

**Penumbra's Response to
Scottish Government's public consultation on draft statutory guidance to accompany
the Social Care (Self-directed Support) (Scotland) Act 2013**

10 July 2013

Penumbra thanks the Scottish Government for the opportunity to respond to this consultation. Penumbra was established in 1985 and is now a leading Scottish provider of social care services in the mental health and well-being field. Penumbra provides a range of person-centred services in 16 local authority areas of Scotland and has continued to innovate and pioneer new services for people with mental health problems. All our services are working towards ensuring a Recovery focus in their work, and we are at the forefront of developing personalised services. Currently we employ over 350 people and have a turnover of around £9.5million.

Over the last few years we have also developed a range of services that have a particular focus on promoting mental health and wellbeing, and preventing mental health problems. These services have focused on self-management, social inclusion and person centred outcomes.

We are happy for our response, as well as our name and address, to be made public. We are also happy for the Scottish Government to contact us in the future in relation to this consultation response. Please direct all queries to:-

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This response was created on behalf of Penumbra through consultation with our Services and Development Team. We hope the Scottish Government finds our contribution helpful.

Yours sincerely



Graeme Henderson
Director of Services and Development

Values and Principles

Penumbra agrees with the values and principles informing the guidance which are set out in Section 3. While the principles and basis of self-directed support are welcomed, Penumbra has some concerns:

The guidance must take account of the circumstances of people with mental illness, whose needs can fluctuate frequently. A failure to address this in the guidance could lead to people's needs being wrongly assessed and supported.

The new non-statutory principle 'responsibility' may reinforce a belief among some social workers that taking control of support is not right for some groups, particularly people with mental health problems. People should have as much independence and responsibility as they want, and not be pressured to take on more than is right for them, e.g. when someone with mental health problems is unwell. We are pleased that this is reflected in the Risk enablement and responsibility principles. It would help if there was more explicit reference to the ways the SDS arrangements can work for people who have mental health needs throughout the guidance.

The best practice principle innovation could mislead professionals into thinking that "good" support has to be new and experimental; it should be made clear that so-called 'traditional support' may be the most appropriate depending on assessed need and the wishes of the supported person.

Eligibility

Eligibility criteria can have a negative effect if this only focuses on people with critical and substantial needs with a view to providing basic 'life and limb' support. The wide variation between local authorities and how they determine and apply eligibility criteria can be unfair.

While the guidance correctly identifies what should be considered when determining and applying local eligibility criteria, the common practice of applying narrow eligibility criteria is one of the biggest blocks to people getting support and could seriously undermine the aims of the new legislation and draft guidance. In some circumstances a block to social care can lead to a person with mental health problems becoming unwell and leads to hospital admission, this is a false economy, and the guidance should highlight this.

The importance of transparency should be highlighted in this section of the guidance, to ensure fairness and equity.

Assessment

Penumbra welcomes the key aspects of a 'good' assessment that the guidance identifies and in particular the section which relates to involving anyone that the supported person wants in the assessment process, we view this as essential to a good assessment and should be highlighted.

Penumbra feels that the provider role in an assessment needs to be more explicit, as some local authorities rarely involve providers on the grounds that this is a conflict of interest. We believe that the guidance should clearly state that, where it is the informed choice of the supported individual, the provider organisation should be involved in the assessment.

Penumbra would also like to highlight the link between assessment and outcomes and in particular our Individual Recovery Outcomes Counter (I.ROC), which is a validated measure of recovery; we would also point to other outcomes tools, such as Talking Points and Wellness Recovery Action Planning (WRAP).

Penumbra would also highlight the quality of the assessment by staff in social work teams varies widely, both in terms of speed of response (with some people waiting months for an assessment or review) and in the quality of the assessment. We are concerned that some assessments don't focus on preventative support, or about the potential range of supports beyond a fairly narrow range of traditional services. We also know that many staff in local authorities carry out assessments and reviews which are positive and enabling and we want to see the guidance encourage and endorse good practice. Our experience is that having something like I.ROC or WRAP lets people think about activities in a more flexible way.

Penumbra is concerned about what happens when someone disagrees with the decision on the SDS options or with the support plan. The guidance sets out what happens when the professional making the assessment thinks someone is not eligible for a direct payment and the process when someone disagrees when a professional doing the assessment does not let them use a particular provider as part of their arrangements. This is an area which we would like to see strengthened in the guidance, so the people doing the assessments must have clear, objective reasons for not letting people use certain providers and this is not just down to favouring the local authority's preferred providers or a limited understanding about what other providers can do. Penumbra is also aware of Care Managers deciding which provider to use based purely on cost, without reference to the service users expressed wishes, or steering service users to the cheapest provider.

Support planning

Penumbra welcomes the guidance on support planning, particularly the 'key ingredients' of a good support plan. The guidance should not be too prescriptive on support planning as this could stifle innovation and should highlight the fact that every plan will be unique to each person.

We feel that support to access information is important but must be accompanied by support to understand and make use of the information, along with having the time to reflect and make the connections needed to make use of the information. We believe that peer support can be invaluable at this time and would like to see the value of peer support highlighted.

Penumbra would also like to see reference to Advance Statements in this section, as too often these either don't exist or are overlooked.

Penumbra would also like to be able to make minor changes to a support plan, such as responding to fluctuating mental health, without having to get formal sign off from the social worker.

Duty of Care / Risk

The guidance should be clear that people must be informed of their right to complain if they disagree with the professional's decision. Similarly the guidance should say professionals must inform people of their right to independent advocacy.

The section on risk enablement is good and correctly identifies the approach professionals should take to managing risk. However risk enablement is widely inconsistent across different local authority areas and even within local authorities.

We are pleased that the criteria include risks to people's independence as well as around their health or wellbeing, and that the guidance on how these should be allowed includes taking account of people remaining part of their community and preventing further needs or risks.

Resources

Penumbra is concerned that Resource Allocation Systems can be unfair and rely on professional judgement alone, and this may be against the spirit of SDS because it is not based on individual outcomes focussed assessment. We are also concerned that often too much resource is locked into 'traditional services' and that local authorities should be prepared to free up this money to enable more people to opt for different services.

Commissioning

The strategic commissioning outlined in the guidance is the right one for local authorities to follow, however Penumbra believes that the guidance should state that local authorities should not operate approved provider lists because this limits the choice of the individual and goes against the spirit of SDS. Commissioning should reflect the desired outcomes of individuals and the guidance should highlight this.

Penumbra is against blanket exclusions of any group of people. We think that these principles apply to all people who use social care services. This includes people who need additional support to make decisions because they have limited capacity and to people who live in residential settings. We also think it should apply to people who are using social care services for other reasons, including people who are affected by a drug and/or alcohol addiction, people who are affected by homelessness, and people affected by domestic abuse.

Penumbra would also highlight our experience in rural areas is that in practice the range of providers or pool of people who are interested in becoming a Personal Assistant can be a major problem. We also think that commissioners should acknowledge gaps in types of available support in different locations within a local authority area, and the costs of accessing support – such as the travel costs for people who live in rural areas.

Monitoring and Review

We are pleased that the guidance will outline good practice on reviews, but it should also confirm and encourage ways for people to be able to make the smaller changes without the need for a formal review process.

We are pleased that the section on children notes the ways SDS can be used to help people plan for and manage their way through transitions in their lives in a positive way. This should also apply to the other transitions in people's lives, including those that come as people get older.

The role of health care

Penumbra is pleased the guidance refers to ways social care and health care services can work together, but would like to see it being more specific on how it will work. It will be important for people with mental health problems to be able use SDS to prevent them becoming more unwell and needing hospital care, and we think this should to be covered in the guidance. We see a lot of potential to use SDS to encourage more opportunities for providers to work alongside NHS staff to develop more flexible support for people, for example social prescribing for people who want social outcomes and support to make discharge home from hospital easier and safer.