

# 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
x	<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
x	<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?*

Under step 3 – eligibility and assessment – our experience in the Scottish Young Carers Services Alliance is that young carers very rarely are assessed under the 1995 Act. One of the reasons for this is that not all the families have social work intervention. Young carers may be more likely to receive multi agency support as a result of being identified at school and be supported by the ASL 2009 Act. We would also hope that as professionals move towards a GIRFEC approach, that more young carers will be identified and have a child's plan in place. This section may need to be updated after the Children and Young Peoples Bill goes through.

Under Roles and Responsibilities – The unpaid carer – it needs to be stated that carers may be children or young people

## 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
x	<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
x	<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?*

When reading through this section, there is constant reference to the supported person. In terms of professional perhaps reading only certain sections of the guidance, it needs to be made clear that the principles also apply to working with carers and young carers.

**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
x	<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
x	<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?*

In section 16, we would prefer the wording to be 'assessment duties for children, children who are carers, carers of adults and carers of children are:'

In section 20 a person may need support also arising out of the fact that they have caring duties. We would like to see this included in the list as well.

In mentioning outcomes, it would seem that this section would be a good place to put in the SHANARRI indicators for children.

**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
x	<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
x	<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?*

In the list of resources available to the supported person, the input of an unpaid carer, be it a child or an adult needs to be acknowledged. It would also be helpful to ascertain the ability and willingness of the unpaid carer and ensure that they also have a needs assessment.

The 4 options are well explained in this section as are the circumstances in which choices might not be available. This 'discretion' to refuse a particular option may affect children in households with alcohol/drug dependency issues. We would hope that this is not interpreted as refusing SDS entirely to certain groups.

In general this section could be strengthened by more reference to carers and young carers. The role of dedicated support services for young carers being providers of information in accessible formats, and informal advocacy should also be acknowledged here.

The language around the provision of advocacy is weak – 'where appropriate' possibly provides an excuse to avoid doing this on the part of local authorities. Advocacy for young carers is really important where the needs of the child and the adult may be conflicting. Children and young people may need to be well supported to make informed choices, and signposting may not be enough.

## **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
-----	----

x	<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"/>	x	<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
----------

## **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
x	<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
x	<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
x	<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
	x	<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
<b>x</b>	<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
<b>x</b>	<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?*

This section makes reference to the Children and Young People Bill so is likely to need updated when this legislation is enacted in 2014 to explain named persons provisions.

The short sections on transitions is welcomed but could be referred to throughout the guidance as there are various transitions points in life.

We welcome the references in 99 and 100 to the child's involvement in making and managing choices – again this could be expanded with links and examples to good practice.

Point 96 – it would be helpful to include children who have a caring role, as well as children affected by disability.

Point 98 note – we would argue that it would not be correct to make a blanket statement about special circumstances in which it would NEVER be appropriate to offer options 1 or 2. Every individual must be assessed as such and not just as a



person living in a set of particular circumstances. We believe that a move to do this would go against the spirit of support being self directed.

Regarding the involvement of the child in making and managing choices, it is important to recognise that young carers are often more mature than their years suggest as they tend to take on responsibilities which would normally be assumed by an adult.

Point 100 alludes to the potential conflict of interest between parent and child where the child is the supported person, but this section also needs to acknowledge that conflict situation where the child is caring for a parent

## **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
<b>x</b>	<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?*

It would be good to have more mention of children and young people here.

## **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 checked="" 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?*

As previously commented upon, the assessment route detailed here may need to be updated when the Children and Families Bill is enacted. Many young carers have not had an assessment under the 1995 Act, but may have had their needs assessed through the ASL 2009 Act or have a child's plan through GIRFEC. The caring role needs to be identified within these assessments.

We welcome the statement in 123 that carers need not have an assessment to receive support. However, it would be good if more young carers were offered a choice to have a formal assessment to assist their situation.

It would be good to see this section strengthened by examples of how the choices would work for young carers.

## **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
<b>x</b>	<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"/>	<b>x</b>	<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?*

Those who choose direct payments may require support and information to do so. Case studies, real or fictional, in this section would also be useful to explain the wide range of things direct payments can be used for, especially for young carers.

More guidance is needed on using direct payments to pay for educational support and services.

## **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
<b>x</b>	<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"/>	<b>x</b>	<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?*

Overall, children, young people and their families, carers and young carers should be woven throughout the guidance rather than referred to largely in a separate section.

The guidance would benefit from more case studies and breaking up the text with pictures and diagrams would make it more useful and readable. If possible it should be issued in an easily updatable format – eg online – so that it can be updated when legislation changes or to add links to sources of information and support. This would help keep it fresh and relevant.

#### 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>

Any reference to human rights should include the United Nations Convention on the Rights of the Child.

## **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)?**

We welcome the recognition that there will be circumstances where it is both preferable and appropriate for a family member to be employed by the direct payment user to provide care and support. We find the list of factors setting out the circumstances (Regulation 9 Part 3) helpful and are in broad agreement with them. We believe their inclusion will provide greater transparency in decision making and significantly reduce local variations in practice which have, to date, relied upon individual interpretations of ‘exceptional’ circumstances. However, we would expect

to see the term ‘appropriate circumstances’ used in the text of the regulations, in order to indicate the cultural shift in moving from exceptional circumstances only to appropriate circumstances.

Similarly, the inclusion of a ‘discretionary’ element where the circumstances fall outside the scope of the factors listed in Part 3 Regulation 9 but where a reasonable argument can be made for the employment of a family member is also welcomed. We believe that this will guard against too rigid an interpretation of the circumstances in which it may be appropriate to employ a family member.

We believe that the shift from ‘exceptional’ to ‘appropriate’ will increase choice and flexibility in the delivery of care and support practitioners to move away from viewing such arrangements as ‘an option of last resort’. We would suggest that a duty is placed on local authorities to inform direct payment recipients of the option of employing a family member within the parameters set out in the Regulations, that all requests for the employment of family members through direct payments should be considered without prejudice, that a full explanation is given if the request is denied and that an appeals/review process should be available.

**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?**

It is not clear why individuals who are homeless or who are fleeing domestic abuse are not to be offered direct payments to access support, particularly when the draft Statutory Guidance states that *“Direct payments and individual service funds may deliver positive outcomes to individuals eligible for support due to homelessness, drug or alcohol addiction or because they are fleeing domestic abuse.”* Further information on why these individuals may not be suitable for this type of support would be useful.

It is more understandable why those who require support in relation to addictions are not to be offered direct payments, but it may be more suitable to look at assessments on an individual basis rather than imposing a blanket rule. Direct payments will require records to be kept of how the money is used, and for support that will be paid for through the payment to be arranged before the payment is received – any inconsistencies would soon be noticed. Many people with drug or alcohol addictions will require small amounts of support in order to remain in recovery, and restricting their access to direct payments may have a detrimental

effect. We note that there are no such restrictions on a carer receiving a direct payment when they look after someone with a drug or alcohol addiction, and as such we would welcome further clarity on the reasoning behind this restriction.

**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