

About Us:

Mental Health Aberdeen is a local association which provides 16 services across Aberdeen and Aberdeenshire for people with mental health problems. These include telephone information helplines, counselling, community support services, carers' support, befriending and housing support. We also seek to influence policy at both local and national level, and to promote positive mental health. We are committed to involving service users and carers, and promoting Recovery.

Mental Health Aberdeen is a registered charity in Scotland, No. SCO 12306 and a company limited by guarantee and registered in Scotland No. 100864

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"/>	<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"/>	<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

Table 1: The Person's Pathway

Step 2: First Contact

This should include a risk assessment.

In a crisis the Local Authority should provide community care services before an assessment of needs is completed.

Table 2: Roles and Responsibilities:

The responsibilities of the professional should include a responsibility, where the person gives permission, to consult with others (professional or not) already involved in the person's care. This is suggested further on in the document, but it should be clearly stated up front.

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"/>	<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"/>	<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

Table 3:

Involvement

Communities should be assisted to play an active role in the commissioning of services. Who is meant by communities and how is it proposed this should be done?

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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"/>	<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"/>	<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?

Para 19: Who carries out the initial screening? If the problem is a mental health

one will they be mental health trained? Note, too, that people with mental health problems may not initially be presenting as such. There were major problems with Work Capability Assessments as a result of lack of appropriate training and experience of assessors dealing with people with mental health problems. This resulted in a huge amount of distress, inappropriate assessments and deterioration in mental health for a lot of people, and we do not wish to see this repeated in assessments for eligibility for social support.

Para. 20 *...the person must be in need of support arising out of infirmity, youth or age or require support arising from illness, mental disorder or disability...*

Age in itself does not create a need for support in the absence of infirmity, illness, etc.

Application of eligibility criteria via the assessment

The professional's role

Para.23: We are pleased to see the recognition here and in the next paragraph of the importance of early intervention, and the need to consider the possibility of deterioration if there is failure to intervene. There is also a need to recognise the fluctuating nature of many mental health problems, as well as some physical conditions such as multiple sclerosis.

Again, see comments on Table 1. It is important to share the assessments of other professionals or people who already know the person well, which may include family or friends if relevant and if the person gives their consent. This drawing on a wide range of information is particularly important for people with mental health problems.

We agree that both the professional and the individual need to be able to access information and advice about alternative sources of support. Perhaps it would be worth including a reference to ALISS here, although we note that some of the information is out of date.

The local authority's role

Para 24: The system whereby each local authority develops its own policy in relation to eligibility criteria will lead to a postcode lottery. Whilst recognising that the local authority should have some freedom to make decisions appropriate to the local situation, we feel there should be some minimum requirements nationwide.

The importance of assessment:

Para. 27: We entirely agree with this paragraph. Good training is required, as some social workers still tend to have a "tick box" approach.

Although this paragraph does state that the assessment should be based around the person's assets and outcomes, this should be more strongly stressed. Assessing needs inevitably involves looking at the person's disabilities – and indeed most of the document is about this – but it is vital to look also at strengths and abilities, and supports already available to the person. Concentrating solely on what they cannot do can be extremely depressing even for those who do not have mental health problems, and is very likely to lead to a deterioration in mental health

for those who do.

A “good” assessment:

Para. 29: The list of skills required by the professional carrying out the assessment should include good listening skills.

The conversation: good assessment practice and personal outcomes

Para.31 and Figure 1. It should be recognised that this model is a simplification of reality. There may well be more than one Carer and/or Agency involved.

Para 34. The list of examples of personal outcomes is rather uninspiring and should be more aspirational. In particular it should include a sense of achievement, and pleasure, both of which are essential for mental health.

Para 36: We entirely agree with this paragraph. Defining what is important to the individual is key, but it is not an easy task, and is likely to take some time. This is particularly so when the problem is one of mental health. Someone who is severely depressed is likely to be unable to envisage life being better. Someone suffering from psychosis is likely to have experienced others not taking them seriously. The person will also need to develop trust in the social worker before being willing to open up about their problems.

Other:

Given the time this assessment is likely to take for those with mental health problems, it is important that some interim support is available to them.

The assessment should include consideration of risk, and how this may be managed to enable the person to progress towards their desired outcomes.

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Consultation Questions

Section 5 : Support Planning

This section of the guidance covered:

- general guidance on support planning
- risk
- resources
- the choices that must be made available to the supported person and
- information and support

**Question 4a: Was this section of the guidance clear and easy to understand?
(please tick)**

Yes	No
<input type="checkbox"/>	<input checked="" 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 checked="" 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?

Comments

5.3 Resources

Para 49: Whilst we can appreciate the need for some degree of local variation, having no single approach to “resource allocation” prescribed in law, nor any single method recommended by the Scottish Government, will add to the postcode lottery.

Para 50. is unclear. Having read it through several times and discussed it, we still don't understand what it is trying to say.

5.4 The choices that must be made available to the person

The statutory principles in the 2013 Act

Para 52: The first paragraph here is important.

Para 65: The wording of this paragraph is very cumbersome, requiring several readings to understand it. It could be simplified, without loss of content. E.g.

This discretion - sometimes known as a “duty of care” discretion - stems from the authority's power under Section 12 of the 1968 Act. This allows authorities to secure the provision of support which they may consider “suitable and adequate”. For clarity, the professional *can* use this discretion to refuse to fund a particular type of support even though they *cannot* refuse a particular option under the 2013 Act (i.e. the mechanism under which the care is provided).

Para 76: This paragraph contains something of a contradiction. It states both that the professional *must* give the person information about independent advocacy services, but also *where it considers it appropriate*. We feel strongly that this information should be given to all those going through the assessment process, and should not be dependent on the discretion of the social worker. This should be clearly stated in the guidance. It should also be recognised that this process is likely to lead to increased demand for advocacy services (whether or not the

provision of this information is discretionary) and this should be recognised by increased funding for these services.

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

**Question 5b: How useful did you find this section of the guidance?
(please tick)**

Very useful	Quite Useful	Not very useful	Not at all useful
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 5c: Do you have any further comments on this section of the guidance?

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

Comments

We suggest that there should be agreement at the initial assessment as to both the timing and the nature of the review, so that both the supported person and the professional are clear about this. Sometimes it may be appropriate to plan a review sooner than annually, in addition to the circumstances in para 77. The level of risk - both to themselves and others and from others - and the variability of the condition should be taken into account here.

The person may well be being reviewed in other settings or as a result of other regulations, e.g. psychiatric case conference, reviews within the supporting service, Compulsory Treatment Order reviews. These should be co-ordinated with the SDS reviews, both so the person is not subjected to repeated, separate reviews and to avoid unnecessary duplication of effort and use of resources amongst the different professionals.

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Consultation Questions

Section 7 : Facilitating genuine choice for individuals

**Question 6a: Was this section of the guidance clear and easy to understand?
(please tick)**

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

**Question 6b: How useful did you find this section of the guidance?
(please tick)**

Very useful	Quite Useful	Not very useful	Not at all useful
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 6c: Do you have any further comments on this section of the guidance?

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

Comments

Para 81: We agree that the authority should promote a variety of types of support, otherwise the whole exercise becomes meaningless. Promoting a variety of providers of support is the ideal, and is certainly feasible in the larger cities. In smaller rural communities, however, it is likely to lead to inefficiency (low cost-effectiveness) and could make smaller local providers no longer viable. Where there is not a range of suppliers, the authority should promote increased flexibility and a clear person centred approach from the provider. It should also be remembered that local resources available to people who are not "supported" may also be valuable as part of a support package.

Table 8: Commissioning for self-directed support

All sections of this table are important. Gathering good quality information on what people need and want, identifying gaps in service provision, planning what to do to fill those gaps, trying out new approaches and reviewing how this is working, are all vital, but have also all been promised in the past! The authorities need to really hear what people say they want, not insist they should have what fits with current policy. Where there is no appropriate support available it may be necessary to offer the best that is, but there should be a clear system for recording the gap, so that information from different individuals can be collated to identify the size of the unmet need.

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

**Question 7b: How useful did you find this section of the guidance?
(please tick)**

Very useful	Quite Useful	Not very useful	Not at all useful
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<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

What is meant by NHS or “health” support?

Para 84: District nurses are not the only nurses working in the community. Many of our clients are supported by CPN's. This section should be reworded to “the range of NHS-funded support provided by *nurses and other allied health professionals ... working in the community*”. The whole of this section reads as though it refers only to those with physical problems

What is meant by a joint approach?

Para 85: An example from a client with mental health problems highlighting the role of the CPN would be helpful here.

Examples of shared healthcare and social care needs

Para 86: We would like to see mental health care added to the illustrative list of joint health and social care packages. It is common for those with severe and enduring mental health problems to be supported through both the health and social care services, and it is vital that these are co-ordinated.

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

**Question 8b: How useful did you find this section of the guidance?
(please tick)**

Very useful	Quite Useful	Not very useful	Not at all useful
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<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

Para 96: There is no reference here to children's mental health needs. We would like to see a reminder here that the Act specifies that "children in need" includes "Children who have emotional, behavioural and mental health problems"

Two concerns were expressed, regarding the "Named Person". Whilst recognising the advantages of a Named Person for *vulnerable* children, we doubted whether it was necessary for *all* children, the majority of whom are doing well. Expanding the system to this extent has significant resource implications, and could divert resources from the most vulnerable. Some people felt strongly that it could also be very intrusive for action to be taken to contact the social work department without first discussing this with the parents, apart from specific situations such as issues of abuse.

Another concern was that the existence of a Named Person could lead to others feeling that the situation was covered and failing to take action where this was necessary. It needs to be clear that everyone has responsibility to alert the Named Person to problems. There is also a potential issue if the child does not feel comfortable with the Named Person, and is unwilling to talk to them. Can the child ask for a different Named Person?

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"/>	<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"/>	<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

Para 107: Where it is judged that additional assistance is required to enable the person to make the relevant decisions, the professional is tasked with identifying a person who can provide this assistance. This should involve at least asking the supported person who they would like to take on this role. Someone who for many possible reasons (e.g. learning disability or extreme anxiety) is not able to make the complex decisions involved in the SDS process will often be quite clear about who they would wish to assist them. In the event of a relapse of major mental illness, account should be taken of any Advance Statement.

Para 108: In some mental health cases, e.g. someone with a personality disorder, agreement to the plan may not be obtainable, even where the person is understood to be able to live with minimal support in the community. Where there is no guardian and no Advanced Statement, how is the situation progressed? This paragraph states that *The supported person's agreement must be secured before the individual(s) can provide any assistance*

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

**Question 10b: How useful did you find this section of the guidance?
(please tick)**

Very useful	Quite Useful	Not very useful	Not at all useful
√ <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<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

In general we fully support this section and are particularly pleased that Para's 122 and 123 recognise the value of early preventative support rather than waiting for a crisis or emergency

We do have concerns that paragraphs 117 and 118 contrast "referral to a known source of information and advice ... or provision of further information in the form of booklets, websites, advice or guidance on coping" and "funded" services or support. Information and advice services are not cost free and also need to be funded.

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"/>	<input checked="" 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"/>	<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

The Guidelines should make reference to the fact that Regulation 5 allows for the direct payments to be paid in instalments. Most people are more accustomed to budgeting on a monthly or even weekly time frame. Some may find it difficult to budget on a quarterly basis. Monitoring of the use of the payments should also be more frequent at first, so that simple misunderstandings, such as failure to keep receipts, can be rectified before they become a major issue.

Third party direct payments

Para 125: is unclear. We presume in line 4 that they mean the third party to read "a *supporting* person or organisation" not "*supported*" as written. There are altogether too many references to "the person" without making it clear which person is referred to. The regulations are considerably clearer in this respect than the Guidelines.

In general, a flow chart and/or table showing more clearly the 'pathway' to funding arrangements, and the responsibilities of the different people or agencies is needed here, especially to make it clearer for the service user,

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"/>	<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"/>	<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 **Re-ablement and Intermediate Care**. Having to go through the whole process before the care was provided would hold things up and delay provision of support. This would be entirely inappropriate in the circumstances in which this type of care is required. It seems more practical to provide short-term care on a simplified assessment with minimum red tape. It seems appropriate, as suggested, to view this period as part of the assessment process.

Reference should be made not only to discharge from hospital but also to release from prison. We are aware of situations where a prisoner has been released without any arrangements having been made for accommodation. This is another situation where a rapid, short term package of care is required to help the person to regain constructive independence

Residential Care: We see no reason why residential care should be treated differently from other services, nor why direct payments should not be allowed. This is the most intrusive form of care, and some people will welcome the greater control this would provide. It could also open up the market to a wider range of options, e.g. provision of care within a carer's own home. There may be issues surrounding legislation regarding tenancies, with which we are not familiar.

Assistance to people fleeing domestic abuse, assistance to address homelessness or drug and alcohol addiction. Our view is that professional judgement is required as to whether direct payments or individual service funds are made available to these groups. In some cases, especially for those with drug or alcohol problems or people under pressure from abusers, direct payments could be disastrous to their wellbeing. It could also be impossible to keep track of a homeless person to establish how the money is spent. On the other hand, once the person is stabilised and well on the road to Recovery, these options may be helpful and therapeutic. These options should therefore be neither required nor excluded for these groups. It is important that it is possible to make the payments in instalments where required.

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

Suggested addition:

There are a number of issues either specific to people with mental health problems, or particularly important for them. We feel that it would be helpful to have a specific section in the Guidelines under SECTION 9,

This could include, for example:

Reference to the Mental Health (Care and Treatment) (Scotland) Act 2003, the duties of the MHO, Adult Support and Protection (Scotland) Act 2007, Adults with Incapacity (Scotland) Act 2000, and how these relate to the Care and Support Guidelines. There should be particular reference to Advance Statements.

Guidance on issues surrounding the involvement of carers, especially in relation to confidentiality issues. The Guide to Carers published by the Mental Welfare Commission in May 2013 gives clear and readable information on this.

Recognition that assessment of psychological needs is more personally intrusive than that of physical needs.

The particular need for sensitivity during the assessment period. Developing trust before in depth assessment is attempted, and the importance of emphasising strengths, abilities and existing supports, as well as disabilities.

Recognition of the fluctuating nature of some people's condition. It is important to allow for this in the assessment and support planning, to enable additional support to be put in place quickly during a downturn without waiting for a review.

Recognition that assessment may take some time, especially if the professional does not previously know the applicant. In our experience, even when they do a full assessment can take weeks or even months. Lengthy meetings can be too stressful. We suggest a maximum of 1 hour.

There is likely to be a need to provide support through the process from an outside person, and help should be provided, if necessary, to arrange this.

Use should be made of any assessment already carried out by another service, e.g. NHS or voluntary organisation, with the person's permission.

There may well be a need for interim support to be arranged before the full assessment is completed. (As for re-ablement or intermediate care)

Many clients with mental health problems will also be receiving care from NHS mental health teams and/or voluntary organisations, and it is important that care plans, goals and reviews are co-ordinated

Assessment should incorporate a full risk assessment – of the person's risk to themselves and/or others, and of risks to the person from others. The support plan should incorporate recognition of these risks and how they will be managed.

The values of the Scottish Recovery Network could usefully be incorporated, namely:

- It is as important to focus on what people can do and on their unique attributes and characteristics as it is to focus on the things they cannot.
- We take a strengths based approach to our work and emphasise the role of hope and optimism.
- We recognise recovery is a unique and individual experience and that people's experiences are influenced by their circumstances, background and life events. Our opportunities and circumstances also influence outcomes.
- We promote inclusion, equality and involvement.
- We recognise people are experts in their own experience and that empowerment is central to wellness and recovery.

Style and layout:

The document was not easy to read.

There were a lot of links to other weighty documents. A brief summary of their content or quotes of relevant sections of these documents would be helpful.

Whilst some sections of the Guidelines were clear and readable, others had to be read several times to be understood. Problems included long, convoluted sentences and use of social work jargon. The sub-headings were also a problem in that it was not clear within each SECTION which were supra-ordinate and which sub-ordinate. Does an underlined sub-heading cover more or less of the document than a heading in italics? This was not helped by the paragraph numbering system which was simply sequential throughout the document. A decimal system would have been more helpful. This is not a problem unique to this document – we have come across it in other consultation papers – but it would be helpful if documents of this kind could be checked before issue by someone with an interest in plain English, especially where the document is aimed at a wide readership.

In general: We fully support the principles in this document, and this approach to social care and support. It sounds wonderful on paper, but we have serious concerns about how it will work in practice (see below). It is important that it be introduced gradually to allow for potential problems to be identified and resolved.

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

Costs:

We anticipate significant costs as listed below. Some of these are start up costs, but others will be ongoing. Since the government is stating that the change will be cost neutral, we have major concerns that the funding available to the individuals receiving the support will be seriously reduced.

- Major training needs, for staff (and volunteers), of local authorities, providers, organisations providing support in the process, and individuals taking on direct payments. In addition to the cost of the training itself, this will involve significant staff time. Services with very small numbers of staff also find it difficult to release them for training more than one at a time, and many will be in positions where they may be called away in a crisis, so covering all those concerned will be a lengthy process.
- Difficulties in budgeting, for providers and local authorities. This system is new to all of us, and there will be major problems if we get the budget wrong. Some organisations (especially the smaller ones) may well go to the wall, leading to reduced choices for those needing support. Smaller charities have fewer economies of scale and smaller reserves, making it more difficult to absorb any extra and/or unanticipated costs. There will need to be some contingency funding to assist those organisations/local authorities initially landing in difficulty if there is not to be an unacceptable erosion of services.
- Costs (to LA's and providers) of a lot of extra administration, accounting for large numbers of small packages. There will be particular start up costs in developing suitable systems to achieve this, which will be proportionately particularly onerous for small organisations. In addition to the basic accounting, ongoing costs will arise from the need to check that the money has been appropriately spent.
- Additional social work staff time to complete the assessments and reviews. Social workers are already very heavily committed. We are not aware of

any plans to employ additional staff, but failure to do so will result in increased stress and sickness rates amongst social work staff, exacerbating the problem further and potentially leading to breakdown of the system and a return to a tick-box approach.

- Extra costs of advocacy and/or additional support provided during the assessment and support planning process.

Benefits:

- Improved flexibility for tailored services and potentially more choice.
- Giving the supported person greater control should lead to greater opportunity for Recovery.
- The above, along with the emphasis on outcomes may *in the longer term* lead to some savings.

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 Regulation 5 is important, as some people are likely to find difficulty in budgeting over a whole quarter.

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 This should be allowed but not required. It needs to be left to the discretion of the professional to make this judgement in relation to the individual and their situation at the time.

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 I refer here to our comments on the Guidelines, namely:
We see no reason why residential care should be treated differently from other services, nor why direct payments should not be allowed. This is the most intrusive form of care, and some people will welcome the greater control this would provide. It could also open up the market to a wider range of options, e.g. provision of care within a carer's own home. There may be issues surrounding legislation regarding tenancies, with which we are not familiar

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 Yes. See our comments on the Guidelines.

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

Social Care (Self-directed Support) (Scotland) Act 2013
Consultation on draft statutory guidance for care and support
GUIDANCE STORIES

Name of the organisation submitting the case study: **Mental Health Aberdeen**

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Margaret Mitchell

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Jayne suffers from Clinical Depression, Anxiety Disorder, Borderline Personality Disorder and other mental health problems. She had been supported for over ten years by a day support service provided by two local mental health associations, and by a community mental health team including CPN, psychiatrist and counsellors. Her confidence had increased and she took increasingly responsible roles in helping other service users and as a representative on various mental health committees and local mental health Strategic Outcome Group. She had attended information meetings about SDS and felt that she would benefit from the additional flexibility this provided to choose the nature of her support.

She applied to the Social Work Department in September 2012 for consideration for SDS. She was initially referred to the wrong department, but after being referred on to the mental health department, she was allocated a social work care manager, for assessment and support planning.

She described the process as "harrowing" and very personal. It involved 12 – 15 appointments amounting to 25 – 30 hours of meetings with her care manager, each of which left her feeling emotionally drained. She felt 2 hours at a time was far too long. Her mental health deteriorated, and she sought support from a local voluntary sector group with which she volunteers and participates in supported part time paid work. Due to her poor mental health and staff changes this caused some delay in the process but at the same time it became more obvious that she needed the support that SDS could bring. She found filling in the assessment forms with her social worker difficult because of the big gaps between the tick box options, e.g. "*can do*" or "*can't do*". A Support Plan was finally agreed and costed and submitted to the local SDS panel in February 2013.

The panel met only once a month and had a backlog of cases. They were not able to consider Jayne's case until the second meeting after the submission. They asked for further information before making a decision, which delayed the process for yet another month. The Budget agreed was less than the costed support plan, and Jayne agreed to this as her health had improved since her hospital admission earlier in the year, and she was keen to move forward. The funds for the first quarter were paid into the bank account at the beginning of July 2013, nine months after the original application.

Jayne feels that the outcome does provide her with a better package of care. The SDS package allows her to gain support within a work situation and also social activity support to do things at weekends and evenings, including further education, hobbies and help in the home environment. But she would caution others with mental health problems to think carefully before applying.

Jayne's social worker has now left. No date was set for a review, but when it comes Jayne will have to deal with another new person. She will find this difficult, as she needs time to adjust to change and trust new people.

With support from the organisation which helped her through the process, Jayne has recently been providing training courses about SDS for other service users, to help others to start thinking about outcomes and support plans for themselves. She believes her personal journey has helped her understand the process being piloted, the challenges of the assessment process and the mix of fear and excitement of taking on Self-directed Support.