



**Shetland
Islands
Council**

Community Health and Social Care

Self-directed Support Policy

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1. Introduction

- 1.1. Self-directed support (SDS) is the new approach to supporting individuals and their carers who are eligible to access social care support services. Self-directed support places the individual at the centre of the assessment and planning process and recognises that they are best placed to understand their own needs, make choices and take more control of their lives.
- 1.2. In November 2010, the Scottish Government published a ten year strategy to develop self-directed support with the aim of delivering a new vision and mandate for social care which is based around the citizen, not the service. In February 2012, a Bill on self-directed support was introduced and passed by Parliament in November 2012 receiving Royal Assent in January 2013 to become the Social Care (Self-directed Support) (Scotland) Act 2013. This Act was implemented on 1 April 2014.
- 1.3. Shetland Islands Council is committed to the implementation of self-directed support and ensuring individuals and families have real choices and control. It aims to ensure services are flexible and empower eligible people to live independently. The focus will be on delivering better outcomes for individuals through a collaborative approach to assessment and support planning. The Council will increase access to a range of information and advice that will support staff and the public, and ensure our processes are transparent.
- 1.4. The development of self-directed support is part of the wider personalisation agenda. The ethos of self-directed support is reflected in several recent health and social care policies such as Reshaping Care for Older People, Caring Together and the National Dementia Strategy. Self-directed support will be provided for children and young people alongside the GIRFEC (Getting it Right for Every Child) practice model.

2. Values and Principles of Self-Directed Support

- 2.1. Self-directed support will change the way the Council will deliver care and support. The vision is to promote a strength based perspective which enables individuals to remain living independently within the community. The practice will be underpinned by a sound value base which promotes respect, fairness, independence, freedom and safety.
- 2.2. Such values will be put into practice by the facilitation of the following principles which will promote and support best social work practice:
 - **Collaboration, Dignity, Informed Choice, Involvement and Innovation**
The practitioner will respect the individual's right to dignity and work together on the joint assessment process. The individual will be supported to be involved and make informed choices and co-produce a support plan which will creatively meet their outcomes.
 - **Participation, Responsibility and Risk Enablement**
The practitioner will aim to support individuals to take as much control over their support as they wish and to participate in the life of their community and wider society. The individual will be expected to exercise that choice

and control in a responsible way where they will feel safe and secure and be free from exploitation and abuse.

3. Legal Basis

3.1. The legal basis for assessment in respect of the Self-directed Support Act 2013 remains within the following core legislation:

- Section 12A of the Social Work (Scotland) Act 1968 provides the legal basis for community care assessments for adults.
- Section 12AA of the Social Work (Scotland) Act 1968 provides the legal basis for community care assessments for carers of adults.
- Section 23 of the Children (Scotland) Act 1995 provides the legal basis for community care assessments for children.
- Section 24 of the Children (Scotland) Act 1995 provides the legal basis for community care assessments for carers of children.

3.2. Under the Self-directed Support (Scotland) Act 2013 the Council will offer greater choice and control to individuals who they have assessed as having eligible support needs. As part of the assessment and review process individuals will have the four options explained and offered to them. In Shetland the following four options will be made available for an individual to choose how they receive social care an support:

- **Option 1 – Direct Payment**
The Council provides the individual with a direct payment. This money will be used by the individual to purchase care and support to meet their agreed outcomes.
- **Option 2 – Individual Service Fund**
An individual service fund is when the money or service hours are held by the provider nominated by the individual but the individual decides how to spend the money and maintains choice, control and flexibility in meeting their outcomes.
- **Option 3 – Traditional Packages of Care and Support**
The individual requests the Council arrange the support and care they required on their behalf to meet their agreed outcomes.
- **Option 4 – Mixed Package of Care and Support**
The individual has the flexibility of choosing a combination of Options 1, 2 and 3 to meet their agreed outcomes.

4. When Self-directed Support May Be Unsuitable

Practice Considerations

4.1. There are circumstances when offering the four options is unlikely to be the best approach to meet the outcomes of an individual. These could be when an individual is in crisis, when an individual's outcomes can be best met by universal services, where protection is the primary focus of intervention or when

it has been assessed that an individual's needs would be best met by a residential care setting.

- 4.2. This does not mean that self-directed support should not be considered for individuals in some of the above circumstances, simply that practitioners should consider whether other interventions may be more appropriate to meet presenting need. It should be noted that people in residential accommodation are ineligible to receive a direct payment.

Statutory Considerations

- 4.3. Direct payments are available for most community care services, subject to certain exceptions such as services provided under a Compulsory Treatment Order in terms of the Mental Health (Care and Treatment) (Scotland) Act 2003 and treatment and testing orders made under the criminal justice system.
- 4.4. In line with Self-directed Support Regulations¹ the Council is not required to give individuals the option of choosing a direct payment if the Council has previously terminated a direct payment or the provision of direct payment is likely to put the individual's safety at risk.
- 4.5. In the above circumstances, where an individual is assessed as having eligible needs, it is likely that traditional service provision will be considered as an interim measure.
- 4.6. However, it is important to note that neither the Act nor the regulations *prohibit* the use of a direct payment (or any other self-directed support option) in these circumstances. Practitioners may encounter situations where their professional assessment will recommend it appropriate to explore self-directed support as a way forward.
- 4.7. Individuals without capacity will not be excluded from choosing any of the options under self-directed support. Power of Attorney or Guardianship should either be in place or be considered, in order to support individuals with a lack of capacity.

5. Service User Pathway

- 5.1. The support the introduction of this new legislation and to reflect the new duties outlined above our Council has produced a new Service User Pathway (Appendix One). This pathway has involved a review of our assessment processes and reflects the wider personalisation agenda with an emphasis on Enablement.
- 5.2. The Service User Pathway has three distinct stages involving a focused approach to Service Access, Enablement and Joint Assessment. Each stage of intervention will be underpinned by a strengths based approach and risk analysis, and a focus on information giving and sign posting where appropriate.

¹ Scottish Government, *The Self-directed Support (Direct Payments) (Scotland) Regulations 2014*
<http://www.scotland.gov.uk/Topics/Business-Industry/support/better-regulation/partial-assessments/full/2014/SelfDirectedSupportDirectPayments2014>

Stage 1 – Service Access

- 5.3. Service access is when a referral is made to social care services. The initial screening process will analyse all the relevant information and decide if a further formal assessment is required. Clear information and a holistic picture of the situation will be discussed, as well as the application of the eligibility criteria². Screening may only require the provision of advice, information or signposting to more relevant services.

Stage 2 – Enablement

- 5.4. Enablement services are defined as services for people with poor physical or mental health to help them accommodate their illness by learning or re-learning the skills necessary for daily living. The focus at this stage is on setting achievable goals with the individual to promote their independence as far as possible. Collaboration and working closely with an individual over a limited time period to build up skills and confidence is central to the success of Enablement.
- 5.5. Enablement services in Shetland are provided as the first formal input following screening and assessment when eligible needs for social care are identified.
- 5.6. Enablement is provided free of charge to recipients for the first six weeks. Following the initial six weeks of Enablement, individuals will be reviewed. If an individual has regained their independence they will be discharged from the service. Alternatively, if eligible needs remain the individual will progress to the joint Assessment stage of the community Care Service User Pathway and will be provided with information about the four self-directed support options.

Stage 3 – Joint Assessment and Support Planning

- 5.7. The aim of the Joint Assessment will be to identify positive outcomes for the individual. The Joint Assessment process is underpinned by the Talking Points personal outcomes approach and focuses on quality of life and change outcomes. A fundamental aspect of the assessment process will be the “good conversation” between the individual and the practitioner. The assessment process will involve identifying an individual’s strengths, needs, risks, capacity and define their personal outcomes.
- 5.8. The development of a co-produced Support Plan will follow the assessment process. The purpose of the Support Plan is to consider how the identified outcomes can be best met.
- 5.9. Developing outcomes focused support plans with individuals will involve the practitioner having a strengths based approach which will focus on the promotion of independence as far as possible. The Support Plan will draw on the assets of the individual and their support networks in addition to and alongside statutory funding.

² Scottish Government, *National Standard Eligibility Criteria and Waiting Times for the Personal and Nursing Care of Older People*, 2009

<http://www.scotland.gov.uk/Resource.0039/00399040.pdf>

Stage 4 – Monitoring and Review

- 5.10. Monitoring of the support plan is essential to ensure the plan is being implemented as agreed and to make any adjustments as required. The purpose of monitoring is to inform the review process and contribute to an understanding of what support individuals will benefit from and what resources are most effective. The amount of monitoring required with the individual, their family, carer or any other organisation will be determined by the practitioner on an individual basis and informed by the level of need and risk analysis. The level of monitoring should be openly discussed and agreed at the support planning stage.
- 5.11. The Council has a duty to undertake annual reviews where support is provided to meet eligible need or more frequently as a response to be significant change in circumstances. The Council will offer the four options of self-directed support to all individuals due to be reviewed from April 2014.
- 5.12. The core function of the review is to ensure the individual is achieving the agreed outcomes set out in the Support Plan. The review process will consider with the individual, and any others involved, the extent to which the support they receive has assisted them to achieve their outcomes and, where appropriate, agree new ones.
- 5.13. The satisfaction of the individual will also be collated by the Council.
- 5.14. At each review the four options will be offered formally again, even if there are no changes required to the support plan. At any time an individual can ask to change their option or ask for a re-assessment of their situation.

Children and Families – GIRFEC Practice Model

- 5.15. Children and Young People will have a Child's Assessment and Plan using the GIRFEC practice model and will have an outcome focused action plan. The child and carer's views are an integral part of the assessment. The Child's Plan is reviewed regularly.

6. Risk Assessment and Management

Our Approach

- 6.1. Risk analysis is evident throughout our Community Care Service User Pathway and proportionate to the stage of the intervention. The 21st Century Social Work Review Report stated "services must develop a new organisational approach to managing risk which ensures the delivery of safe, effective and innovative practice...focusing particularly on evidence based approaches to risk assessment and management"³
- 6.2. Practitioners will evidence a consistent approach to risk assessment, management and contingency planning using our joint assessment process. This approach will be flexible, participative and holistic in order to promote positive outcomes for individuals. Positive risk management recognises the

³ Scottish Government, *Changing Lives: Report of the 21st Century Social Work Review*, 2006
<http://www.scotland.gov.uk/Publications/2006/02/02094408/0>

importance of professional judgement informed by evidence based practice. Risk will be monitored and reviewed as part of our care management process.

- 6.3. A Child's Assessment and Plan will support the assessment and management of risk and offer contingency planning using the GIRFEC practice model.

Defining and Assessing Risk

- 6.4. Risk is the potential for an adverse event to lead to a negative outcome. The type of event risk relates to will depend on personal factors, environmental factors and social factors. Assessing any risk will involve balancing the positives and negative factors on an individual basis taking account of the holistic situation.
- 6.5. The co-produced support plan will clearly identify any risk and how these will be managed. Contingency Planning will also be part of this process so that everyone is clear in relation to managing the risks. Where an individual has difficulty in understanding or identifying their personal risks, the practitioner will seek to involve others who can assist in the task.

Levels of Risk

- 6.6. In order to promote a shared understanding of risk the following levels and definitions have been identified and will be used in a joint assessment process:
- **Low Risk**
No indication of the likelihood of the risk factors causing serious harm.
 - **Moderate Risk**
There are identifiable risk factors which would indicate risk of serious harm. There is the potential for harm to be caused, but is unlikely to happen unless there is a significant change in the circumstances.
 - **Substantial Risk**
There are identifiable risk factors which would indicate risk of serious harm. The potential event(s) could happen at any time and the impact could be serious.
 - **Critical Risk**
There is an imminent risk of serious harm. The potential event(s) is more likely than not to happen imminently and the impact could be serious.
- 6.7. Risk can not be eliminated and the Councils positive approach to assessing and managing risk recognises the importance of professional judgement, effective use of risk assessment, valuing people, partnership working, sharing of knowledge and learning from each other.

7. Employment of Family Members

- 7.1. Shetland Islands Council recognises the important role of unpaid carers, who are in some occasion's family members. The statutory regulations that accompany the new Self-directed Support Act 2013 change the circumstances where a family member may provide paid support. These circumstances apply

when Option 1 (Direct Payment) is chosen and payment can now be made directly to a family member who is providing support to an individual in line with their support plan.

7.2. A direct payment to a family member can now be considered where:

- The family member and direct payment user agree to the family member providing the support.
- The family member is capable of meeting the direct payment user's needs.
- Any of the factors below apply.

7.3. The factors are:

- There is a limited choice of service providers who could meet the needs of the direct payment user.
- The direct payment user has specific communication needs which mean it will be difficult for another provider to meet the needs.
- The family member will be available to provide support which is required at times where other providers would not reasonably be available.
- The intimate nature of the support required by the direct payment user makes it preferable to the direct payment user that support is provided by a family member.
- The direct payment user has religious or cultural beliefs which make the provision of support by a family member preferable to the direct payment user.
- The direct payment user requires palliative care.
- The direct payment user has an emergency or short-term necessity for care.

There are any other factors in place which make it appropriate, in the opinion of the local authority, for that family member to provide the support.

7.4. In this regulation "family member" means:

- The spouse or civil partner of the direct payment user.
- A person who lives with the direct payment user as if their spouse or civil partner.
- The direct payment user's parent, child, brother, sister, aunt, uncle, nephew, niece, cousin, grandparent, grandchild.
- The spouse or civil partner of any person listed above.
- A person who lives with any person listed above as if their spouse or civil partner.

7.5. The regulations go on to define an 'exception to (the) family members rule' where the Council may not provide direct payment to family members if:

- The local authority determines that either the family member of the direct payment user is under undue pressure to agree to the family member providing support.
- The family member is a guardian, continuing attorney or welfare attorney with power to make decisions as regards the support to be provided through the direct payment.

- Includes a person granted, under contract, grant or appointment governed by the law of any country, powers (however expressed) relating to the direct payment user's personal welfare and having effect during the direct payments user's incapacity.

7.6. Considerations around the nature of the arrangement, which might involve the individual becoming the employer of their family member should be openly discussed. As with all other aspects of professional practice the practitioner has an over-riding duty of care.

8. Supports to Promote Self-directed Support

8.1. Independent support in relation to direct payments is available to individuals from a dedicated worker at Citizens Advice Bureau (CAB) in accordance with a Service Level Agreement between CAB and the Council.

9. The Allocation of Resources

9.1. The Social Work (Scotland) Act 1968 requires local authorities to ensure that resources are made available to meet eligible needs in their area to a standard which will satisfy the local authority that the local authority reasonably considers to be suitable and adequate. The cost of meeting eligible needs should be to an equivalent standard to that which the local authority would provide.

9.2. In Shetland we use an 'equivalency model' for the allocation of resources under self-directed support. This means that an individual with eligible needs will be entitled to a personal budget which is equivalent to the cost of arranging traditional services to meet these needs. This approach will be applied whichever one of the four SDS options is chosen, meaning that no individuals will be placed at a disadvantage. When developing a support plan with an individual who chooses Options 1, 2 or 4, they will be made aware of their personal budget following completion of the joint assessment and before the support planning starts. This will ensure that the individual is clear about resources from the outset of the support planning process.

9.3. As with decisions around eligibility, the skilled judgement of the practitioner involved with assessment is key. Adopting a co-productive approach to assessment and the support planning process, coupled with applying our eligibility criteria will ensure the allocation of resources is transparent and equitable.

9.4. In terms of transparency, the allocation of resources in line with Option 1 (Direct Payment) or Option 2 (Individual Service Fund) is equitable to the cost of an equivalent service from the Council. These rates are updated annually in April each year in line with Provider Prices and Department for Works and Pension (DWP) increases.

9.5. Any individual who is not satisfied with the level of resources they have been allocated should in the first instance discuss this with the practitioner and their

manager, if required. In the event of informal discussions not resolving an issue, the individual should be made aware of the Council's Social Work Complaints procedure.

10. The Refusal of Resource Allocation

10.1. The Council can refuse to agree to any element of a support plan where use of the budget would be used in the following ways:

- Unreasonably endanger any person
- Support an illegal act
- Involve gambling or financial investments
- Fund health care that should be met by the NHS unless budgetary arrangements have been put in place between agencies to permit this
- Pay for anything that other sources of income should normally cover
- Not contribute to the agreed outcomes within the support plan.

10.2. Any refusal of funding will be discussed between the individual and the practitioner and this will be followed up in writing with a clear explanation of how the decision was reached. This will allow for any disagreements to be challenged, if required, through the Council's complaints procedure.

11. Financial Assessment and Charges

11.1. Individuals being assessed for support under the self-directed support will be subject to a financial assessment. Individuals will be made aware from the outset that a financial assessment is required, and that it may result in them having to make a financial contribution towards the total cost of their support.

11.2. Shetland Islands Council currently applies to a consistent charging policy for non-residential social care services. This is in line with the COSLA's national guidance on Charges Applying to Non-residential Social Care Services. Charging thresholds and rates are adjusted annually (in April) in line with pension and benefit changes.

11.3. Under self-directed support charging will be predicated on a general contribution towards the total cost of support. Subsequent to the financial assessment, those individuals with the ability to pay will be required to fund a proportion of their overall budget.

11.4. Under Section 22(4) of the Children (Scotland) Act 1995, local authorities have discretionary powers to charge contributions for children's services where the means of the family are sufficient. Shetland Islands Council does not charge for these services.

12. Termination of Funding

12.1. Shetland Islands Council have the power to terminate direct payments in a number of circumstances, including:

- Where the individual has become ineligible to receive direct payments.
- Where the payment has been used for purposes out-with the person's support plan

- Where it has been used to secure the provision of support by a family member in circumstances where the family member is not permitted to provide such support.
- Where the money has been used unlawfully.

12.2. The lead practitioner will inform the individual of any decision or potential decision to terminate a direct payment as soon as possible. They should keep the individual informed throughout the process and set a minimum period of notice which will normally be given before the payments are discontinued.

12.3. In determining the date from which the direct payment will be terminated the practitioner must take into account any contractual obligations entered into by the individual receiving the direct payment, and the time that will be required to put in place alternative arrangements to meet the individual's needs.

13. Financial Monitoring of Option 1 – Direct Payments

13.1. Shetland Islands Council is accountable for public funds and must monitor direct payments made to service users to ensure they are spent appropriately and they represent cost effective use of resources.

13.2. The process is based on the CIPFA Guidance, Self Directed Support: Direct Payments – A Guide for Local Authority Finance Managers, 2009. Link: http://www.enfield.gov.uk/site/custom_scripts/HASC/Direct_Payments_A_Guide_for_Local_Authority_Finance_Managers_Final.pdf

SDS SERVICE USER PATHWAY

