

Dear Sir/Madam

SELF-DIRECTED SUPPORT: CONSULTATION ON DRAFT STATUTORY GUIDANCE ON CARE AND SUPPORT

Responding to this consultation paper

We are inviting written responses to this consultation paper by **10 July 2013**.
Please send your response with the completed Respondent Information Form (see "Handling your Response" below) to:

E-mail to: selfdirectedsupport@scotland.gsi.gov.uk

or

Adam Milne
Self-directed support Team,
Room 2ER,
St Andrew's House,
Regent Road,
Edinburgh,
EH1 3DG

If you have any queries please contact Adam Milne on 0131 244 5455

We would be grateful if you would use the consultation questionnaire provided as part of the Respondent Information Form or could clearly indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received.

This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at <http://www.scotland.gov.uk/consultations>.

The Scottish Government has an email alert system for consultations, <http://register.scotland.gov.uk>. This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). It complements, but in no way replaces SG distribution lists, and is designed to allow stakeholders to keep up to date with all SG consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the Respondent Information Form attached to this letter as this will ensure that

we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly. All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available to the public in the Scottish Government Library, and on the Scottish Government consultation web pages by **7 August 2013**. You can make arrangements to view responses by contacting the SG Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

What happens next?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us consider any amendments or additions to the guidance. We aim to issue a report on this consultation process along with our response to it during Autumn 2013.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the address given above.

Yours sincerely

Adam Milne
Scottish Government
Self-directed Support Team

A public consultation on draft regulations and statutory guidance to accompany the Social Care (Self-directed Support) (Scotland) Act 2013



RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Scottish Drugs Forum

Title Mr Ms Mrs Miss Dr Please tick as appropriate

Surname

Smith

Forename

Austin

2. Postal Address

91 Mitchell Street

Glasgow

Postcode G1 3LN Phone 01412211175 Email austin@sdf.org.uk

3. Permissions - I am responding as...

Individual / Group/Organisation
Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

Yes No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick **ONE** of the following boxes

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate

/ Yes No

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

/ Yes

No

4. Additional information – I am responding as:

Please tick as appropriate

1. Member of the public	<input type="checkbox"/>
2. Individual health/social care professional	<input type="checkbox"/>
3. Central government	<input type="checkbox"/>
4. Local authority	<input type="checkbox"/>
5. Community Health Partnership	<input type="checkbox"/>
6. Health Board	<input type="checkbox"/>
7. Support & information or advocacy organisation	<input type="checkbox"/>
8. Voluntary sector organisation	/ <input type="checkbox"/>
9. Private Sector organisation (e.g. private social care and support provider)	<input type="checkbox"/>
10. Professional or regulatory body	<input type="checkbox"/>
11. Academic institution	<input type="checkbox"/>
12. Other – please specify	

Consultation Questionnaire

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

Scottish Drugs Forum (SDF) has restricted its response to the crucial issue of the exclusion of those who “require support in relation to drug or alcohol addiction”. This represents member organisation’s responses to a briefing prepared and distributed by SDF in June 2013. Where SDF response to this consultation may have a useful bearing on other questions raised in the consultation process, SDF would request that these elements are applied to those questions by those who have oversight of the entire consultation process.

The regulatory exclusion of people who have support needs due to drug use

The manner in which the exclusion of ‘those who require support in relation to drug or alcohol addiction’ is framed is based on a false premise – that those who receive support services due to their substance use should never be able to benefit from direct payments, presumably because they represent an unacceptable risk to themselves and to others. This is based on a poorly conceived model of this client group. It also raises some fundamental issues regarding the marginalisation and stigmatisation of people who use substances

It is essential that those using drugs are not unduly discriminated against. It is simply unacceptable that people with drug problems should be excluded from a crucial facet of self-directed support by a regulatory framework which advertises itself as having the potential to empower people.

Eligibility for direct payments should be assessed in accordance with factors other than the reason for being in receipt of support e.g. substance use. Indeed their eligibility cannot be based on the reason they access services unless we are to conclude that a person in receipt of such services due to drug use can never achieve a status which means they no longer represent an acceptable risk to themselves or others in this regard. This is utterly contrary to the lived experience of many people, professional experience and to current Scottish Government strategy as described in *The Road To Recovery* (2008).

Those in recovery may use self-directed support and direct payments in particular as a platform to access adequate supports. The very fact of being in receipt of direct payments may build life skills and self esteem. There is potential for a very positive outcome. This should not, by means of regulation, be denied to people who need services because they have used drugs.

Would it be appropriate to deny a person in long-term recovery from a drug problem who has a range of health and social care needs as a consequence of their drug problem, control of the budget for their care? If it is conceded that this

may be inappropriate the question is – how do we define the borders of acceptable risk? Bearing in mind the overlap of people with co-occurring problems (e.g. around 60% of people with a drug problem may also have a mental health problem) what can be learned from other fields?

The role of assessment, monitoring in a client-centred approach

If we are to argue that the exclusion is unjustified we also need to account for the capacity of services to manage risk for this client group. Otherwise, there is the potential for the exclusion to pass from a regulatory framework to a *de facto* ban.

Self-directed support and the right to direct payments, subject to assessment, represents a shift in a services' relationship with its service users. It is important that individuals are not only given the opportunity to engage in self-directed support but are empowered to do so by informed consent as part of their recovery.

There is a need for risk to be assessed and for professional accountability. A comprehensive initial assessment which considers risk as part of a wider framework would provide the greatest safeguard. On-going assessment and review would allow people to ensure that adequate arrangements were made to handle risk factors and promote self-directed care and recovery. Given the reality of relapse and recovery this is unlikely to be a simple progression.

This will require very skilled initial and on-going assessment and timely response to a rapid change in circumstances. This will need to be closely managed and its success will depend on a variety of factors including -

- quality of the relationship between the service, frontline staff in particular, and the service user
- quality of assessment processes
- quality of joint work with other services providing care, other supports and resources
- quality of the informal supports available to service users including positive relationship within families and social networks and services' understanding of these and promotion of supportive positive relationships.

SDF works to support the development of high quality services which include these features and would submit that a regulatory ban on direct payments for people who have used drugs and need support is not appropriate and wastes the potential contribution this could make to improving services, improving service user experience and promoting recovery.