

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

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

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 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?

Comments

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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 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?

Comments

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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

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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

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

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

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

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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 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

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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 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"/>	<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

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

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?

RNIB Scotland is the leading charity working with blind and partially sighted people in Scotland. As a membership organisation we are dedicated to delivering services our members need and campaigning for their civil and welfare rights. We support children and adults with sight loss to live full and independent lives.

At present, around 36,000 people in Scotland are formally registered as blind or partially sighted, with up to 188,000 living with significant sight loss. However, the number of Scottish people with sight loss could almost double to 400,000 between now and 2030 due to our ageing population and the persistently poor health that continues to disadvantage many of our communities.

We are grateful for the opportunity to respond to the Scottish Government's consultation on Self-Directed Support (SDS): Draft Statutory Guidance on Care and Support. Rather than answering each question on the consultation questionnaire we have opted to produce a single response so as to highlight our concerns.

From the outset RNIB Scotland would like to acknowledge that SDS will provide greater flexibility and more choice for individuals. However, we would like to draw the attention of the Scottish Government to the following key areas:

- Self Assessment and Resource Allocation Systems
- Accessible Information
- Charging and Commissioning
- Direct payments to family members
- Monitoring

Self Assessment and Resource Allocation Systems

RNIB Scotland has been involved in discussion of the implementation of SDS with the Scottish Government for several years. Our concern

has focussed on the absence of questions on vision in the assessment forms for Self-Directed Support. It is necessary to have questions on vision in the questionnaires as a trigger to qualify for appropriate resources. Under the Resource Allocation Systems (RAS), questions directly allocate funding which dictates the level of a person's individual budget. Initial findings from our service user groups, in local authorities developing SDS, show that sight loss is not being included in resource allocation as there is no automatic trigger for budget allocation. This has had a dramatic impact on the individual budgets of some of our most vulnerable service users. RNIB Scotland is committed to lobbying to ensure that their needs are not overlooked. In the light of the Scottish Government's agenda to integrate health and social care it should follow that vision is included in SDS assessments to build a sensory pathway.

There is no standard assessment form and resource allocation system meaning that each local authority in Scotland may produce its own version. The lack of regulation of these systems may lead to a patchwork of provision. This could lead to a postcode lottery, especially for individuals with complex needs and sight loss who may miss out on the funding necessary to support their vision. RNIB Scotland would welcome greater involvement of our service user group in consultation and planning.

Recommendations

RNIB Scotland calls on the Scottish Government to:

- Direct local authorities to train their workforce to support assessment including vision awareness;
- Ask local authorities to include questions on vision in their assessments and resource allocation systems;
- Ensure that individuals with a learning disability (who are 10 times more likely to experience a sight problem) are referred to appropriate community vision experts;
- More shared support between NHS and social care may lead to a more coherent approach to sight loss in vulnerable adults.
-

Accessible information

Information on available services is crucial for meaningful SDS. RNIB Scotland emphasises the importance of considering visually accessible/audio formats for service users to understand the process and the questions they are being asked. Early evidence from some of our own service users has suggested that they have had little understanding of expectations and process, and many have felt disempowered as information was not accessible to them.

Recommendations

RNIB Scotland calls on the Scottish Government to:

- Have information relating to SDS claims available in accessible format for people with visual impairment/sight loss, that is, large print, braille and audio recording;
- Have information relating to SDS claims available in easy-read visually-accessible format for people with sight loss and complex needs.

Commissioning and charging

Changes are now underway and the focus is on outcomes. As providers themselves local authorities may promote their own services. This may raise issues as to how there can be a level playing field for third sector providers. Having local authorities as “facilitators” to public needs while they are still providers themselves seems fraught with conflicts in interest. It also begs the question of who will provide impartial advice where no local SDS agency exists.

In addition, the consultation does not mention how a potential transfer from local authority services to personal assistance under Option 1 (Direct Payment) might affect the commissioning structure for local authorities.

Charging can be variable and confusing for services and carers. The process should be standard and transparent across local authorities moving away from a “service type” model to one that neither punishes nor rewards the choice of any of the four options of service provision. Service users/carers must be provided with the full menu of services available to them.

It is also important to ensure that mechanisms are in place for review of the services offered taking account of outcome evidence and annual review linked to financial inflation (uplifts).

Recommendations

RNIB Scotland calls on the Scottish Government to:

- Continue to support the development of independent SDS support and information services;
- Review charging policies across local authorities and make a transparent, logical decision about a fair distribution of charges that neither punishes nor rewards the choice of any of the four options of service provision;
- Ensure that mechanisms are in place for review of the services offered taking account of outcome evidence and annual review linked to financial inflation (uplifts).

Direct payments to family members

Opening up Direct Payments to close family members in certain circumstances is welcomed by many carers of people with complex needs.

However, third sector and local authority services are registered, monitored and inspected. There are clear standards set by the Scottish Social Services Council (SSSC) and Protection of Vulnerable Groups (PVG) checks. There is no discussion in the consultation on the regulation of the care provided by family members and how they, and the people they will support, will be protected.

Recommendation

RNIB Scotland calls on the Scottish Government to:

- Produce clear guidelines and expectations and regulation of Direct Payments (including guidance in the event of financial abuse) for family members as carers.

Monitoring

While acknowledging that SDS can provide greater flexibility and more choice for individuals, even in the most positive cases budget management can be very stressful and difficult. There are financial and legal responsibilities involved in managing a budget through Option 1 (Direct Payments).

However, while these responsibilities should be made clear, extensive paperwork/monitoring can act as a barrier to independent self-management. Cumbersome monitoring can lead to confusion and does not serve to support practical money management only to make demands on service users and carers.

RNIB Scotland is in favour of a light touch monitoring approach. Monitoring systems should be proportionate to a service user's needs/risks.

Some very vulnerable people may take financial/organisational responsibility via SDS for the first time. These people may need more support to manage their individual budgets. Cumbersome monitoring can lead to confusion and does not support someone in, for example, managing money. A light touch approach includes minimal monitoring but should also give support to understand and manage the responsibility of handing an individual budget.

For family members who hold a direct payment on behalf of the person they care for, clearer guidelines are required to avoid potential mismanagement or abuse of finances and to reduce the opportunity for financial abuse and to safeguard service users.

Recommendations

RNIB Scotland calls on the Scottish Government to:

- Recognise the need for more support for budget-handlers in the current period of transition;
- Produce clear guidelines and expectations and regulation of Direct Payments (including guidance in the event of financial abuse) for family members as carers.

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.

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