



**Response to the Scottish Government's
Consultation on
The guidance and regulations to
accompany the**

**Social Care (Self-Directed
Support)(Scotland) Act 2013**

Introduction:

The Scottish Personal Assistant Employers Network (SPAEN) is an independent user led organisation registered as a limited company in Scotland with company number SC399411 and registered with the Office of Scottish Charity Regulators with charity number SC029930.

SPAEN is primarily a membership organisation and offers 4 levels of membership:

- Individual
- Corporate
- Associate
- Affiliate

Individual members are persons who are in receipt of or are directing or administering a direct payment on their own behalf or on behalf of someone else.

Corporate Members are statutory bodies such as local authorities and NHS Boards; Associate membership is open to charitable and third sector bodies with an interest in the work of SPAEN and / or self directed support and Affiliate membership is available for persons working as or seeking to become a personal assistant.

SPAEN currently represents over 650 individual members; 4 corporate members; 2 associate members and a growing number of affiliate members.

SPAEN also has a number of strategic agreements in place with organisations from the private and third sector who are involved in the delivery and development of services to persons with care and support needs or who have a specific expertise in working with and supporting distinct groups such as carers; people from ethnic minorities; people with learning disabilities; people who have suffered or are suffering from mental-ill health and people with physical disabilities.

In collating and responding to the Scottish Government's consultation on the guidance and regulations to accompany the Social Care (Self-Directed Support)(Scotland) Act 2013, SPAEN offered members and interested parties a number of options to engage with and record their views to the consultation.

This included:

- Open invitation to respond to the consultation or any part thereof via SPAEN's website (<http://spaen.co.uk/consultation-exercises.html>);
- 2 facilitated event in SPAEN's offices in Motherwell including delegates joining via video and teleconferencing;
- 1 facilitated event in association with a carer's support group.

Delegates were invited to attend either in person at the venues of the facilitated events or via tele and video link to the facilitated events.

The delegates included a range of members and non-members and covered most of SPAEN's membership categories. No Affiliate Members attended the consultation events or submitted views online.

Representatives from the following groups are included in SPAEN's submission to the consultation exercise:

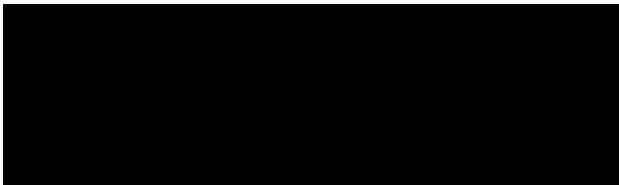
- Minority ethnic communities;
- Carers;
- Service Directors / individual members (PA employers);
- Service users (people in receipt of social care services but not directing their support);
- User led organisations;
- Third sector providers;
- Local authorities;

SPAEN also attended a facilitated event with Alzheimer Scotland.

This extensive consultation exercise sits well with SPAEN's strategic view of 'interdependence model' being at the very heart of the self-directed support mode where risks are seen more as opportunities to either prevent or do something to mitigate risk and the onus being on the entire support circle rather than any individual person or agency.

The views contained in the response therefore reflect both the views of SPAEN as an independent user led organisation and also the collective views and responses collated from these consultation events.

We hope the responses provided to the Scottish Government are useful and constructive as the guidance and regulations are set before the Scottish Parliament.



Colin Millar
Chief Executive Officer | Scottish Personal Assistant Employers Network (SPAEN)

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

**Question 1b: How useful did you find this section of the guidance?
(please tick)**

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

Question 1c: Do you have any further comments on this section of the guidance?

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

Comments

May we suggest that reference is made about support organisations near the start of the pathway to secure support in providing full understanding of the options available?

Pathway appears not to mention support organisations at any point even though the Act talks about support orgs being an intrinsic part of the path.

Some authorities have a commissioning framework which encourages providers to demonstrate how they would meet the supported person's outcomes.

Having approved providers' lists can also be restrictive and limiting given SDS is about achieving outcomes and not just the provision of care. This could be done through other technologies as well (e.g. apps and purchasing items).

SPAEN believes that the title in Table 2 'the provider' should not include the personal assistant employed by the supported person. The main reason for this is due to the description on point 56 page 28 of 79 where it mentions 'the resource can remain with the Local authority or it can be delegated to a provider.....' which in this instance could not be the personal assistant employed by the supported person.

Draft Statutory Guidance on Care and Support

Consultation Questions

Section 3: Values and Principles

**Question 2a: Was this section of the guidance clear and easy to understand?
(please tick)**

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

**Question 2b: How useful did you find this section of the guidance?
(please tick)**

Very useful	Quite Useful	Not very useful	Not at all useful
<input type="checkbox"/>	<input checked="" 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
No comment

Draft Statutory Guidance on Care and Support

Consultation Questions

Section 4: Eligibility and Assessment

**Question 3a: Was this section of the guidance clear and easy to understand?
(please tick)**

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

**Question 3b: How useful did you find this section of the guidance?
(please tick)**

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

Whilst SPAEN understands the ethos behind the eligibility criteria and welcome the fact that the LA must follow the relevant joint Scottish Government and COSLA guidance SPAEN feel this is somewhat diluted when the LA can take into account its overall resources when determining eligibility criteria. There is the potential here for there to be 32 different interpretations of this guidance which could result in the 'postcode lottery' for provision of support. There may be concerns that if a Local Authority could use its resource deficit as a reason for not providing sufficient support, as the individual would not meet the eligibility criteria, the guidance appears to suggest that the Local Authority will only meet your needs if they can afford it.

Draft Statutory Guidance on Care and Support

Consultation Questions

Section 5 : Support Planning

This section of the guidance covered:

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

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

Yes	No
<input checked="" 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 checked="" 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

SPAEN welcome the clear and transparent approach to support planning and particularly to the identification, acknowledgement, management of risk which can

allow the risk to be shared avoiding risk averse practice and the individual being risk unaware. A number of the participants in our consultation were concerned that the Local Authority will still have an obligation to monitor and review the quality of care being provided to the supported person but will have no influence over the care being provided of the care provider. SPAEN feel that we need to move away from task based to outcome based approach and consider the achievement of the supported person's outcomes regardless of who is providing the support. SPAENs 'interdependent model' would assist in this regard enabling the whole support circle to be involved in the monitoring and review through clear, open, honest and transparent communication.

Re point 56 it was felt that there was a potential conflict of interest if the budget holder was also the service provider and this could limit the scope of the protected person to move their budget to another provider or obtain services from another provider. It was suggested within our delegates that an independent financial organisation could hold the budget for the supported person rather than the service provider therefore preventing any possible conflict of interest and perhaps making the flexibility of procuring support an easier process. It was expressed also that the criteria was for the holding of the resource was too wide (e.g. anyone could hold the budget) and that guidance for this would be welcomed.

Re point 57 our delegates were unclear, with regards to the last sentence whether the instruction is that it can be one budget holder paying two providers or the budget split between two providers. This we feel would prove difficult if the budget holder is also one of the providers. Discussion was also around the 'approved providers lists' which Local Authorities have and it was felt that this may be contrary to the whole ethos of the SDS Act.

Re point 58 delegates felt that there was a potential conflict in the guidance where the Act requires the Local Authority to make arrangements under Option 2 and the guidance then appears to remove this obligation. May we suggest that the sentence 'though the authority is not obliged to make arrangements.....' is re considered?

Re point 71,72 and 73 – SPAEN felt that all of these points whilst being very valid and appearing as a clear instruction are entirely negated when read with point 130 (which is commented upon later in this response). SPAEN have concerns that there are very few organisations with qualified and trained staff that can provide the detailed employment responsibilities referred to in point 73 and this concern is confirmed in the Self Directed Support Scotland Information and Advice Mapping Survey 2013.

Draft Statutory Guidance on Care and Support

Consultation Questions

Section 6 : Monitoring and Review

**Question 5a: Was this section of the guidance clear and easy to understand?
(please tick)**

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

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

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

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

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

Comments

Re point 80 whilst the intention of the Act is to provide flexibility and a personally preferred level of control. Concern was raised that any decision being made of changing the option they have chosen required further guidance or comment. This is especially relevant when the decision is made to change from option 1 to another option when the supported person has become an employer. Whilst SPAEN welcomes the variety of options available recognition has to be given to the contractual obligations an individual will have with their PA employees which will not be negated by simply arranging another form of support.

Draft Statutory Guidance on Care and Support

Consultation Questions

Section 7 : Facilitating genuine choice for individuals

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

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

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

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

SPAEN and the delegates contributing to this response felt that point 81 started off being really positive and this positivity was diluted by the statement '.....in so far as reasonably practicable.....'. The delegates commented that third sector interfaces and communities coming together to meet common purposes might help improve the services available where more traditional care providers are not willing or able to offer services. SPAEN and the delegates would like to see the Scottish Government providing more support to the third sector interfaces and the Local Authorities being encouraged to make better use of and provide more support to third sector interfaces.

SPAEN are of the view that table 8 should be expanded to include the Local Authority working with support already in their area and to help capacity build these organisations to be proficient in providing the information and support required to fulfil the obligations under the Act. This is commented upon further under question 11.

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

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

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

Question 7c: Do you have any further comments on this section of the guidance?

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

that are more appropriate for statutory guidance rather than Regulations?

Comments

SPAEN welcome the clarification on the role of the NHS and NHS professional also joint working with NHS and Local Authority and have no additional comments to make.

Draft Statutory Guidance on Care and Support

Consultation Questions

Section 9.1 : Children and Families

**Question 8a: Was this section of the guidance clear and easy to understand?
(please tick)**

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

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

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

Question 8c: Do you have any further comments on this section of the guidance?

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

Comments

SPAEN have no comments to make on this section.

Draft Statutory Guidance on Care and Support

Consultation Questions

Section 9.2 : Supported decision-making and circles of support

Question 9a: Was this section of the guidance clear and easy to understand? (please tick)

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

Question 9b: How useful did you find this section of the guidance? (please tick)

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

Question 9c: Do you have any further comments on this section of the guidance?

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

Comments
SPAEN have no comment on this section

Draft Statutory Guidance on Care and Support

Consultation Questions

Section 9.3: Carers

Question 10a: Was this section of the guidance clear and easy to understand? (please tick)

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

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

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

Question 10c: Do you have any further comments on this section of the guidance?

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

Comments

SPAEN feels that Point 119 appears to be biased toward option 3 for Carers as this would appear to be the only option described in this section.

Draft Statutory Guidance on Care and Support

Consultation Questions

Section 9.4: Direct payments

Question 11a: Was this section of the guidance clear and easy to understand? (please tick)

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

Question 11b: How useful did you find this section of the guidance? (please tick)

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

Question 11c: Do you have any further comments on this section of the guidance?

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

Comments

SPAEN welcomes the inclusion of payments to third party of direct payments and the instruction for the availability of this as an option where before this was prohibited in some areas. Albeit the working and terminology of point 25 we suggest is unclear.

With regards to point 130 - The general consensus is that there should be a requirement within the Act for the Local Authority to ensure that the individual is fully aware of the legal obligations being placed upon them with regard to the option choice. This is of further importance given that the SDS agreement most Local Authorities which will have the individual signature states on the document that 'by signing this agreement you are signing a legally binding document'. The explanatory notes of the Act point 87 is quite clear that the Act requires the Local Authorities to explain the nature and effect of each of the options to give people information and advice..... all of which must be given in writing. This is diluted in point 98 of the same document which states 'the duty is relatively narrowas it is simply signposting'. This read in swift succession with point 130 appears that the duty has now been completely diminished. This is rather disheartening when read in conjunction with the mapping exercise which proves there are very limited numbers of organisations with the technical capacity to support individuals in their employer role. The legal requirement should extend to signposting as mentioned in the Act albeit currently there appears to be a knowledge gap as identified in Mapping exercise. SPAEN's corporate membership was commended by the

delegates as a good example of how this was working for some of the Local Authorities represented.

Re point 137 – the recommendation to set a minimum period of notice before discontinuing a direct payment would appear good advice however this could not realistically, be given in the information provided at the outset. This is due to, if the option is used to employ staff, the **legal** requirement for the employer to give the PA notice if their employment is ending. The statutory **minimum** notice period required is one week for every year the PA has worked. It is not sufficient to suggest that the authority bear in mind any contracts into which the supported person has entered. The notice period requires being sufficiently long to match the contractual notice period required by the employer to the employee. It may also be the case that the support continues albeit the DP has been withdrawn in this scenario the PA has legal protection under the TUPE legislation and this has to be understood by both the individual employer and the LA who may be subsequently providing the support under option 3 or arranging support under option 2. This point alone proves the requirement for the signposting to be to organisations that are suitably informed of employment legislation.

With the above in mind, point 139 does not comply with employment legislation as it would appear no recognition has been given to what happens to the PA if the DP is discontinued even temporarily. This could only happen if the PA contract with the employer contains the necessary clauses for lay off or short term working and even with this included, given this is regarding longer periods, it could be the case that the PA would be entitled to a redundancy payment if they have the necessary qualification period of employment. Again this reiterates the need for the capacity building of support organisations in the intricacies of the interpretation of the laws surrounding employment.

Draft Statutory Guidance on Care and Support

Section 9.5: Wider legal duties and strategic responsibilities

Question 12a: Was this section of the guidance clear and easy to understand? (please tick)

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

Question 12b: How useful did you find this section of the guidance? (please

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

Question 12c: Do you have any further comments on this section of the guidance?

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

Comments

SPAEN and the delegates fundamentally disagree with the exceptions and felt that the exceptions are contrary to the human rights principles demonstrated throughout the Act and therefore are in agreement that there should be no exceptions. SPAEN see the categories of individuals excluded from receiving all of the options as different from a direct payment being used to purchase residential care. The use of the DP as mentioned in point 27 '..... is anything as long as it meets the supported persons assessed needs' should still be the case with each Care Manager being able to use their professional judgement as alluded to at point 64 as they may be best suited to make a decision in this regard.

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

One of the biggest issues commented upon was the apparent lack of consistency within the guidelines when read in conjunction with the Act and the explanatory notes of the Act. The values and principles set out at the start are very innovative and welcomed however does not consistently flow through the remainder of the document. It appears that the message is being diluted throughout with more and more mention of signposting to support organisations when the evidence gathered shows the information offered is very front loaded to the options, with most being able to discuss the options but with very little being able to provide the more 'technical' but very much needed information.

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

SPAEN have no further comment to make.

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

See comments made above

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

SPAEN would welcome a consistent and transparent approach to means testing that creates parity across the country albeit SPAEN supports the process mentioned in points (2) to (5). Given the diversity of the delegates present the issue of the DP being paid net or gross was welcomed by some and not by others however SPAEN feels that both options being made available is a solution.

Question 2: What are your views on Part 3 of the draft Regulations (appropriate/inappropriate circumstances for the employment of close relatives)?

Comments

SPAEN perhaps are in the unique position to have experience where the employment of a family member has been a good and productive relationship and where this has resulted in litigation. The consensus of opinion was that the scope of the circumstances was too wide and it was felt that, realistically, if left as it currently is any scenario we have been involved in would fit the circumstances described. It was considered that (3)(b),(d), (e) and (f) be removed. Point (2)(b) the family member being capable of meeting the assessed needs raised the question who is going to assess whether the family member is capable as this was out with the remit of the social work department.

SPAEN and the delegates were in agreement that the exceptions should apply and that no person should administer the package and benefit from the package. Reference and contrast was then made to point 56 where the provider being the holder of the budget and benefiting from the budget was considered an option this shows an inconsistency in methodology and supports SPAEN's suggestion that a support/financial organisation who is not the provider of the service could hold the budget as they do not directly benefit from it.

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

This was generally felt to clash with human rights principles that SDS is based upon i.e. inclusion, dignity, equality, respect, fairness, independence, freedom and safety.

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

As above

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

As mentioned above SPAEN and the delegates contributing to this response seen this as being separate to the other exclusions. However, comment was made, as previously mentioned re point 127.

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

This was not covered in SPAENs consultation discussion

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

SPAEN has no further comment

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

SPAEN has no further comment.

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

SPAEN are of the view that an individual is a person first and foremost and all people should be treated equally regardless of their protected characteristics mentioned above. Please note SPAENS comments regarding the exclusion list.

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

Human rights are for everyone and that being the case this approach should be considered when looking at the list of exclusions.