

# Have your say

## Draft Guidance on care and support

### Easy-read summary



The Scottish Government has written guidance to help professionals and others understand the new Self-directed Support Act and other social care laws.

The guidance covers support for children, adults and carers of any age.

The Scottish Government wants to find out if the guidance is clear and helpful. It wants to hear from anyone who gets support, carers, or any staff involved in providing support.

There are also draft Regulations (rules) with more information about the Self-directed Support Act. Please take a look at these too. You will find them on the Scottish Government website at: [www.scotland.gov.uk/Publications/2013/04/6823](http://www.scotland.gov.uk/Publications/2013/04/6823)

Please send your views on this Guidance **by 10 July 2013** to:



Self-directed Support Team  
Room 2ER  
St Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG



[selfdirectedsupport@scotland.gsi.gov.uk](mailto:selfdirectedsupport@scotland.gsi.gov.uk)



0131 244 5455

There is a Have your Say form on page 35 and you can use extra pages too.

You must also fill in and send the Respondent form at the end of the Guidance.

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## Section 1

### Guidance on care and support

The Self-directed Support Act is part of a group of laws that cover social care in Scotland.

The laws contain both:

**Duties** – things local councils and health services **must do**

**Powers** – things local councils and health services **can do if they wish**

The Guidance explains all the powers and duties in the social care laws, not just in the Self-directed Support Act.

It tries to give practical advice to staff working in health and social care services.

Staff must use the Guidance when they do their jobs. They must not ignore it without a good reason.



## Section 2

### The pathway through support

There are different steps on the way to getting care and support.

These steps are called The Person's Pathway. Here is how it might work for you.

#### Step 1: I need support

You decide you need support.

Sometimes a friend or relative will suggest that you contact social services to ask about support.



#### Step 2: First contact

You contact the local social work service or community health.

Sometimes, another person or organisation will contact them to ask if you can get some support.

The local social work service or community health service will decide if you can go on to the next step.



#### Step 3: Eligibility and assessment

The local social work or health service will check if you can get support under the different social care laws. These laws cover care and support for children, adults and carers.

If you are eligible for support, a social work or health professional will start to look at what kind of support you may need. He or she will talk to you and work with you when doing this.



## Step 4: Support Planning

This step will produce a plan for how you can be supported. It will look at:

- choices
- risks
- resources.



Risks are anything that may cause harm. Managing risk is about doing something to make it less likely that anything harmful will happen.

## Step 5: Deciding the final plan

You and the professional agree the final support plan.



## Step 6: Support

You follow the plan and get the support you need.

This can include changing the way things are done.



## Step 7: Review

After a time, there will be a review to check if your needs have changed.

This may lead to changes in your assessment or support plan.



Think about  
Section 2.  
Is it clear?

## Section 3

### Values and principles

The Self-directed Support Act and the Guidance are based on values and principles.

These values and principles are the thoughts and ideas at the centre of self-directed support.

Professional staff must remember these values and principles when they use the Act and the Guidance.

### Values

The values in this Guidance are:

**Respect**

**Fairness**

**Independence**

**Freedom**

**Safety**



### Principles

Principles are about the way that people do things and how they put values into practice.

There are 5 principles that professional staff must follow. There are another 3 principles that are good practice too.

The principles apply when someone's needs are being assessed and when looking at choices as part of support planning.

## Principles

### Collaboration

This principle is in the Act.

The professional and the person getting support must work together on the assessment, the support plan and making sure the person gets the support they need.



### Dignity

This principle is in the Act.

The professional must respect the person's right to dignity.



### Informed choice

This principle is in the Act.

The person getting support must get the help they need to understand all the choices and to be able to decide what choice to make.



### Innovation

This principle is good practice

The professional and the person getting support can look for new and different ways to enable the person to achieve all the outcomes in the person's support plan.

An outcome is something that happens as a result of something that you or someone else does.





## Involvement

This principle is in the Act.

The person getting support must be able to help decide what goes into their support plan and how their support is arranged.



## Participation

This principle is in the Act.

As part of their support plan, the person must be able to take part in the life of their local and wider community.



## Responsibility

This principle is good practice

The person getting support can have as much control over their support as they wish. But they must use this control properly, including following the law and any other rules.



## Enabling Risk

This principle is good practice

The person getting support should feel safe and secure and be free from abuse. At the same time, they should get the chance to take some risks so they can learn new skills and do new things.



**Think about Section 3.**

**Is the information clear?**

## Section 4

### Eligibility and assessment

#### Why assess people?

Good assessment helps to make sure that:

- the person gets the best support they can get
- it is clear how decisions are made
- decisions are fair and made in the same way for everyone.



#### a) Deciding if you are eligible

The local council or health service must decide first if you are a “person in need”.

This can be because of your age, mental disorder, illness, disability, using drugs or alcohol, or leaving prison.

They must also decide if you have enough support needs to be eligible for a support service.

The local council will look at the level of risk to you if you do not get support.



There are 4 bands of risk.

### **Critical risk**

There are lots of risks to your independent living or health if you do not get care and support.

### **Substantial risk**

There are quite a lot of risks to your independence or health if you do not get care and support.

### **Moderate risk**

You may need some care and support now or you may be able to manage by yourself or with some help from family and friends.

### **Low risk**

You are not likely to need care and support services now but may need some information and advice.

The professional who does the assessment must think about

- all of your needs and the risks
- if your needs and risks will change in future
- what will happen if no support is given
- if you have any needs that may not be easy to see at first.

The local council can look at how much money and other resources it has when it decides the eligibility rules.

Once the council decides that a person is eligible and needs care and support, it cannot refuse to provide support due to money reasons.

The council should publish its eligibility rules so it is easy for anyone to get a copy and to understand them.



## b) Deciding a person's needs

Assessment is very important.

Sometimes an assessment can be done badly or not given enough time. This can make the person feel that they have no say about what happens.

A good assessment is based on what the person can offer and what they want to do.



Then the assessment can be very helpful – whether the person moves on to the next step in the pathway or not.

### A good assessment

In a good assessment the professional is open and honest and has good skills in talking with people.

They need to tell the person about all the options and also listen to the person and encourage them to say what they think.



The social care laws give professionals the power to take decisions and to provide **any** kind of support that will meet someone's needs.

The professional should use these powers to work with the person to find new ideas and ways to deliver support that helps the person achieve positive outcomes for their life. It is not just about the person's needs.

## Personal outcomes

A full assessment will involve the professional, the person, their carer and any relevant organisation talking together. Together they will work out personal outcomes for the person as part of support planning.

An outcome is something that happens as a result of something that you or someone else does. Some examples are being as well as possible or having friends and relationships. To make these things happen, the person may go for a walk every day, or join a local social club.

It is very important that professionals and organisations do not have the same ideas for everyone or try to give everyone the same kind of support.

## Self assessment

Sometimes self- assessment is used before a full assessment. It is a way that a person can start to think about their own needs and what they want to do.

It should not be used instead of the full assessment with a professional.

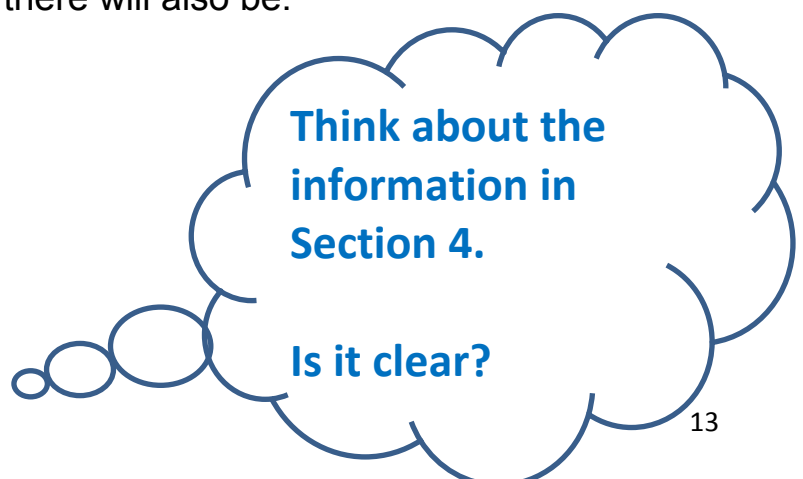


The assessment process has 3 main things.

1. The **assessment**.

If the answer is YES, then there will also be:

2. The **support plan**.
3. The **support**.



## Section 5

### Support planning

#### 5.1 The support plan

The professional should use this Guidance and the principles on pages 8-9 when he or she works with the person to write a support plan.

A good support plan is easy for the person to read or understand. It can be in any format. It may have pictures as well as words.

The support plan should say what the person wants to achieve with the right help. It must not be just about keeping things the same or stopping things from getting worse.

A good support plan will be easy to use and to keep up-to-date.

The person, the professional, carers, and anyone else that the person wants, must be able to:

- look at the plan
- check how the plan is working
- add to the plan
- change the plan when this is needed.



## 5.2 Risk

Support planning looks at risks.

A risk is anything that may cause harm to a person. A risk is something that could happen in the future but it may not happen.

Managing risks means doing something to make it less likely that any harm will happen.

It is important that the professional and person work together to identify any risks and what to do to manage these risks.

It is important that the person gets the chance to take some risks if:

- the person understands the risk
- it will give the person a good experience
- there is a proper balance between the risk and the good experience.

It is important to look at the risk of not doing something as well as the risk of choosing a particular support option.



### 5.3 Resources

Support planning looks at all the resources that a person may have or be able to use. This is not just money but can include skills, ideas and people that they know.

If the person is eligible for care and support, this may be given as a budget (sum of money).

The person's budget is the amount of money that the council thinks the person will need in order to buy support.

There is not ONE system of deciding a budget. It will be different in different local council areas.

Each council should have a system of deciding a budget that is fair and clear to everyone. Each council should ask people who get support, and carers, for their ideas about the best system for deciding budgets.

The amount of support in the support plan should be enough to meet the needs that were identified in the assessment.





## 5.4 Options

There are 4 options in the Self-directed Support Act.

The person must be told about ALL of the options and get the chance to choose.

### Option 1 – Direct payment

The council will give the person a direct payment. This is a sum of money.

The person will use this money to buy support.

The person can use the money in any way they wish **as long as:**

- they get the support they have agreed with the professional
- it meets the outcomes in their support plan.

The person can use the money to employ their own staff, buy support services from a care organisation or from the local council.

With a direct payment, the person has the most choice and control. They also have the most responsibility for arranging things.

See section 9 for more information on direct payments.



## Option 2 – The person directs the support

Under option 2, there is a budget but it does not pass to the person.

The person must be told how much money is available for the things in their support plan. They decide how the money is used for their support.

The money can stay with the council or be passed to a care organisation to hold for the person.

One way to use Option 2 is an Individual Service Fund.

- The council says how much money is in the person's budget.
- The person chooses the support they want.
- The council can give the money to one or more care organisations to hold for the person.
- The person says how the money should be used.
- The person can ask for some of the money to be used to buy support from other care organisations too as part of their support plan.

Under Option 2 a person **cannot** employ their own staff. Apart from that, the person can have as much choice and control as they want.



### Option 3 – The council arranges support

The professional will talk with the person and will arrange support for the person.

The council must make sure that support services can offer different kinds of support and can change to meet the needs of each individual person.

The council must make sure that care and support staff:

- know about the values and principles in this Guidance
- use the values when they provide support.



### Option 4 – Mix and match

In Option 4, the person will choose to use a mixture of the other options.

This gives people a lot of choice.

It will suit people who want some control over their support but who do not want to decide everything.

For example, the person can try out a direct payment (Option 1) or an Individual Service Fund (Option 2) for part of their support or for some of their outcomes.



## Limits to choice

Sometimes, the person will not be able to choose a particular option or type of support.



There are 2 reasons

### 1. The law says the council cannot offer Option 1 to some people

There are rules that say the professional cannot offer a direct payment to some people.

The rules for direct payment are in the Draft Regulations (separate paper). Please look at these for more information.

### 2. The professional thinks a type of support will not meet the needs of the person

The professional must make sure that people get support that is suitable for their needs and will help them achieve their outcomes.

Sometimes the professional may decide that the person is choosing a type of support that will not meet the needs identified in the assessment. Then they can refuse to give money in the budget for this type of support.



The professional must explain why the support is not suitable and try to agree another type of support with the person.

The professional must tell the person that they have a right to complain to the council about any decisions. After they have used up the local council complaints scheme, they can complain to the Public Services Ombudsman or go to court.

## 5.5 Information and support

One of the principles is:

- **Informed choice.**

An informed choice is when a person has information they can understand and uses this to decide and choose what they want.



The council must give the person information about

- all the options for self-directed support
- how to manage support
- where else to get information and help.

This information must be in writing and available in other formats too.

All the information does not have to come from the council. It can come from other organisations like user groups, disability services, and advice centres.

Advocacy services can also help some people to say what they want to happen. The professional must tell people about independent advocacy services and how to get advocacy support if they think the person will benefit from this.

**Think about the  
information in Section 5.  
Is it clear?**

## Section 6

### Monitoring and review

Sometimes a person's needs will change or they will ask for another assessment.

If so, there should be a review. This is another look at the person's needs and outcomes.

Local councils should try to carry out reviews for each person every year.



A review can look at:

- the person's needs and outcomes
- how the person gets support.

If the review looks at the person's needs and outcomes, it will also look at how the support is arranged.

Sometimes a person will decide that they want to choose a different option or a different service. This person does not always need a review of their needs. The professional can work with them to arrange a different option or service.

**Think about the  
information in Section 6.  
Is it clear?**

## Section 7 Choice

People need to have a real choice over the type of support they can use and where they can buy this.

This means they need to be able to choose from lots of different things and care organisations.

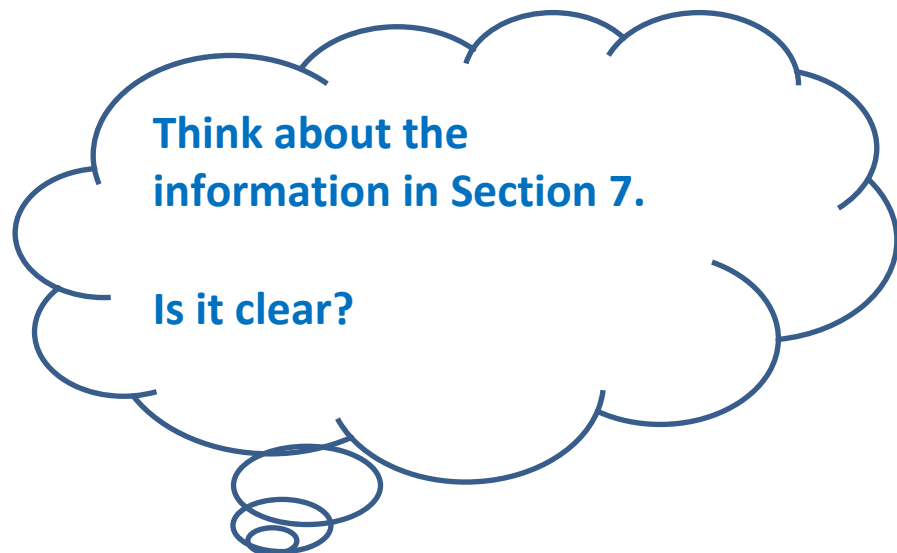


The local council must tell people about the options for self-directed support.

As much as it can, the local council must tell people about lots of:

- different care and support organisations
- different types of support that people can get from the council or from other organisations

It is the job of the local council to make sure that people have enough choice. The council should think about this when it plans local services and provides funding for services.



## Section 8

### The role of the NHS

In the Guidance, “healthcare” or “NHS support” means support in the community from staff like community nurses and occupational therapists. It does not mean treatment or care in hospital.

#### A joint approach

Sometimes the local council and health service will work together to find the money for someone’s support.

The local council and health service should work together on assessment and support.

They can share information, ideas and resources at every stage in the person’s pathway.

They should use all the legal powers they have to do this.



#### Shared healthcare and social care

Some ideas are:

- helping someone manage diabetes or epilepsy
- supporting someone with skincare or physiotherapy
- extra support for someone who has cancer or an injury.

#### Joint review

The local council and health service should review a person’s support together if it is funded and provided jointly. The health service must make sure that the person’s health needs are being met properly.

Think about the information in Section 8. Is it clear?



## Section 9

### More guidance

This section gives more information about care and support for specific groups of people.

#### 9.1 Children and families

The law says that the local council must look after and promote the welfare of children in need. It must also provide services and support so children can stay with their families.

Some children will get support from one organisation. Some children will get it from a few organisations. Each child must have their support written up in ONE plan that is shared and used by everyone.

If a young person is aged 16-18, then they can choose how they want their support and what option they want.

If a child is aged under 16, then their parent or guardian will make decisions about the child's support.

Children must be involved in deciding what happens as much as possible. The local council must give the child information about the options for self-directed support in a way that they will understand.



## **Moving from children's support into adult support**

Growing up means taking more responsibility and becoming more independent. Disabled children may take longer to do this.

Disabled children and their families will want to think about which option is best for them. Options 1 and 2 have lots of flexibility and can help someone to have more independence. Option 4 gives the chance for a young person to try out managing a small part of their support.

## **Making decisions**

Some young people are not able to make decisions for themselves. Some children will continue to need help with decisions after they are adults (aged over 16).

Professionals must tell the child and their family about the Adults with Incapacity Act and how to apply for a power of attorney or how to become a guardian for an adult.

## **Promoting the options**

The local council must tell children and families about the options for self-directed support and make sure they have good information. The council must train its staff and make sure children and families can choose any of the options.



## 9.2 Getting help with decisions

The local council must find ways to help everyone take part in assessment and support planning, to understand the options, and to decide how they want to direct their support. This is to make sure everyone can have choice and control over their support.

Some people find it hard to make decisions on their own but can do this with some help.

The professional must decide if someone needs some help with making decisions. If yes, the professional must try and find someone who can help the person.

People who can help include friends and relatives or a circle of support.

The supported person **must** agree that they need and want this extra help with decisions before anyone is asked to help.

Anyone supporting the person to make decisions must be aware that it is not their job to make decisions for the person. Their job is to help the supported person make the decisions.



## Telling others about decisions

Some people find it hard to communicate with others due to a disability or language problem.

They can make decisions but may need some help to tell others. They may need help from an interpreter or a speech therapist or someone they know.

If a supported person needs help to tell others about decisions, the professional must try and find someone who can help the person.

The supported person **must** agree that they need and want this extra help with decisions before anyone is asked to help.



## **If someone cannot make decisions**

Some people have an attorney or guardian with powers to make decisions for the person. The attorney or guardian can decide about the person's assessment, support plan, and options for support.

The professional should make sure the attorney or guardian is fully informed and involved in everything.

If the professional is not sure about a person's capacity to make decisions, they can ask a local Mental Health Officer.

If a person needs a guardian the professional should talk to the person, their family and anyone else with an interest in the person's care and support.

The local council can apply for guardianship if there is no-one else to do this.



## 9.3 Carers

### Carer's assessment

An unpaid carer who provides a lot of support to someone has the right to ask the council for a carer's assessment. The council will check if they need support so they can keep providing care.

### Support to carers

Support to carers can mean using a local community service or getting advice or information. It can also mean carers get some support paid for by the council.

If the council decides the carer can get some paid support, it must offer the carer the same 4 options as anyone else.

### Charging for support to carers

The Scottish Government thinks carers should get this support for free.

It is asking people what they think about charging carers for support (separate paper).

### Other support to carers

Sometimes carers need just a little bit of support. Giving them support now may stop an emergency in future.

Carers do not always need a carer's assessment to get some support from the local council.



## 9.4 Direct payments

### A direct payment

A direct payment is not a benefit. It is a way for a person to get the support they need.

The direct payment can be used in lots of different ways. It must always be used to help the person with the outcomes in their support plan.



### Paying the direct payment to someone else

The person getting support can ask the council to pay the direct payment to another person or organisation to manage the direct payment.

The supported person is still in charge of the direct payment and responsible for it. It is important that the person knows this.

### When a person cannot get a direct payment

There are rules that say when a person cannot get a direct payment.

The professional must tell the person why they cannot get a direct payment and how this can be reviewed. They must let the person choose one of the other options.



Sometimes things change and the person will ask for a review to check if they can get a direct payment. Then the professional must give the person the chance to choose from all the 4 options.

## What you can do with a direct payment

The person can do anything with a direct payment if it meets their “assessed needs” and helps them achieve the outcomes in the support plan. Also, they must not break the law.



## Responsibilities

The person will need to:

- use the payment to meet the outcomes in the support plan
- report to the council about how they have spent the money
- be a good employer if they use the direct payment to employ staff.

The professional must help the person get more information and advice about their responsibilities.

## Monitoring

Direct payments are for meeting people’s support needs.

The council will check that the direct payment is being used properly and the person’s needs are being met. If the person is using the payment for health needs, then health professionals will help to check this.

## Stopping direct payments

The council can stop the direct payment only if there is a good reason. These reasons are in the Direct Payment Regulations (rules). (This is in a separate paper – see page 2 for where to get a copy.)



## 9.5 What else the council must do

The local council must support people in other ways too. It must think about this when it looks at care and support for people.

### Residential care

This is a type of social care. People live in a care home instead of their own house. This Guidance also applies to assessment for residential care.

The Scottish Government is asking:

Should people be able to use their direct payment for residential care?

### Charging

Local councils can ask people to pay something towards the cost of their care and support service. This used to be based on the type of service the person got. Some services were free.

Councils need to think about new ways of charging that ask a person to pay part of the cost of their support.



### Housing support

Housing support helps people to set up a house or live independently in their own home. If they need housing support as part of care and support services, then the person should be able to choose from all the options.



## **Aids and equipment**

Sometimes people need aids and equipment. The system for getting aids, equipment or adaptations should be fair. There should be clear rules. The council must make sure that the person can get good information and can use this to make choices.

There may be extra costs with aids and adaptations or charges that need paid every week or year. The professional should talk with the person about who will pay for these extra costs.



## **Other forms of support**

Social care is not just for disabled people or older people. It can include support for people who are homeless, who take drugs or alcohol; who are abused at home.

Just now, a person cannot use a direct payment if they need support because they are homeless, take drugs or alcohol, or are abused at home. The Scottish Government wants to hear what people think about this.

**Think about the  
information in  
Section 9.**

**Is it clear?**

## Have your say

What do you think of this Guidance?

Was it clear and easy to understand?

Was it useful?

Use the next page too.

## Have your say

Do you want to tell us anything else:

Please use extra pages if you need this.

Remember to fill in the Respondent form on the next page too and send it back with your views by **10 July 2013**.

# Have Your Say

## Respondent Information Form

You **must** fill in this form and send it back with your answers or views.

Your name:

Your address:

The Scottish Government wants to let other people know what you think. It can do this by putting your comments on its website or in its library. Is that okay? Please tick one box.

- It is okay to show what I said and my name and address.
- It is okay to show what I said and my name, but **not** my address.
- It is okay to show what I said but **not** my name and address.
- It is **not** okay to share what I said or my name and address.

If you are replying for a group or organisation please write the name here:

If you are replying for a group or organisation, the Scottish Government will put your group's name and address on its website or in its library. Can it print your comments too?

- Yes**       **No**, please keep my comments private

We will show your comments to people who work for the Scottish Government. They might want to contact you. Is that okay?

- Yes**       **No**



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ISBN: 978-1-78256-595-6 (web only)

The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

Produced for the Scottish Government by APS Group Scotland  
DPPAS14304 (06/13)

Published by the Scottish Government, June 2013

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