helpful to include reference to:

Carers personal and community strengths and assets and use of these to provide supports.

Guide to Carers issued May 2013 by Mental Welfare Commission which provides helpful or key issues including confidentiality.

Young Carers and supports required especially where parental mental ill health.

Risks to carers especially where substance misuse, mental ill health, challenging behaviours which may include domestic violence, depression and supports available to reduce these risks.

Good quality care costs money and takes a large amount of peoples budgets and in certain areas these costs are substantially higher.

Lack of carers makes providing care for the supported person very difficult in a number of areas and also the health and wellbeing of the carer has an impact on what and how much care and support they can give a person.

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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 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 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

In adhering to the requirements outlined in the Social Work (Scotland) Act 1968, Community Care and Health (Scotland) Act 2002, Carers (Recognition and Services) Act 1995 Community care services are offered to:

Adults aged 18 and over who:

Are in need of care and attention

Suffer from illness or any form of disability

Suffer from mental disorder/illness including personality disorder, substance misuse related brain damage or learning disability however caused or manifested.

Are persons who in the opinion of the local authority have asked for assistance for local authority services and facilities.

Are in need of care and attention due to use of drug/alcohol dependency, or having been released from prison or other forms of detention.

Are persons subject to immigration control.

In doing this all care groups noted above will be offered a community care assessment under section 12. This needs to be recognised and made explicit in the guidance.

It is noted that disabled people, older people, people with a learning disability, mental illness or personality disorder may also be subject to domestic violence or have a drug and alcohol addiction and for this reason services cannot be separated out based on reason for accessing social work support.

Self directed support aspires to be the legal tool of personalisation and in doing direct a person centred approach to care. In doing this option 1 and 2 should be offered to people on a person centred and risk based decisions and not on reason for accessing social work support.

Direct payments and individual service funds may be helpful to those who misuse substances but do not wish to access social work services to support change and likewise be of support to those in recovery. However, Direct Payments and individual service may be inappropriate where there is a risk to children, adults or public as will be the same for other care groups. As outlined the option to offer should be a risk based decision.

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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?

Comments: Should also include reference to:

Mental Health (Care and Treatment) Act 2003 s25 – 25 which confers duties to local authorities to enable a person who have or have had a mental disorder to lead as normal a life as possible.

Asylum Seekers – s12 of the Social Work (Scotland) Act 1968 also confers this duty to local authorities.

Adults with Incapacity (Scotland) Act 1968 which confers duties to Local Authorities to investigate complaints about private guardians and powers of attorney including recommendation to recall powers to a court. In addition to supervise private guardians – this will be particularly relevant with the implementation of SDS.

Recovery – in particular links to Scottish Government Mental Health Strategy for Scotland and Scottish Government Road to Recovery which outlines direction to promote recovery of people with mental illness and who misuse substances.

Prison release – when people leave prison after a short term prison sentence they are eligible and may receive community care services such as access to substance misuse services.

Section 146 – Residential Care

Direct Payments should be able to be used to purchase residential care to open range of options available to people.

Residential care should not be treated any differently from other services.

Also within residential care what happens in an emergency situation when a person is placed in residential care when no home carers are available to provide care for them at home.

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

Reference to all care groups which community care services are obligated to provide services to should be included and made explicit throughout the document. Otherwise this will read as a Scottish Government initiative for disabled and older people only, which is in contravention to the aspirations of the personalisation.

Document difficult to follow at times due to the number of links to other documents.

Section needed in guidance only about mental health problems and if it is Health services funding or Care service funding that the persons care falls into – maybe both areas are needed to manage the persons needs.

The language at times within the guidance was difficult to understand as parts of the document contained a lot of jargon where other parts was plain English. The language and terms used should be consistent throughout the document, that is it should be in plain language making it easier for all to understand.

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

There will be a cost in terms of time and resources. All the changes and different ways of working will be significant and there will be learning needs for all.

All forms of support and information services will need to be funded adequately. Support planning will take time; costs money particularly at the early stages of implementation as workers will need to be adequately trained and have good knowledge and understanding of support planning to assist/support people.

Investment needs to be in place to promote “co-production” and joint working.

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?

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